

Opinion filed November 21, 2019



In The
Eleventh Court of Appeals

No. 11-17-00332-CR

EX PARTE BRANDON JOSEPH ADAMS

**On Appeal from the 42nd District Court
Taylor County, Texas
Trial Court Cause No. 26,815-A**

MEMORANDUM OPINION ON REMAND

This is an appeal from the denial of a pretrial application for writ of habeas corpus. Brandon Joseph Adams was indicted for the offense of aggravated assault of Joe Jeremy Romero. Adams filed an application for writ of habeas corpus in this case based upon a jury's acquittal of Adams for the offense of aggravated assault in a companion case in which Joe's brother, Justin Paul Romero, was the complainant. Adams sought to have the indictment related to the alleged offense against Joe dismissed on double jeopardy grounds based on the doctrine of collateral estoppel. The trial court held a hearing and denied the relief requested by Adams. We affirm.

On original submission, this court reversed the trial court and remanded the cause with instructions for the trial court to grant habeas relief. *See Ex parte Adams*, 582 S.W.3d 368 (Tex. App.—Eastland 2018), *rev'd*, No. PD-0711-18, 2019 WL 5057265 (Tex. Crim. App. Oct. 9, 2019). The State filed a petition for discretionary review, and the Texas Court of Criminal Appeals has recently issued an opinion and mandate in which it reversed this court’s June 14, 2018 judgment and remanded the cause to this court for proceedings consistent with the opinion of the Court of Criminal Appeals. *See Ex parte Adams*, No. PD-0711-18, 2019 WL 5057265 (Tex. Crim. App. Oct. 9, 2019).

In its opinion, the Court of Criminal Appeals concluded that “the jury’s ‘Not Guilty’ verdict acquitting [Adams] of aggravated assault against Justin Romero was not a final jury determination that [Adams] was justified in using force against Joe Romero to defend [Luke] Hisey” and, thus, that collateral estoppel “does not apply.” 2019 WL 5057265, at *7. Because Adams asserted only one issue on appeal and because the Court of Criminal Appeals resolved that issue against Adams, we now, in accordance with the opinion of the Court of Criminal Appeals, overrule Adams’s sole issue on appeal and affirm the order of the trial court. *See* TEX. R. APP. P. 31.5. The cause is remanded to the trial court for further proceedings.

PER CURIAM

November 21, 2019

Do not publish.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

Panel consists of: Bailey, C.J.,
Stretcher, J., and Wright, S.C.J.¹

Willson, J., not participating.

¹Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.