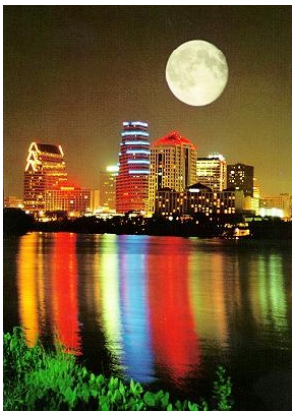

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Vol. 27, No. 11 --- April 1, 2020

Case Name: ***Jeremy Lynn Figueredo v. The State of Texas***

- **OFFENSE**: Bail Jumping and Failure to Appear
- **COUNTY**: Hartley
- **C/A CASE No**. 07-17-00334-CR & 07-17-00335-CR
- **DATE OF OPINION**: March 26, 2019 **OPINION**: Justice Pirtle
- **DISPOSITION**: Conviction Affirmed
- **TRIAL COURT**: 69th D/C; Hon. Richard Dambold
- **LAWYERS**: Brooks Barfield (Defense); David Green & Bryan Denham (State)

(**Background Facts**): On July 13, 2014, Appellant was arraigned on a single criminal complaint for the felony offenses of (1) burglary of a habitation and (2) evading arrest while using a vehicle, arising out of events occurring on July 11, 2014. On July 21, 2014, he was released after posting two $5,000 bail bonds, one for each offense. On March 20, 2015, following indictment, Appellant was arraigned on the indictment and his bond was reset at $25,000 for each offense. That same day, Appellant was again released after posting two separate bail bonds. On July 15, 2015, the 69th District Court issued a Notice of Hearing, advising Appellant's counsel that a docket call was scheduled for Wednesday, August 12, 2015, at 9:00 a.m., in the courtroom of the 69th District Court in Channing, Hartley County, Texas. A copy of the notice was also provided to Appellant's bondsman, but no notice was sent directly to Appellant. At the time of the scheduled hearing, Appellant failed to appear. In response, the trial court entered a Judgment Nisi, Bond Forfeiture and issued a capias for Appellant's arrest as to each offense. Appellant was subsequently arrested. On September 16, 2015, the Grand Jury returned a single indictment containing two counts of bail jumping, one with respect to the burglary of a habitation charge and one with respect to the charge of evading arrest while using a vehicle. On October 25, 2016, the State moved to dismiss the prosecution of the underlying burglary of a habitation cause and the trial court entered an order of dismissal as to that underlying charge. The State did not move to dismiss the associated bail jumping charge.

61.03 Challenges to Prosecution / Double Jeopardy / Multiple Punishments: Appellant contends that the prosecution for more than one offense of bail jumping, for the failure to appear at a single time and place to answer a single indictment (albeit, with multiple counts and separate bonds for each count), violates his protections against double jeopardy.

Holding: Appellant was released on two separate bonds, based on two separate offenses -- burglary of a habitation and evading arrest with a vehicle. It does not matter that Appellant was required to appear at the same time, on the same date, at the same place. Each bail bond contract was a separate promise by Appellant to appear in court to answer that particular charge and his failure to appear "in accordance with the terms of his release" constitutes a separate violation of each bail bond agreement. *** Accordingly, we find the prosecution of more than one offense of bail jumping, for the failure to appear at a single time and place "in accordance with the terms" of more than one bond, constitutes a separate offense as to each bond, regardless of the number of charging instruments. Because the prosecution of Appellant for two offenses of bail jumping, based on his failure to appear in accordance with two separate bonds, as to two separate offenses (albeit contained in a single indictment) does not violate his double jeopardy protections.

531.02 Sufficiency of the Evidence / Bail Jumping-Failure to Appear: On July 24, 2017, a bench trial was commenced with respect to the two bail jumping charges. During that proceeding, Appellant's counsel, Dale Stemple, stipulated that Appellant did have notice of the August 12, 2015 pretrial hearing. In stating that stipulation on the record, Mr. Stemple specified that the stipulation was being made in order to avoid the necessity of having Appellant's prior attorney, Timothy Salley, testify. Notwithstanding that stipulation, Mr. Salley did testify, stating that he did not see Appellant in the courthouse on August 12th. On appeal, Appellant claims the evidence was insufficient to establish his guilt beyond a reasonable doubt. He contends the State failed to show he had the requisite culpable mental state because it failed to show he was aware of any obligation to personally appear in court on the date of the alleged offense. Specifically, Appellant contends the State offered no evidence that supports a finding that he was personally aware of an obligation to appear. He also contends the State offered no evidence that his trial counsel ever forwarded him any notice to appear or that he was otherwise aware of any personal obligation to be present for the August 12 pretrial hearing. The State counters this argument by contending that Appellant's trial counsel on the bail jumping charge, Mr. Stemple, stipulated that Appellant had "notice of that court date" and "knew he was supposed to be in court on the date in question."

Holding: While we have no independent evidence that Appellant was ever notified by his bondsman or counsel to appear at a specific time and place, Mr. Stemple's stipulation alone is sufficient to establish Appellant's failure to appear. *** In addition, the State further contends Mr. Salley's trial testimony that he "did not see [Appellant] that day" supplies the evidence necessary to establish his guilt. In addition to Mr. Stemple's stipulation and Mr. Salley's statement that he did not see Appellant on the date of the scheduled hearing, the State offered the testimony of Kenneth Countryman, Appellant's bondsman, to establish that he had attempted to notify Appellant that he was supposed to be in court on August 12. *** Finally, although the State did

not ask the trial court to take "judicial notice" of the court's file in Cause Number 1232H and it never even offered into evidence the actual Notice of Hearing, the trial court is entitled to take judicial notice of its own proceedings, including pretrial scheduling matters. Therefore, as to the issue of Appellant's awareness of an obligation to personally appear, even if the trial court was not asked to consider that notice, it could still take judicial notice of any proceeding that actually occurred before the trial court itself. *** Because the record establishes that Appellant failed to appear in court at the scheduled time on August 12, 2015, and as per the stipulation of counsel, that he was aware of the hearing date and his obligation to appeal, we find the evidence was legally sufficient to establish that he knowingly or intentionally failed to appear.

Ed Note: The Court of Appeals also found that "the record does not support the defendant's claim that trial counsel was ineffective for stipulating that he received notice of the court date at issue."