

Opinion issued August 12, 2010



In The
Court of Appeals
For The
First District of Texas

NO. 01-07-01120-CR

MARTIN FELIPE CZERNY, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 179th District Court
Harris County, Texas
Trial Court Case No. 1142370

MEMORANDUM OPINION

Appellant was convicted of the offense of sexual assault of a child in trial court cause number 1093888 and sentenced to confinement for three years. Appellant appealed his conviction and the appeal was assigned to this Court as appellate number 01-07-00928-CR. Appellant then filed a writ of habeas corpus

requesting that the trial court set an appeal bond. The writ of habeas corpus was assigned trial court cause number 1142370. The trial court conducted a hearing on the writ and denied the requested relief. Appellant gave notice of appeal.

The appeal of the trial court's denial of appellant's writ was assigned to this Court as appellate number 01-07-01120-CR. We first abated this appeal because the reporter's record for the writ hearing was not timely filed. The appeal was reinstated after the reporter's record was filed. Our order of reinstatement notified the parties that appellant's brief was due on January 11, 2010.

On February 2, 2010, the Clerk of this Court notified the parties that appellant's brief was past due. Because we did not receive a response to the past due brief notice, we issued a second order of abatement on April 9, 2010. Our April 9th abatement order requested that the trial court conduct a hearing to determine whether or not appellant desired to pursue this appeal, and whether or not appellant's retained counsel, George O. Jacobs, had abandoned the appeal. We have not received a response to our second order of abatement. We order the appeal **reinstated**.

On May 13, 2010, this Court issued an opinion affirming the trial court's judgment of conviction in cause number 1093888. *Czerny v. State*, No. 01-07-01120-CR (Tex. App.—Houston [1st Dist.] May 13, 2010, no pet.). Our mandate issued on July 29, 2010. We note that records of the Harris County Justice Information System reflect that appellant has served his sentence in the underlying conviction and has been released from custody. The appeal of the denial of an appeal bond is now moot. *Martinez v. State*, 826 S.W.2d 620 (Tex. Crim. App. App. 1992); *Bennet v. State*, 818 S.W.2d 199, 200 (Tex. App.—Houston [14th Dist.] 1991, no writ) (referring to the “longstanding rule in Texas regarding habeas

corpus is that ‘where the premise of a habeas corpus is destroyed by subsequent developments, the legal issues raised thereunder are rendered moot.’”).

Accordingly, we dismiss the appeal of trial court cause number 1142370 as moot.

It is so ordered.

PER CURIAM

Panel consists of Justices Keyes, Hanks, and Higley.

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