



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

No. 07-21-00136-CR

JOSE BENICIO SIMENTAL, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 222nd District Court
Oldham County, Texas
Trial Court No. OCR-20C-023; Honorable Roland Saul, Presiding

August 10, 2021

MEMORANDUM OPINION

Before **QUINN, C.J.**, and **PIRTLE and DOSS, JJ.**

Pending before this court is a motion filed by Appellant, Jose Benicio Simental, to allow his appeal to proceed for the limited purpose of resolving the assessment of \$2,880 for court-appointed attorney's fees. For the reasons expressed herein, the motion is rendered moot and we dismiss this appeal for want of jurisdiction, as there are no grounds on which to continue the appeal.

Pursuant to a plea agreement, Appellant was convicted of evading arrest or detention with a vehicle.¹ Per his plea agreement, Appellant is to serve fifteen months confinement in the Correctional Institutions Division of the Texas Department of Criminal Justice. Despite being convicted pursuant to a plea agreement, and despite having waived his rights of appeal, Appellant timely filed a notice of appeal. As per the agreement, the *Trial Court's Certification of Defendant's Right to Appeal* indicates Appellant has no right of appeal and that he waived the right of appeal. The certification prompted a letter from the clerk of this court advising Appellant's court-appointed counsel that the appeal was subject to dismissal unless an amended certification showing a right of appeal was provided or he demonstrated other grounds for continuing the appeal. Counsel responded with a motion to continue the appeal for the limited purpose of challenging the assessment of court-appointed attorney's fees.

On July 30, 2021, Appellant notified this court that the trial court entered an *Order Granting Judgment Nunc Pro Tunc* deleting the assessment of \$2,880 for court-appointed attorney's fees from the original judgment. He also provided a copy of that judgment.

Consequently, Appellant's motion to continue this appeal is moot. Per this court's letter directing an amended certification or an explanation for continuing the appeal, we now dismiss this appeal.

Per Curiam

¹ TEX. PENAL CODE ANN. § 38.04(b)(1)(B) (West 2016).