



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-13-00084-CR

EMILY KAY SMIRL, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

**On Appeal from County Court at Law
Randall County, Texas
Trial Court No. 2012-0017-1; Honorable James Anderson, Presiding**

August 13, 2013

ABATEMENT AND REMAND

Before QUINN, C.J., and HANCOCK and PIRLTE, JJ.

Following a plea of guilty, Appellant, Emily Kay Smirl, was convicted of driving while intoxicated and sentenced to three days in county jail and a \$1,000 fine.¹ When the supplemental clerk's record was filed on August 7, 2013, it came to this Court's attention that the *Trial Court's Certification of Defendant's Right of Appeal* was not signed by Appellant as required by Rule 25.2(d) of the Texas Rules of Appellate

¹TEX. PENAL CODE ANN. § 49.04(a) and (b) (WEST SUPP. 2012).

Procedure.² Consequently, the certification is defective. See *Dears v. State*, 154 S.W.3d 610, 614 (Tex.Crim.App. 2005). Additionally, the form does not comply with the Rule.³

Consequently, we abate this appeal and remand this cause to the trial court for further proceedings. Upon remand, the trial court shall utilize whatever means necessary to secure a proper *Trial Court's Certification of Defendant's Right of Appeal* in compliance with Rule 25.2(d). Once properly completed and executed, the certification shall be included in a supplemental clerk's record. See Tex. R. App. P. 34.5(a)(12). The trial court shall cause the supplemental clerk's record to be filed with the Clerk of this Court by September 9, 2013. This order constitutes notice to all parties, pursuant to Rule 37.1 of the Texas Rules of Appellate Procedure, of the defective certification. If a supplemental clerk's record containing a proper certification is not filed in accordance with this order, this cause will be referred to the Court for further action. See TEX. R. APP. P. 25.2(d).

It is so ordered.

Per Curiam

Do not publish.

²Effective September 1, 2007, Rule 25.2(d) was amended to require that a defendant sign the certification and receive a copy which contains certain admonishments not previously required.

³The proper form is contained in Appendix D to the Texas Rules of Appellate Procedure and can be found on this Court's website at <http://www.7thcoa.courts.state.tx.us/forms/TC-Certification.pdf>.