



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NOS. PD-0775-17 & PD-0776-17

ANTONIO MOORE, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SIXTH COURT OF APPEALS
BOWIE COUNTY**

Per curiam.

OPINION

Appellant was charged in separate indictments with felony murder and intoxication assault arising out of a vehicle collision that killed one person and injured another. The cases were consolidated and tried together. The jury convicted appellant on both charges and he was sentenced to ninety-nine years for each offense.

Appellant filed a notice of appeal in each case, and the court of appeals assigned

separate cause numbers – Cause No. 06-16-00144-CR to the appeal of the felony murder conviction (the felony murder case) and Cause No. 06-16-00145-CR to the appeal of the intoxication assault conviction (the intoxication assault case). Appellant filed a brief in each case. In his brief in the felony murder case, appellant claimed (1) ineffective assistance of counsel, and (2) legally insufficient evidence to support his conviction for felony murder. In his brief in the intoxication assault case, appellant claimed (1) ineffective assistance of counsel, and (2) legally insufficient evidence to support his conviction for intoxication assault.

The court of appeals issued two opinions, a lead opinion in the felony murder case and a one-paragraph opinion in the intoxication assault case. In the lead opinion, the court addressed appellant's ineffective assistance claims and appellant's claim that the evidence was legally insufficient to support his felony murder conviction. In its summary, one-paragraph opinion in the intoxication assault case, the court stated that appellant had “filed a single brief in which he raises the claim of ineffective assistance of counsel as to both convictions. We addressed this issue in detail in our opinion of this date in Moore's appeal in our cause number 06-16-00144-CR. For the reasons stated therein, we likewise conclude that error has not been shown in this case.”

Appellant has filed a petition for discretionary review in which he contends that the court of appeals failed to address his claim that the evidence was legally insufficient to support his conviction for intoxication assault. We agree. The court of appeals stated

that appellant had “filed a single brief” when in fact he filed a brief in each case. While his claims of ineffective assistance were virtually identical in the two cases, his insufficient evidence claims related to each of his separate convictions. The court of appeals failed to address appellant’s insufficient evidence claim regarding his intoxication assault conviction which he raised in his brief in cause number 06-16-00145-CR. A court of appeals must issue a written opinion “that addresses every issue raised and necessary to final disposition of the appeal.” TEX. R. APP. P. 47.1.

We grant ground two of appellant’s petition for discretionary review, vacate the judgment of the court of appeals, and remand this case to that court to address appellant’s argument that the evidence is legally insufficient to support his conviction for intoxication assault. Ground one is refused with prejudice.

DELIVERED: December 13, 2017
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