



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-21-00142-CR

IN RE Gabriel R. GARCIA, Relator

Original Mandamus Proceeding¹

OPINION ON STATE'S MOTION FOR REHEARING

Opinion by: Patricia O. Alvarez, Justice

Sitting: Patricia O. Alvarez, Justice
Irene Rios, Justice
Lori I. Valenzuela, Justice

**MOTION FOR REHEARING GRANTED, RELATOR'S MOTION TO COMPEL AND
PETITION FOR WRIT OF MANDAMUS DISMISSED AS MOOT**

Delivered and Filed: August 4, 2021

Relator filed a petition for writ of mandamus complaining of the respondent trial judge's failure to rule on a motion. On original submission, we conditionally granted relief. The State filed a motion for rehearing, arguing that this case is moot. Relator also filed a motion to compel the trial judge to rule on his motion as per our order on original submission.

Supplemental records have been filed showing: (1) the trial court has ruled on Garcia's motion; (2) the State filed a motion for the trial court to reconsider its order, arguing the trial court lacked jurisdiction to grant Garcia's motion because the issue was moot; and (3) the trial court agreed with the State and determined that the State's motion itself was moot.

¹ This proceeding arises out of Cause No. 2007CRS000739D4 in the 406th Judicial District Court, Webb County, Texas, the Honorable Oscar J. Hale, Jr. presiding.

Considering the record before us, we conclude the dispute over the trial court's failure to rule on relator's original motion is now moot. *See Chacon v. State*, 745 S.W.2d 377, 378 (Tex. Crim. App. 1988) ("Generally a cause, issue or proposition is or becomes moot when it does not, or ceases to, rest on any existing fact or right."). We therefore grant the State's motion for rehearing, withdraw our original opinion and order, substitute today's opinion and order in their stead, and dismiss this proceeding as moot.

Patricia O. Alvarez, Justice

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