

NO. 12-14-00140-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***JEFFREY EDWARD ALLEN,
APPELLANT***

§ ***APPEAL FROM THE 3RD***

V.

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,
APPELLEE***

§ ***ANDERSON COUNTY, TEXAS***

MEMORANDUM OPINION

Jeffrey Edward Allen appeals his sentence for evading arrest or detention with a vehicle. He presents one issue on appeal. We affirm.

BACKGROUND

Appellant was charged by indictment with the offense of evading arrest or detention with a vehicle, a third degree felony. The indictment also included a felony enhancement paragraph. Appellant entered an open plea of “guilty” to the offense charged. Appellant and his counsel signed a document entitled “Felony Agreed Plea Recommendation” in which Appellant swore and judicially confessed that he committed each and every element of the offense alleged in the indictment. Appellant also pleaded “true” to the enhancement paragraph. The trial court accepted Appellant’s plea of guilty, found sufficient evidence to support the guilty plea, adjudged Appellant guilty of evading arrest or detention with a vehicle, found the enhancement paragraph to the “true,” and assessed Appellant’s punishment at fifteen years of imprisonment. The trial court also ordered that Appellant’s sentence run concurrently with the sentence for his conviction of burglary of a habitation. This appeal followed.

PUNISHMENT

In his sole issue on appeal, Appellant argues that the evidence is insufficient to support his conviction for burglary of a habitation (trial court cause number 31319) and, if so, the sentence for his conviction of evading arrest or detention with a vehicle should be reformed or remanded to the trial court. The record shows that the State and Appellant agreed that any punishment for his evading arrest conviction would not exceed the punishment for his burglary of a habitation conviction, that the sentences for both convictions would be equal, and that the sentences would run concurrently. However, in *Allen v. State*, No. 12-14-00129-CR, 2015 WL 1478198, at *4 (Tex. App.—Tyler Mar. 31, 2015, no pet. h.) (mem. op.) (not designated for publication), this court determined that the evidence is legally sufficient to support Appellant’s conviction for burglary of a habitation and affirmed the judgment of the trial court.

The requirement that an action present a “live controversy” is an essential component of subject matter jurisdiction. *State Bar of Tex. v. Gomez*, 891 S.W.2d 243, 245 (Tex. 1994). If at any stage of the proceeding there ceases to be an actual controversy between the parties, a case becomes moot. *Nat’l Collegiate Athletic Ass’n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999). When the appeal presents no actual controversy, the appeal is dismissed as moot. See *Fouke v. State*, 529 S.W.2d 772, 773 (Tex. Crim. App. 1975) (dismissing appeal as moot because defendant voluntarily paid fine and costs complained of in appeal); *Laney v. State*, 223 S.W.3d 656, 659 (Tex. App.—Tyler 2007, no pet.) (stating generally that appeals presenting no actual controversy are dismissed as moot). Here, Appellant’s basis for appeal is that if the evidence supporting his burglary of a habitation conviction is insufficient, this court should order reformation or remand for resentencing in this case. Because we held the burglary of a habitation conviction is supported by legally sufficient evidence, Appellant presents no actual controversy in this appeal. See *Smith v. State*, 848 S.W.2d 891, 893 (Tex. App.—Houston [14th Dist.] 1993, pet. ref’d). Therefore, the appeal is moot.

DISPOSITION

Having determined that Appellant presents no actual controversy, we *dismiss* Appellant’s appeal as *moot*.

JAMES T. WORTHEN
Chief Justice

Opinion delivered April 30, 2015.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

APRIL 22, 2015

NO. 12-14-00140-CR

JEFFREY EDWARD ALLEN,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 3rd District Court
of Anderson County, Texas (Tr.Ct.No. 31247)

THIS CAUSE came to be heard on the appellate record and briefs filed herein; and the same being considered, it is the opinion of this court that this appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed as moot**; and that this decision be certified to the court below for observance.

James T. Worthen, Chief Justice.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.