

Opinion issued September 10, 2015



In The
Court of Appeals
For The
First District of Texas

NO. 01-15-00318-CR

ANDREAS MARCOPOULOS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 248th District Court
Harris County, Texas
Trial Court Case No. 1440970**

MEMORANDUM OPINION

Appellant, Andreas Marcopoulos, was charged with the felony offense of possession of a controlled substance in Cause Number 1440970. Through counsel, appellant filed a pretrial motion to suppress evidence that the trial court denied on March 2, 2015. Appellant immediately pleaded guilty that same day and the trial

court placed him on deferred adjudication community supervision for three years. The trial court certified appellant's right of appeal, noting that, though this was a plea-bargained case, matters were raised by written motion filed and ruled on before trial, and not withdrawn or waived, and appellant had the right of appeal. *See* TEX. R. APP. P. 25.2(a)(2)(A).

On March 26, 2015, appellant's trial counsel, Robert J. Fickman, timely filed, in trial court cause number 1440970, a notice of appeal from the pretrial denial of appellant's motion to suppress, which was assigned to this Court and docketed under cause number 01-15-00317-CR. The next day on March 27, 2015, the trial clerk forwarded to this Court a form notice of appeal signed by both appellant and his trial counsel on March 27, 2015, for the same trial court cause number 1440970. Because this second notice of appeal did not specify what that appeal was challenging, the Clerk of this Court assigned it a new appellate cause number, 01-15-00318-CR, the instant appeal.

On August 21, 2015, appellant filed a motion to consolidate the two appeals. Appellant contends that this case inadvertently has been assigned two separate appellate cause numbers even though he "is only appealing the pretrial order currently assigned Cause No. 01-15-00317-CR." We agree, construing the motion to include a motion to dismiss this appeal in 01-15-00318-CR after consolidation with the first appeal in 01-15-00317-CR.

CONCLUSION

Accordingly, we **grant** appellant's motion. We consolidate the two appeals. The Clerk of this Court is directed to place all documents and records filed in appellate cause number 01-15-00318-CR into the record for appellate cause number 01-15-00317-CR and close 01-15-00318-CR. The consolidated appeal shall proceed under appellate cause number 01-15-00317-CR, and appellate cause number 01-15-00318-CR is hereby **dismissed** as inadvertently opened. *See* TEX. R. APP. P. 43.2(f); *see, e.g., BBG Group, L.L.C. v. MBI Global, L.L.C.*, No. 14-12-00247-CV, 201 WL 3241557, at *1 (Tex. App.—Houston [14th Dist.] Aug. 9, 2012, no pet.) (per curiam) (mem. op.) (granting appellants' joint motion to consolidate second appeal with first and dismissing second appeal) (citation omitted).

PER CURIAM

Panel consists of Justices Jennings, Higley, and Brown.
Do not publish. TEX. R. APP. P. 47.2(b).