

Opinion issued December 13, 2012



In The
Court of Appeals
For The
First District of Texas

NO. 01-12-00520-CR

EDMOND CHARLES EVANS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 405th District Court
Galveston County, Texas
Trial Court Case No. 11CR0072**

MEMORANDUM OPINION

Appellant timely appealed from the trial court's April 11, 2012 judgment sentencing him to four years' imprisonment for the felony offense of possession of a controlled substance with intent to deliver. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.112 (West 2012). On October 30, 2012, appellant filed an application

for a writ of habeas corpus pursuant to Texas Code of Criminal Procedure article 11.08. *See* TEX. CODE CRIM. PROC. ANN. art. 11.08 (West 2012); *Kniatt v. State*, 206 S.W.3d 657, 663–64 (Tex. Crim. App. 2006). The State did not oppose the application. On November 2, 2012, the trial court found that appellant was entitled to relief and ordered that “the plea of Applicant is withdrawn and the judgment of conviction in this cause is vacated.” On November 21, 2012, appellant filed an unopposed motion to dismiss this appeal as moot.

The trial court’s order vacating the judgment of conviction rendered this appeal moot. We therefore lack subject-matter jurisdiction over this appeal and must dismiss it. *See Mosley v. State*, No. 01-08-00503-CR, 01-08-00504-CR, 2009 WL 793808, at *1 (Tex. App.—Houston [1st Dist.] March 26, 2009, no pet.).

Accordingly, we grant appellant’s motion and dismiss the appeal for lack of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss any pending motions as moot.

We direct the Clerk to issue the mandate within 10 days of the date of this opinion. *See* TEX. R. APP. P. 18.1.

PER CURIAM

Panel consists of Justices Keyes, Massengale, and Brown.

Do not publish. TEX. R. APP. P. 47.2(b).