COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

ROSA SERRANO,	§	No. 08-17-00190-CR
Appellant,	§	Appeal from the
v.	§	243rd District Court
THE STATE OF TEXAS,	§	of El Paso County, Texas
State.	§	(TC# 20170D00317)
	§	

O R D E R

In an omnibus motion raising multiple requests, Rosa Serrano has filed an amended motion to recall the mandate in Cause No. 08-17-00190-CR and—conditioned on the recall of the mandate—a motion to extend time to file a motion for rehearing related to the judgment issued this Court issued in this case, as well as a motion for the appointment of counsel to represent her in her motion for rehearing.[1] We deny the omnibus motion in its entirety.

On April 30, 2019, this Court issued an opinion affirming the trial court's judgment of conviction against Serrano. *See Serrano v. State*, No. 08-17-00190-CR, 2019 WL 1922753 (Tex.App.--El Paso Apr. 30, 2019, no pet.). This Court's plenary power over its own judgment expires either (a) 60 days after judgment if no timely filed motion for rehearing or en banc

[1] The omnibus motion is titled Amended Motion to Recall and Motion [to] Extend Time for Motion for Rehearing.

reconsideration, or timely filed motion to extend time to file such a motion, is then pending; or (b) 30 days after the court overrules all timely filed motions for rehearing or en banc reconsideration, and all timely filed motions to extend time to file such a motion. TEX.R.APP.P. 19.1. Because no motion for rehearing was filed in this Court, and because no petition for discretionary review was timely filed before the Texas Court of Criminal Appeals, this Court issued mandate in this case on August 1, 2019.

On August 19, 2019, this Court received Serrano's amended motion to recall our mandate. Although Serrano raises multiple issues in her motion that are beyond the reach of this Court at this post-mandate stage, *see* TEX.R.APP.P. 19.3 (detailing the powers of a court of appeals after it issues its mandate), Serrano's core complaint is that she did not receive notice of this Court's April 30th opinion, which prejudiced her by preventing her from timely filing a motion for rehearing in this Court or a petition for discretionary review before the Texas Court of Criminal Appeals. Therefore, Serrano asserts, this Court should recall its mandate and thereafter grant her an extension of time in which she can prepare a motion for rehearing.

After our plenary power expires, this Court may not vacate or modify its judgment, but the Court may, inter alia, "issue and recall its mandate" as provided for in the Texas Rules of Appellate Procedure. TEX.R.APP.P. 19.3. Recall of the mandate may be appropriate where, if by virtue of an administrative error on the part of the Court, the appellant never receives notice of the opinion of the court of appeals or an order overruling appellant's motion for rehearing. *See Rodriguez v. State*, 28 S.W.3d 25, 27 (Tex.App.—Houston [1st Dist.] 2000, op. on order).

Although Serrano alleges that she did not receive notice of the Court's opinion, our records show that the Court delivered notice of the opinion to Serrano's attorney, Alexandria Serra, at counsel's email address on April 30, 2019, the date the opinion was issued. There is also no

indication in our records that Serra withdrew from representing Serrano prior to the issuance of the opinion. Therefore, absent any other evidence indicating that delivery of notice to Serra was unsuccessful, the Court determines that there was no administrative error caused by the Court that would have prevented notice of the opinion to Serrano, by and through her attorney Serra. Absent an administrative error on the part of the Court that would have prevented notice to the parties, recall of the mandate at this late stage is not warranted. *See Rodriguez*, 28 S.W.3d at 27.

Serrano's omnibus Amended Motion to Recall and Motion [to] Extend Time for Motion for Rehearing is denied.

IT IS SO ORDERED this 21st day of August, 2019.

PER CURIAM

Before McClure, C.J., Rodriguez and Palafox, JJ.