



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

NOS. PD-0490-13 & PD-0491-13

GERARDO TOMAS RIVAS, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITIONS FOR DISCRETIONARY REVIEW
FROM THE SECOND COURT OF APPEALS
TARRANT COUNTY**

Per curiam.

OPINION

Appellant was charged with two counts of possession of a controlled substance with the intent to deliver. A dog sniff at his front door led to the charges against him. He filed a motion to suppress, which the trial court denied. Appellant then pleaded guilty to the charges, and the trial court sentenced him to 17 years in prison on each count, to run

concurrently.

On appeal, Appellant argued that the trial court erred in denying his motion to suppress. The Court of Appeals disagreed and affirmed the convictions. *Rivas v. State*, Nos. 02-12-00062-CR and 02-12-00063-CR, 2013 Tex. App. LEXIS 2730 (Tex. App. – Fort Worth March 14, 2013) (not designated for publication).

Appellant has filed petitions for discretionary review arguing that the appellate court erred under the Supreme Court’s recent opinion in *Fla. v. Jardines*, ___ U.S. ___, 133 S. Ct. 1409 (2013). In *Jardines*, the Supreme Court held that using a drug-sniffing dog on a homeowner’s porch to investigate the contents of the home is a “search” within the meaning of the Fourth Amendment. *Jardines* was handed down on March 26, 2013, 12 days after the appellate court issued its opinion in these cases.

The Court of Appeals did not have the benefit of *Jardines*. Accordingly, we grant Appellant’s petitions for discretionary review, vacate the judgments of the Court of Appeals, and remand these cases to the Court of Appeals in light of *Jardines*.

DATE DELIVERED: October 23, 2013

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