IN THE
TENTH COURT OF APPEALS

No. 10-17-00307-CR

EX PARTE ADAM RAY RESENDEZ

From the 66th District Court
Hill County, Texas
Trial Court No. CV584-17DC

MEMORANDUM OPINION

Appellant, Adam Ray Resendez, appeals from the denial of his pre-trial application for writ of habeas corpus challenging the amount set for bail. For reasons stated below, we dismiss this appeal as moot.

I. BACKGROUND

Here, appellant was charged by indictment with unlawful possession of a controlled substance—methamphetamine—in an amount greater than 400 grams with intent to deliver. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.112(f) (West 2017) ("An offense under Subsection (a) is punishable by imprisonment . . . for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed $250,000, if the

amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants and dilutants, 400 grams or more."); *see also id.* § 481.112(a) ("[A] person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1."). Bail was initially set at $250,000. Appellant filed an application for writ of habeas corpus seeking a reduction in bail or a personal-recognizance bond. Specifically, appellant argued that the $250,000 bail amount was excessive, oppressive, beyond his financial means, and in violation of the Eighth and Fourteenth Amendments of the United States Constitution, as well as various provisions of the Texas Constitution and the Code of Criminal Procedure.

On September 13, 2017, the trial court conducted a hearing on appellant's application for writ of habeas corpus. At the hearing, the trial court heard testimony about this offense, appellant's other criminal offenses for which he was incarcerated, his lack of community ties to Hill County, and his intent to join a gang in prison, among other things. At the conclusion of the hearing, the trial court denied appellant's application for writ of habeas corpus and increased the bail amount to $1 million. Appellant filed his notice of appeal.

Thereafter, on November 7, 2017, the State filed a notice indicating that appellant has been indicted in federal court for this offense and is now in federal custody. Specifically, the State stated the following in its notice:

> This letter is to serve as official notice that the following case has been rejected by the District Attorney's office. The defendant was taken into

> federal custody and, on 10/10/2017, he was indicted in federal court for this offense in Cause No. W17 CR 233, U.S. District Court Western District of Texas. Therefore the bond, if any, in this case may be released. If the subject is being held on this charge, that particular hold should be released.

II. THE MOOTNESS DOCTRINE

A case that is moot is normally not justiciable. *See Pharris v. State*, 165 S.W.3d 681, 687-88 (Tex. Crim. App. 2005). As such, the mootness doctrine limits courts to deciding cases in which an actual controversy exists. *See Ex parte Flores*, 130 S.W.3d 100, 104-05 (Tex. App.—El Paso 2003, pet. ref'd); *see also Bowling v. State*, Nos. 13-15-00299-CR, 13-15-00300-CR, 13-15-00330-CR, & 13-15-00331-CR, 2015 Tex. App. LEXIS 9706, at *12 (Tex. App.—Corpus Christi Sept. 17, 2015, no pet.) (mem. op., not designated for publication). "When there has ceased to be a controversy between the litigating parties which is due to events occurring after judgment has been rendered by the trial court, the decision of an appellate court would be a mere academic exercise and the court may not decide the appeal." *Ex parte Flores*, 130 S.W.3d at 105. "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 moot." *Ex parte Guerrero*, 99 S.W.3d 852, 853 (Tex. App.—Houston [14th Dist.] 2003, no pet.) (mem. op.) (per curiam) (internal citations & quotations omitted).

In the instant case, the State dismissed appellant's bond and declined to prosecute appellant on these charges. Furthermore, the record does not reflect that appellant is charged with any other crimes in Hill County. Accordingly, we conclude that appellant's

complaints in this appeal are moot. *See Pharris*, 165 S.W.3d at 687-88; *Ex parte Flores*, 130 S.W.3d at 104-05; *Ex parte Guerrero*, 99 S.W.3d at 853; *see also Ex parte Knight*, 904 S.W.2d 722, 725 (Tex. App.—Houston [1st Dist.] 1995, pet. ref'd) ("The record does not reflect any other charges pending against appellant. Therefore, the dismissal of the justice court complaint removed the threat of illegal restraint and confinement of which appellant complained in his application for writ of habeas corpus. This dismissal rendered appellant's application moot." (citing *Armes v. State*, 573 S.W.2d 7, 9 (Tex. Crim. App. [Panel Op.] 1978) (reaffirming the principle that the writ of habeas corpus lies only where the applicant is under some form of restraint of liberty, either imprisoned or on bail))). We therefore dismiss appellant's appeal as moot.

AL SCOGGINS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Dismissed
Opinion delivered and filed December 13, 2017
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