

NO. 07-04-0434-CV
NO. 07-04-0435-CV
NO. 07-04-0436-CV
NO. 07-04-0437-CV

IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
SEPTEMBER 8, 2004

IN RE ASHLEY GUTIERREZ BY AND THROUGH
HER NEXT FRIEND MICHELLE CORDOVA, RELATOR
IN RE JOSEPH ALARCON GONZALEZ, RELATOR

Before JOHNSON, C.J., and REAVIS and CAMPBELL, JJ.

**MEMORANDUM OPINION ON PETITIONS FOR WRIT OF MANDAMUS
AND PETITIONS FOR WRIT OF PROHIBITION**

By these original proceedings, Relators Ashley Gutierrez, by and through her next friend Michelle Cordova, and Joseph Alarcon Gonzalez, natural parents of Ashley Gutierrez, seek a writ of mandamus denying “the standing of “ Jeffrey Donald Gurney and Alicia Munoz Gurney to pursue “their second cause of action” relating to cause number 54,925-B, District Court, Randall County, Texas. They also request that we issue a writ of

prohibition that the Honorable John Board, Judge of the 181st District Court, and the Honorable James Anderson, Judge of the County Court at Law of Randall County, not proceed with hearings in cause numbers 51,715-B and 54,925-B until a ruling on the petitions for writ of mandamus.

A writ of mandamus will only issue to correct a clear abuse of discretion or violation of a duty imposed by law when there is no adequate remedy at law by appeal. *Walker v. Packer*, 827 S.W.2d 833, 837-38 (Tex. 1992). Moreover, an appeal, not an original proceeding, is the appropriate method to remedy a trial court's failure to give preclusive effect to a final judgment and thus appellate courts have no authority to issue writs of prohibition to protect unappealed judgments. See *Holloway v. Fifth Court of Appeals*, 767 S.W.2d 680, 683 (Tex. 1989). Accordingly, the petitions for writ of mandamus and writ of prohibition are denied.

Per Curiam