

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-10-00680-CV

**IN RE Ovidio GARCIA, Jr.**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Catherine Stone, Chief Justice  
Rebecca Simmons, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: October 6, 2010

PETITION FOR WRIT OF MANDAMUS DENIED

On September 20, 2010, relator Ovidio Garcia, Jr. filed a petition for writ of mandamus, complaining of the trial court's failure to rule on his "Motion for Leave to File Plaintiffs' Fourth Amended Petition for Declaratory Judgment."<sup>2</sup> However, on July 14, 2006 the trial court entered a final order in Cause No. DC-02-268(B), and relator's motion he complains of was not filed until

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<sup>1</sup> [▲](#) This proceeding arises out of Cause No. DC-02-268(B), styled *Ovidio Garcia, Jr., et al. v. Juan J. Garcia, et al.*, filed in the 229th Judicial District Court, Starr County, Texas, the Honorable Robert C. Pate, sitting by assignment. Relator Ovidio Garcia lists both Cause Nos. DC-02-268(A) & (B) as the cause numbers in the lower court proceeding. However, relator Ovidio Garcia is not a party in Cause No. DC-02-268(A).

<sup>2</sup> [▲](#) Relator lists Eustorgio Guzman Resendez, Juan G. Hinojosa, and himself as relators in the petition. However, it is improper for relator Ovidio Garcia to file a *pro se* petition for writ of mandamus on behalf of Eustorgio Guzman Resendez and Juan G. Hinojosa. Therefore, we consider the complaint only as it pertains to Ovidio Garcia.

March 29, 2009. Therefore, the trial court had no ministerial duty to rule on any motion filed after the case became final. Accordingly, relator's petition for writ of mandamus is DENIED.

PER CURIAM

DO NOT PUBLISH