

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Mark Suniga v. The State of Texas

No. 03-25-00081-CR (Tex. App.—Austin Mar. 26, 2026) (mem. op.) · No. 03-25-00081-CR · Decided March 26, 2026

SUMMARY

The Texas Court of Appeals, Third District, dismissed Mark Suniga’s criminal appeal as moot. The trial court had failed to orally pronounce sentence in Suniga’s presence, but during an appellate abatement it pronounced the jury-assessed sentence, granting the relief Suniga sought.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Karin Crump; Chief Justice Byrne; Justice Crump; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, at Austin
DECIDED	March 26, 2026
DOCKET	03-25-00081-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Criminal appeal dismissed as moot after the trial court orally pronounced the sentence in the defendant's presence during an appellate abatement.
STANDARD OF REVIEW	The court applied a jurisdictional mootness standard, asking whether a live case or controversy remained and whether its judgment could have any practical legal effect.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum opinion; marked Do Not Publish.
PARTIES	Mark Suniga v. The State of Texas

TOPICS

- mootness
- appellate procedure
- sentencing
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- mootness
- sentencing

QUESTIONS PRESENTED

1. Whether the appeal remained justiciable after the trial court orally pronounced Suniga's sentence in his presence during the appellate abatement.
2. Whether the appeal should be dismissed as moot because the relief sought by Suniga had been granted.

HOLDINGS

1. An appeal becomes moot when subsequent events eliminate the live controversy and the appellate court's judgment can no longer have a practical legal effect. Because the trial court orally pronounced Suniga's sentence in his presence during the abatement, the controversy was no longer live.
2. The appeal must be dismissed as moot when the appellant has received the relief requested and no live controversy remains.

KEY QUOTATIONS

“A court of appeals has no jurisdiction to decide moot controversies and issue advisory opinions.” (at 2)

“The mootness doctrine applies to a case in which a justiciable controversy existed between the parties at the time the case arose, but the live controversy ceased because of subsequent events.” (at 2)

FACTUAL BACKGROUND

Suniga was charged with and convicted of indecency with a child by contact, and the jury assessed ten years' imprisonment. Although the trial court entered a written judgment imposing that punishment, it did not formally orally pronounce the sentence before releasing the jury. During an appellate abatement, the trial court pronounced the sentence in Suniga's presence, providing the relief he had requested.

PROCEDURAL HISTORY

Suniga was convicted by a jury of indecency with a child by contact and sentenced to ten years' imprisonment. The trial court entered a written judgment consistent with the verdict but did not orally pronounce the sentence. On appeal, the Court abated the case and remanded it for oral pronouncement of sentence in Suniga's presence. After the trial court did so, Suniga informed the Court that he had received the relief requested in his original brief, and the Court dismissed the appeal as moot.

DISPOSITION

dismissed

CASES CITED

- Suniga v. State, No. 03-25-00081-CR, 2025 WL 2347190, at *2 (Tex. App.—Austin Aug. 14, 2025, order) (mem. op., not designated for publication)
- Ex parte Huerta, 582 S.W.3d 407, 410-11 (Tex. App.—Amarillo 2018, pet. ref'd)
- Belvis v. State, No. 08-02-00121-CR, 2002 WL 31087290, at *1 (Tex. App.—El Paso Sept. 19, 2002, no pet.)

- State v. Garza, 774 S.W.2d 724, 727 (Tex. App.—Corpus Christi-Edinburg 1989, pet. ref'd)
- Neill v. State, No. 05-23-00277-CR, 2024 WL 3715722, at *1 n.1 (Tex. App.—Dallas Aug. 8, 2024, no pet.)
- Salinas v. State, Nos. 05-13-01665—01666-CR, 2015 WL 4600734, at *5 (Tex. App.—Dallas July 31, 2015, no pet.)
- Ramos v. State, No. 07-99-0378-CR, 2000 WL 1480506, at *1 (Tex. App.—Amarillo Oct. 5, 2000, order)
- Ex parte Gutierrez, No. 03-11-00109-CR, 2013 WL 3336890, at *1 (Tex. App.—Austin June 25, 2013, no pet.)

