

Dismissed and Memorandum Opinion filed January 28, 2010.



In The

**Fourteenth Court of Appeals**

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NO. 14-10-00010-CR

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ERVIN KAY, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 262nd District Court  
Harris County, Texas  
Trial Court Cause No. 1028331

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**MEMORANDUM OPINION**

Appellant entered a guilty plea to aggravated robbery. In accordance with the terms of a plea-bargain agreement with the State, the trial court sentenced appellant on September 29, 2005, to confinement for thirty-five years in the Institutional Division of the Texas Department of Criminal Justice. On December 22, 2009, appellant filed a request for an out-of-time appeal in the trial court. Even though the trial court did not grant the request, an appeal was assigned to this court. We dismiss the appeal.

First, the trial court entered a certification of the defendant's right to appeal in which the court certified that this is a plea bargain case, and the defendant has no right of appeal. *See* Tex. R. App. P. 25.2(a)(2). The trial court's certification is included in the record on appeal. *See* Tex. R. App. P. 25.2(d). The record supports the trial court's certification. *See Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005).

Moreover, this court lacks jurisdiction over this attempted appeal from a 2005 conviction. Neither the trial court nor this court may grant appellant an out-of-time appeal. The exclusive post-conviction remedy after final felony convictions in Texas courts is through a writ of habeas corpus returnable to the Texas Court of Criminal Appeals, pursuant to article 11.07 of the Code of Criminal Procedure. *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); Tex.Code Crim. Proc. Ann. art. 11.07, § 3(a) (Vernon Supp. 2009).

Accordingly, we dismiss the appeal.

#### PER CURIAM

Panel consists of Chief Justice Hedges and Justices Anderson and Christopher.  
Do Not Publish — Tex. R. App. P. 47.2(b).