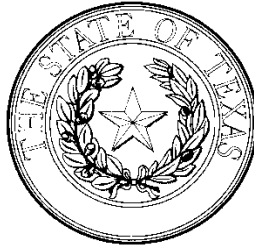


Opinion issued August 23, 2022



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-22-00345-CR

NO. 01-22-00346-CR

NO. 01-22-00347-CR

NO. 01-22-00348-CR

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**EX PARTE OTALON GIONNA FLUKER, Appellant**

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**On Appeal from the 185th District Court  
Harris County, Texas  
Trial Court Case Nos. 1763794, 1763795, 1763796, 1763797**

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**MEMORANDUM OPINION**

Appellant, Otalon Gionna Fluker, challenges the trial court’s orders in four separate trial court cases either granting in part and denying in part or denying his pretrial applications for writ of habeas corpus.<sup>1</sup>

We dismiss the appeals as moot.

Appellant is charged with two separate felony offenses of aggravated robbery<sup>2</sup> and two separate felony offenses of unlawful possession of a firearm.<sup>3</sup> The trial court set appellant’s bail at \$250,000 for each felony offense of aggravated robbery and at \$50,000 for each felony offense of unlawful possession of a firearm, for a total bail amount of \$600,000. In each of his four trial court cases, appellant filed a pretrial application for writ of habeas corpus, arguing that his confinement and restraint were illegal because he was entitled to bail in a “reasonable amount.”<sup>4</sup>

After a hearing on appellant’s pretrial applications for writ of habeas corpus, the trial court granted appellant’s applications, in part, as to the aggravated robbery

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<sup>1</sup> See TEX. R. APP. P. 31.

<sup>2</sup> See TEX. PENAL CODE ANN. § 29.03; appellate cause no. 01-22-00345-CR, trial court cause no. 1763794; appellate cause no. 01-22-00348-CR, trial court cause no. 1763797.

<sup>3</sup> See *id.* § 46.04(a); appellate cause no. 01-22-00346-CR, trial court cause no. 1763795; appellate cause no. 01-22-00347-CR, trial court cause no. 1763796.

<sup>4</sup> See TEX. CODE CRIM. PROC. ANN. art. 17.15; see also *id.* art. 1.08 (“The writ of habeas corpus is a writ of right and shall never be suspended.”); *Ex parte Weise*, 55 S.W.3d 617, 619 (Tex. Crim. App. 2001) (when faced with excessive bail, defendant has right to assert his constitutional right to reasonable bail through use of application for pretrial writ of habeas corpus).

felony offenses. The trial court reduced appellant's bail amount for each of the aggravated robbery felony offenses to \$150,000. The trial court denied appellant's applications as to the unlawful possession of a firearm felony offenses. Appellant's total bail amount following the trial court's rulings was \$400,000.

The appellate record reflects that, on April 20, 2022, appellant posted bail in each case and was released from jail. Despite that, on April 29, 2022, appellant filed a notice of appeal in each trial court case number, seeking to challenge the trial court's orders either granting in part and denying in part or denying his pretrial applications for writ of habeas corpus. In his brief, appellant asserts that the trial court erred when it only partially "reduced . . . [a]ppellant's pretrial bail [amount] to an amount that, although lower, was still excessive." The State has filed a motion to dismiss each of appellant's appeals, arguing that, because appellant posted the bail amount in each case "and is no longer confined," he has rendered his appeals moot.

"Habeas corpus is an extraordinary remedy and is available only when there is no other adequate remedy at law." *Ex parte Cruzata*, 220 S.W.3d 518, 520 (Tex. Crim. App. 2007). "The longstanding rule in Texas regarding habeas corpus is that where the premise of a habeas corpus application is destroyed by subsequent developments, the legal issues raised thereunder are rendered moot." *Bennet v. State*, 818 S.W.2d 199, 200 (Tex. App.—Houston [14th Dist.] 1991, no pet.) (internal quotations omitted). When, as here, appellant has posted the purportedly

excessive bail amount, the requested habeas relief has been mooted. *See Ex parte Guerrero*, 99 S.W.3d 852, 853 (Tex. App.—Houston [14th Dist.] 2003, no pet.) (dismissing appeal of trial court’s ruling on appellant’s pretrial application for writ of habeas corpus as moot where appellant posted bond); *see also Ex parte Armstrong*, No. 02-15-00180-CR, 2015 WL 5722821, at \*3–4 (Tex. App.—Fort Worth Aug. 26, 2015, no pet.) (mem. op., not designated for publication) (granting State’s motion to dismiss appeal from trial court’s denial of appellant’s pretrial application for writ of habeas corpus where appellant paid allegedly excessive bail amount).

Because appellant has paid the allegedly excessive bail amount in each of his trial court cases, he has “availed himself of another remedy” and has “destroyed the premise of his habeas corpus application[s] and rendered [them] moot.” *See, e.g., Ex parte Armstrong*, 2015 WL 5722821, at \*3–4.

More than ten days has passed since the State filed its motion to dismiss, and appellant has not filed a response. *See* TEX. R. APP. P. 10.3(a). We grant the State’s motions and dismiss these appeals as moot. *See* TEX. R. APP. P. 43.2(f). We dismiss any pending motions as moot.

**PER CURIAM**

Panel consists of Justices Goodman, Countiss, and Farris.

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