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-25-00081-CR Mark Suniga, Appellant v. The State of Texas, Appellee FROM THE 453RD DISTRICT COURT OF HAYS COUNTY NO. CR-22-4369-C, THE HONORABLE SHERRI TIBBE, JUDGE PRESIDING MEMORANDUM OPINION Mark Suniga was charged with indecency with a child by contact. See Tex. Penal Code § 21.11. At the end of the guilt-innocence phase, the jury found Suniga guilty of the charged offense.

During the punishment hearing, the jury assessed his punishment at ten years' imprisonment. See *id.* §§ 12.33, 21.11(d). After the trial court read the jury's verdict, it informed the jury that their service was concluded and released them.

Although the trial court later entered a written judgment of conviction sentencing Suniga consistent with the jury's verdict, the trial court never formally orally pronounced the sentence. After Suniga appealed, Suniga and the State both filed briefs arguing that the case should be remanded to the trial court to allow the trial court to orally pronounce its sentence.

Accordingly, this Court abated the case and remanded it to the trial court so that it could "orally pronounce the sentence assessed by the jury in Suniga's presence." *Suniga v. State*, 03-25-00081-CR, 2025 WL 2347190, at *2 (Tex. App.—Austin Aug. 14, 2025, order) (mem. op., not designated for publication). Subsequently, the trial court held a hearing in which it pronounced sentence in Suniga's presence.

After the supplemental clerk's and reporter's records pertaining to the hearing were filed in this Court, the case was reinstated. Following reinstatement, Suniga advised the Court that he would not be filing a supplemental brief because he "has received the relief that he requested in [his] original brief on appeal." For the reasons that follow, we will dismiss the appeal. "A court of appeals has no jurisdiction to decide moot controversies and issue advisory opinions." *Ex parte Huerta*, 582 S.W.3d 407, 411 (Tex.

App.—Amarillo 2018, pet. ref'd). "It is axiomatic that appellate courts do not decide cases in which no case or controversy exists between the parties." *Belvis v. State*, No. 08-02-00121-CR,

2002 WL 31087290, at *1 (Tex. App.—El Paso Sept. 19, 2002, no pet.) (op., not designated for publication). “[A] cause becomes moot when the appellate court’s judgment cannot have any practical legal effect upon a controversy.” *State v. Garza*, 774 S.W.2d 724, 727 (Tex.

App.—Corpus Christi-Edinburg 1989, pet. ref’d); see also *Ex parte Huerta*, 582 S.W.3d at 410 (noting that case can become moot at any state of proceeding, including on appeal). “The mootness doctrine applies to a case in which a justiciable controversy existed between the parties at the time the case arose, but the live controversy ceased because of subsequent events.” *Ex parte Huerta*, 582 S.W.3d at 410.

Because the relief Suniga sought on appeal was granted by the trial court during the abatement, there is no longer a case or controversy between the parties. Cf. *Belvis*, 2002 WL 31087290, at *1 (explaining that trial court’s granting motion for new trial following appeal rendered appeal moot).

Accordingly, we dismiss the appeal as moot. See *Neill v. State*, No. 05-23-00277-CR, 2024 WL 3715722, at *1 n.1 (Tex. App.—Dallas Aug. 8, 2024, no pet.) (mem. op., not designated for publication) (determining that appellate issue asserting that trial 2 court erred by failing to announce his sentence in his presence was moot because sentence was announced in his presence during abatement); *Salinas v. State*, Nos. 05-13-01665—01666-CR, 2015 WL 4600734, at *5 (Tex.

App.—Dallas July 31, 2015, no pet.) (mem. op., not designated for publication) (same); see also *Ramos v. State*, No. 07-99-0378-CR, 2000 WL 1480506, at *1 (Tex. App.—Amarillo Oct. 5, 2000, order) (not designated for publication) (reinstating and dismissing appeal as moot after abating to trial court because ruling by trial court during abatement mooted controversy as it gave appellant “the relief which was originally sought”); *Ex parte Gutierrez*, No. 03-11-00109-CR, 2013 WL 3336890, at *1 (Tex.

App.—Austin June 25, 2013, no pet.) (mem. op., not designated for publication) (dismissing appeal as moot following abatement). _____ Karin Crump, Justice Before Chief Justice Byrne, Justices Crump and Ellis Dismissed as Moot Filed: March 26, 2026 Do Not Publish 3