

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-02-00064-CR

Mario Gonzales aka Gonzalez, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 390TH JUDICIAL DISTRICT
NO. 007834, HONORABLE JULIE H. KOCUREK, JUDGE PRESIDING**

Appellant Mario Gonzales pleaded guilty to possessing cocaine with intent to deliver. *See* Tex. Health & Safety Code Ann. ' 481.112 (West Supp. 2002). The district court adjudged him guilty and assessed punishment at imprisonment for four years, as called for in a plea bargain agreement. Appellant filed a general notice of appeal.

When a defendant pleads guilty to a felony and the punishment assessed does not exceed that recommended by the prosecutor and agreed to by the defendant, the notice of appeal must state that the appeal is for a jurisdictional defect, or that the substance of the appeal was raised by written motion and ruled on before trial, or that the trial court granted permission to appeal. Tex. R. App. P. 25.2(b)(3); *see also Cooper v. State*, 45 S.W.3d 77, 79 (Tex. Crim. App. 2001) (rule 25.2(b) limits every appeal in a plea bargain, felony case). Appellant's notice of appeal does not comply with this rule and fails to confer jurisdiction on this Court. *Whitt v. State*, 45 S.W.3d 274, 275 (Tex. App. CAustin 2001, no pet.).

Appellant's amended notice of appeal, by which he sought to comply with rule 25.2(b), was not filed within the time allowed for perfecting appeal and therefore does not cure the jurisdictional defect. *See State v. Riewe*, 13 S.W.3d 408, 413-14 (Tex. Crim. App. 2000) (rule 25.2(d) inapplicable).

The appeal is dismissed for want of jurisdiction.

Bea Ann Smith, Justice

Before Chief Justice Aboussie, Justices B. A. Smith and Yeakel

Dismissed for Want of Jurisdiction

Filed: May 31, 2002

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