

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-08-00524-CR

Isaias Rodriguez **RIOS**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 379th Judicial District Court, Bexar County, Texas  
Trial Court No. 2004-CR-9249  
Honorable Bert Richardson, Judge Presiding

PER CURIAM

Sitting: Alma L. López, Chief Justice  
Catherine Stone, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: August 29, 2008

DISMISSED

Isaias Rios pleaded nolo contendere to first degree murder pursuant to a plea bargain agreement. As part of his plea-bargain, Rios signed a separate "Waiver of Appeal." The trial court imposed sentence and signed a certificate stating that this "is a plea-bargain case, and the defendant has NO right of appeal." *See* TEX. R. APP. P. 25.2(a)(2). Rios timely filed a notice of appeal. The clerk's record, which includes the plea bargain agreement and the trial court's Rule 25.2(a)(2) certification, has been filed. *See* TEX. R. APP. P. 25.2(d). This court must dismiss an appeal "if a

certification that shows the defendant has the right of appeal has not been made part of the record.”

*Id.*

The clerk’s record establishes this is a plea bargain case; that is, the punishment assessed by the court does not exceed the punishment recommended by the prosecutor and agreed to by the defendant. Rios’s appointed appellate counsel has advised the court in writing that she has reviewed the record and can find no right of appeal. After reviewing the record and counsel’s notice, we agree that Rios does not have a right to appeal. *See Dears v. State*, 154 S.W.3d 610 (Tex. Crim. App. 2005) (holding that court of appeals should review clerk’s record to determine whether trial court’s certification is accurate). We therefore dismiss this appeal. TEX. R. APP. P. 25.2(d).

PER CURIAM

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