

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

ROBERTO LUIS PAYAN,	§	No. 08-07-00343-CR
Appellant,	§	Appeal from the
v.	§	34th Impact District Court
THE STATE OF TEXAS,	§	of El Paso County, Texas
Appellee.	§	(TC# 20040D00048)
	§	

MEMORANDUM OPINION

Roberto Payan attempts to appeal his conviction for delivery of a controlled substance, greater than 200 grams, less than 400 grams, a lesser included offense. Finding that Appellant has no right to appeal, we dismiss this appeal.

Rule 25.2(a)(2) governs the defendant's right to appeal in a criminal case:

A defendant in a criminal case has the right of appeal under Code of Criminal Procedure article 44.02 and these rules. The trial court shall enter a certification of the defendant's right of appeal each time it enters a judgment of guilt or other appealable order. In a plea bargain case--that is, a case in which the defendant's plea was guilty or nolo contendere and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant--a defendant may appeal only:

- (A) those matters that were raised by written motion filed and ruled on before trial, or
- (B) after getting the trial court's permission to appeal.

TEX.R.APP.P. 25.2(a)(2).

Appellant filed a notice of appeal and the trial court's certification of the defendant's

right to appeal as required by Rules 25.2(a)(2) and 25.2(d). The trial court's certification reflects that the appeal, "is in a plea-bargain case, and the defendant has NO right of appeal." By letter dated June 2, 2008, the clerk of this Court notified Appellant that the certification indicated that he had no right of appeal in this case and requested a response. Appellant has not responded to the Court's notice. Based on the trial court's certification that Appellant has no right of appeal in this case, we dismiss the appeal.

September 18, 2008

DAVID WELLINGTON CHEW, Chief Justice

Before Chew, C.J., McClure, and Carr, JJ.

(Do Not Publish)