



IN THE  
TENTH COURT OF APPEALS

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No. 10-17-00019-CR

DAVID VINCE LOPEZ,

Appellant

v.

THE STATE OF TEXAS,

Appellee

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From the 19th District Court  
McLennan County, Texas  
Trial Court No. 2013-190-C1

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MEMORANDUM OPINION

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Appellant, David Vince Lopez, was indicted with multiple counts of aggravated sexual assault of a child. *See* TEX. PENAL CODE ANN. § 22.021 (West Supp. 2016). After trial, Lopez was ultimately convicted of one count of aggravated sexual assault of a child and sentenced to ten years' incarceration in the Institutional Division of the Texas Department of Criminal Justice with a \$10,000 fine. The trial court declared a mistrial as to the remaining counts because the jury could not reach a verdict. Thereafter, Lopez

filed a notice of appeal, challenging the single count of aggravated sexual assault of a child for which he was convicted.

Several months after filing his notice of appeal, Lopez entered into a plea agreement with the State regarding the remaining counts. As part of the plea agreement with the State, Lopez signed a waiver of his right to appeal any of the counts for which he was convicted. Furthermore, the trial court indicated in an amended certification of Lopez's right of appeal that this is a plea-bargain case; that Lopez has no right of appeal; and that Lopez waived his right of appeal.

We must dismiss an appeal "without further action, regardless of the basis for the appeal" if the trial court's certification shows there is no right to appeal. *See Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006); *Monreal v. State*, 99 S.W.3d 615, 622 (Tex. Crim. App. 2003) (holding that an appellant who has executed a waiver of appeal, whether negotiated or non-negotiated, could not appeal without securing the permission of the trial court). Because the trial court's certification indicates that Lopez has no right of appeal, we hereby dismiss this appeal.<sup>1</sup>

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<sup>1</sup> In light of our disposition, we dismiss counsel's motion to dismiss this appeal as moot.

Nevertheless, we note that a motion for rehearing may be filed within 15 days after the judgment or order of this Court is rendered. *See* TEX. R. APP. P. 49.1. If the appellant desires to have the decision of this Court reviewed by filing a petition for discretionary review, that petition must be filed in the Court of Criminal Appeals within 30 days after either the day the court of appeals' judgment was rendered or the day the last timely motion for rehearing was overruled by the court of appeals. *See id.* at R. 68.2(a).

AL SCOGGINS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

Appeal Dismissed

Opinion delivered and filed September 13, 2017

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