

Dismissed and Memorandum Opinion filed October 14, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00912-CR

KENNETH FLOYD LUTHI, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 176th District Court
Harris County, Texas
Trial Court Cause No. 1252086**

MEMORANDUM OPINION

Appellant entered a plea of guilty to driving while intoxicated and was sentenced to confinement for six years in the Institutional Division of the Texas Department of Criminal Justice. A notice of appeal was filed on September 17, 2010.

On October 1, 2010, the trial court conducted a hearing. The record of the hearing was filed in this court on October 4, 2010. At the hearing, appellant advised the trial court that he does not desire to prosecute his appeal.

Appellant has not filed a written motion to withdraw the appeal or a written motion to dismiss the appeal. *See* TEX. R. APP. P. 42.2(a). However, based upon the testimony at the hearing that appellant does not want to continue his appeal, we conclude that good cause exists to suspend the operation of Rule 42.2(a) in this case. *See* TEX. R. APP. P. 2.

Accordingly, we dismiss the appeal.

PER CURIAM

Panel consists of Justices Seymore, Boyce, and Christopher.

Do Not Publish — TEX. R. APP. P. 47.2(b).