

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PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum opinion; marked Do Not Publish.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.)