

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-21-00267-CR**

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**Ex parte Abraham Reyes-Martinez**

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**FROM THE 428TH DISTRICT COURT OF HAYS COUNTY  
NO. CR-21-0871-A, THE HONORABLE WILLIAM R. HENRY, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

Abraham Reyes-Martinez has filed a motion to dismiss his appeal of the trial court's order denying habeas corpus relief. In the motion, he states that his counsel mistakenly forwarded two notices of appeal to this Court and that he intends to move forward under cause No. 03-21-00268-CR. The motion is not signed by appellant as required by Texas Rule of Appellate Procedure 42.2(a). However, the notice of appeal in cause No. 03-21-00268-CR refers to the same trial court order as the notice here, and appellant has filed a brief in that case.<sup>1</sup> Under these circumstances, we suspend the operation of Rule 42.2(a) to the extent it requires Appellant's signature. *See* Tex. R. App. P. 2 (permitting appellate courts to "suspend a rule's operation in a particular case and order a different procedure"); *see also Terry v. State*, No. 03-14-00555-CR, 2016 WL 4506154, at \*1 (Tex. App.—Austin Aug. 25, 2016, no pet.) (mem. op., not designated for publication) (applying Rule 2 to suspend Rule 42.2(a)'s signature

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<sup>1</sup> We take judicial notice of the record in cause No. 03-21-00268-CR. *See Fletcher v. State*, 214 S.W.3d 5, 7 (Tex. Crim. App. 2007) (stating general rule that "an appellate court may take judicial notice of its own records in the same or related proceedings involving same or nearly same parties").

requirement when record showed that appellant did not wish to appeal). We grant appellant's motion and dismiss the appeal.

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Edward Smith, Justice

Before Justices Goodwin, Baker, and Smith

Dismissed on Appellant's Motion

Filed: August 6, 2021

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