

Opinion issued January 8, 2015



In The
Court of Appeals
For The
First District of Texas

NO. 01-14-00772-CR

CHRISTOPHER JEROME DELOUIS, Appellant
V.
THE STATE OF TEXAS, Appellee

**On Appeal from the 180th District Court
Harris County, Texas
Trial Court Case No. 1230633**

MEMORANDUM OPINION

Appellant, Christopher Jerome Delouis, pleaded guilty to the felony offense of robbery.¹ The trial court deferred making a finding of guilt and, in accordance with the terms of appellant's plea bargain agreement with the State, placed

¹ See TEX. PENAL CODE ANN. § 29.02(a)(2) (West 2011).

appellant on community supervision for a period of five years. The trial court certified that this is a plea-bargain case and that appellant has no right of appeal.

Subsequently, the State moved to revoke appellant's supervision and for adjudication of guilt. Appellant pleaded true to the State's allegations and executed a waiver of his right to appeal, in exchange for the State's recommendation that punishment be assessed at confinement in the Institutional Division of the Texas Department of Criminal Justice for four years. The trial court revoked appellant's community supervision, adjudicated appellant guilty, and, in accordance with the recommendation of the State, assessed punishment at confinement for four years. The trial court certified that appellant had waived the right of appeal. Nevertheless, appellant filed a pro se notice of appeal. We dismiss the appeal.

An appeal must be dismissed if a certification showing that the defendant has the right of appeal has not been made part of the record. TEX. R. APP. P. 25.2(d); *Dears v. State*, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005). The trial court's certification, which is included in the record on appeal, states that appellant waived the right of appeal. *See* TEX. R. APP. P. 25.2(a). A valid waiver of appeal prevents a defendant from appealing without the trial court's consent. *Monreal v. State*, 99 S.W.3d 615, 622 (Tex. Crim. App. 2003).

The record reflects that appellant swore to a stipulation of evidence and judicial confession, pleading “true” to the allegations in the State’s motion to adjudicate appellant’s guilt. The document contains an agreement that the State would recommend revocation of appellant’s community supervision, punishment of confinement for four years, and no fine. The document also includes a “Waiver of Appeal,” stating that, “As part of my agreement with the prosecutor to plead true, I AGREE TO WAIVE any right to appeal I may have concerning any issue or claim in this case, including my plea or [sic] true or admission of guilt.” Appellant separately initialed the waiver of appeal. The trial court found the allegations true, adjudicated appellant guilty of the underlying offense, and assessed punishment in accordance with the recommendation.

When a defendant waives his right of appeal in exchange for consideration from the State, his waiver is made knowingly, intelligently, and voluntarily, and he may not appeal any matters unless the trial court first grants permission. *See Ex parte Broadway*, 301 S.W.3d 694, 697–99 (Tex. Crim. App. 2009) (holding that defendant may knowingly and intelligently waive appeal without sentencing agreement when consideration is given by State for waiver); *Blanco v. State*, 18 S.W.3d 218, 219–20 (Tex. Crim. App. 2000). The record shows that appellant waived his right to appeal as partial consideration, along with his plea of true, for

the State's recommendation on punishment and that the trial court did not give its permission to appeal.

Because appellant has no right of appeal, we must dismiss this appeal. *See Menefee v. State*, 287 S.W.3d 9, 12 n.12 (Tex. Crim. App. 2009); *Dears*, 154 S.W.3d at 613.

Accordingly, we dismiss the appeal for want of jurisdiction. We dismiss all pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Bland and Huddle.

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