



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-13-00513-CR

Neri **MARTINEZ**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 175th Judicial District Court, Bexar County, Texas  
Trial Court No. 2013CR1084  
Honorable Mary D. Roman, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice  
Karen Angelini, Justice  
Luz Elena D. Chapa, Justice

Delivered and Filed: September 25, 2013

DISMISSED

Neri Martinez entered into a plea bargain with the State, pursuant to which he pled guilty to felon in possession of a firearm. The State agreed to recommend punishment of five years' imprisonment and a fine of \$1,500; however, the agreement also provided that if Martinez failed to appear at the June 17, 2013 sentencing hearing, he would be exposed to the full range of punishment (two to twenty years' imprisonment). As part of his plea bargain, Martinez also signed a separate "Waiver of Appeal." The record reflects Martinez failed to appear on June 17, 2013, for sentencing. The trial court forfeited Martinez's bond, and when he subsequently appeared, the

trial court sentenced him to eight years' imprisonment. The trial court signed a certificate stating this "is a plea-bargain case, and the defendant has NO right of appeal" and "the defendant has waived the right of appeal." See TEX. R. APP. P. 25.2(a)(2). Martinez timely filed a notice of appeal. The clerk's record, which includes the trial court's rule 25.2(a)(2) certification and the written plea bargain agreement, 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." TEX. R. APP. P. 25.2(d).

On August 12, 2013, we gave Martinez notice that the appeal would be dismissed unless written consent to appeal and an amended certification showing he has the right to appeal were signed by the trial judge and made part of the appellate record by September 11, 2013. See TEX. R. APP. P. 25.2(d); 37.1; *Daniels v. State*, 110 S.W.3d 174 (Tex. App.—San Antonio 2003, order), *disp. on merits*, No. 04-03-00176-CR, 2003 WL 21508347 (July 2, 2003, pet. ref'd) (not designated for publication). Neither written permission to appeal nor an amended certification showing Martinez has the right to appeal has been filed. We therefore dismiss this appeal.

PER CURIAM

DO NOT PUBLISH