



NUMBER 13-19-00360-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

MARCO GONZALEZ,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 156th District Court
of Bee County, Texas.**

MEMORANDUM OPINION

**Before Justices Longoria, Hinojosa, and Perkes
Memorandum Opinion by Justice Perkes**

Appellant Marco Gonzalez, proceeding pro se, filed a notice of appeal from cause number B-19-M018-0-PR-B in the 156th District Court of Bee County, Texas. On July 10, 2019, appellant was convicted in this cause of aggravated assault with a deadly weapon and sentenced to imprisonment for eight years with the sentence to run consecutively with a conviction in cause number CR-2647-12-E in the 275th District Court

of Hidalgo County, Texas. See TEX. PENAL CODE ANN. § 22.02. Appellant filed his notice of appeal on July 16, 2019.

After appellant filed his notice of appeal, the parties jointly filed a motion for new trial. According to the “State’s Agreed Motion for New Trial,” which was filed on July 17, 2019, the offense at issue occurred on January 12, 2017, the offense was indicted on June 18, 2019, and the statute of limitations had run on the offense. See *State v. Schunior*, 506 S.W.3d 29, 31 (Tex. Crim. App. 2016) (applying a two-year statute of limitations to assault with a deadly weapon). The agreed motion asserts that “the State and defense . . . are in agreement that, in the interest of justice, the instant case should be granted a new trial so that the prior judgment may be vitiated, and the State may enter a motion to dismiss the case because the statute has run.” The agreed motion is signed by attorneys for the State, the Special Prosecution Unit, and for appellant, the State Counsel for Offenders.

On July 19, 2019, the trial court granted the State’s Agreed Motion for New Trial. The State subsequently filed a motion to dismiss the criminal action. The trial court granted the motion to dismiss and dismissed the underlying criminal action by order signed on July 22, 2019.

Because the underlying criminal case has been dismissed, there is no justiciable controversy to be resolved by this appeal. See *Glover v. State*, 406 S.W.3d 343, 350 (Tex. App.—Amarillo 2013, pet. ref’d). (“In order to address an issue on appeal, an appellate court must be presented with a justiciable controversy.”). The Court, having examined and fully considered the notice of appeal and the documents before the Court, is of the opinion that this appeal has been rendered moot. See *Jack v. State*, 149 S.W.3d

119 n.10 (Tex. Crim. App. 2004) (“A case becomes moot on appeal when the judgment of the appellate court can no longer have an effect on an existing controversy or cannot affect the rights of the parties.”); *Chacon v. State*, 745 S.W.2d 377 (Tex. Crim. App. 1988) (noting that “generally a cause, issue or proposition is or becomes moot when it does not, or ceases to, rest on any existing fact or right”). Accordingly, we dismiss the appeal. Having dismissed the appeal, appellant’s motion to abate the appeal is dismissed as moot.

GREGORY T. PERKES
Justice

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

Delivered and filed the
8th day of August, 2019.