



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

No. 07-15-00043-CR

EMANUEL ESCOBEDO, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 108th District Court
Potter County, Texas
Trial Court No. 67,999-E; Honorable Douglas Woodburn, Presiding

March 13, 2015

MEMORANDUM OPINION

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

Pending before this Court is a *Motion to Dismiss Appeal* filed by Appellant, Emanuel Escobedo, in which he requests to withdraw his notice of appeal and dismiss this appeal. According to the motion, this appeal was filed in error because no judgment has been entered by the trial court. The motion is signed by counsel, but not by Appellant.

Rule 42.2 of the Texas Rules of Appellate Procedure governs voluntary dismissals in a criminal case. The appellant and his attorney must sign a written motion to dismiss. *Id.* at (a). The purpose of the Rule is to protect an appellant from having his appeal dismissed by counsel without consent and to insure that counsel has notice of the dismissal to advise the client on the consequences of a dismissal. *Connors v. State*, 966 S.W.2d 108, 110 (Tex. App.—Houston [1st Dist.] 1998, pet. ref'd). Given the posture of the underlying case and no judgment having been entered, we apply Rule 2 of the Texas Rules of Appellate Procedure to suspend the requirement that Appellant's signature appear on the motion to dismiss. We grant the motion.

Accordingly, this appeal is dismissed. No motion for rehearing will be entertained and this Court's mandate shall issue forthwith.

Patrick A. Pirtle
Justice

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