

Dismissed and Memorandum Opinion filed June 9, 2016.



In The

Fourteenth Court of Appeals

NO. 14-15-00725-CR

EX PARTE BRENT WAYNE JUSTICE

**On Appeal from the 176th District Court
Harris County, Texas
Trial Court Cause No. 1385768**

M E M O R A N D U M O P I N I O N

Appellant Brent Wayne Justice appeals from the denial of his pretrial application for writ of habeas corpus challenging the constitutionality of sections 12.35(c)(1) and 42.092(a)(8)(b)(1) of the Texas Penal Code.

After the filing of the notice of appeal in this case, Justice was tried and convicted of cruelty to non-livestock animals in trial court cause number 1385768, which is appeal number 14–16–00153–CR in our court. An appellate court may take judicial notice of its own records in a related proceeding involving the same or nearly the same parties. *See Turner v. State*, 733 S.W.2d 218, 221–22 (Tex. Crim.

App. 1987), and *Goodson v. State*, 221 S.W.3d 303, 304, n. 2 (Tex. App.—Fort Worth 2007, no pet.).

The judgment of conviction reflects Justice was sentenced to prison for 50 years. His restraint of liberty is therefore unrelated to the charges made the subject of his application for writ of habeas corpus. Even if there were merit in his habeas corpus argument, it would provide no basis for the lifting of any restraint on his liberty. With the exception of double-jeopardy issues, none of which were raised by Justice, “pretrial habeas is not appropriate when the question presented, even if resolved in the defendant’s favor, would not result in immediate release.” *Ex parte Doster*, 303 S.W.3d 720, 724 (Tex. Crim. App. 2010). Therefore, Justice’s contentions pertaining to pre-trial confinement are moot. *See Martinez v. State*, 826 S.W.2d 620 (Tex. Crim. App. 1992); and *Danziger v. State*, 786 S.W.2d 723 (Tex. Crim. App. 1990). *See also Bennet v. State*, 818 S.W.2d 199, 200 (Tex. App.—Houston [14th Dist.] 1991, no writ) (“[w]here the premise of a habeas corpus application is destroyed by subsequent developments, the legal issues raised thereunder are rendered moot” quoting *Saucedo v. State*, 795 S.W.2d 8, 9 (Tex. App.—Houston [14th Dist.] 1990, no writ)).

For these reasons, the appeal is dismissed as moot.

/s/ John Donovan
Justice

Panel consists of Justices Jamison, Donovan, and Brown.

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