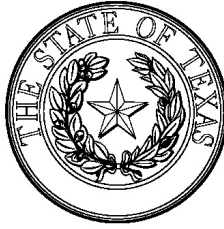


Opinion issued August 20, 2008



In The
Court of Appeals
For The
First District of Texas

NO. 01-07-00564-CR

VICTOR ORALDO PENA MORUA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 230th District Court
Harris County, Texas
Trial Court Cause No. 1090788**

MEMORANDUM OPINION

We lack jurisdiction to hear this appeal. Appellant, Victor Oraldo Pena Morua, pleaded guilty to the offense of aggravated robbery, with a plea bargain with the State that capped the sentence that could be assessed as punishment. The plea papers signed by appellant, his attorney, the State's attorney, and the trial court on March 23, 2007 reflect "no agreed recommendation-punishment should be set at PSI with an

agreed maximum of 10 years; I agree to that recommendation . . . Further, I waive my right of appeal which I may have should the court accept the foregoing plea bargain agreement between myself and the prosecutor.”

After considering the presentence report and evidence admitted at the presentence investigation hearing, the trial court sentenced appellant on May 22, 2007 to eight years in prison, a punishment that fell within the agreed cap of 10 years.

We note that on March 23, 2007, the date appellant pleaded guilty, the trial court entered a certification of right of appeal that states: “I, judge of the trial court certify that this criminal case is not a plea-bargain case, and the defendant has the right of appeal.” On December 12, 2007, the trial court entered an amended certification of right to appeal that states: “I, judge of the trial court, certify this criminal case is a plea bargain case, and the defendant has no right of appeal.”

After reviewing the record, we notified the parties that this appeal would be dismissed because the trial court had entered a certification of right of appeal that stated that appellant had no right of appeal. We received no response to our notice.

We conclude that the certification of the right of appeal filed by the trial court on December 12, 2007 is supported by the record and that appellant has no right of appeal due to the agreed plea bargain. TEX. R. APP. P. 25.2(a). Because appellant has no right of appeal, we must dismiss this appeal “without further action.” *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

Accordingly, the appeal is dismissed for lack of jurisdiction.

Any pending motions are denied as moot.

PER CURIAM

Panel consists of Justices Nuchia, Alcala, and Hanks.

Do not publish. TEX. R. APP. P. 47.2(b).