

**DISMISS; and Opinion Filed May 3, 2017.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

**No. 05-17-00105-CR  
No. 05-17-00106-CR  
No. 05-17-00107-CR**

**CLYDE RANDALL STANBERY, Appellant  
V.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the 397th Judicial District Court  
Grayson County, Texas  
Trial Court Cause Nos. 066345, 066346, 067135**

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**MEMORANDUM OPINION**

**Before Justices Bridges, Lang-Miers, and Evans  
Opinion by Justice Lang-Miers**

Clyde Randall Stanbery appeals his convictions for intoxication manslaughter, failing to stop and render aid in an accident involving death, aggravated robbery, two aggravated assaults using a motor vehicle as a deadly weapon, possession of methamphetamine in an amount of four grams or more but less than 200 grams, obstruction or retaliation, and aggravated assault involving family violence and use of a deadly weapon. The trial court has filed certifications pursuant to rule of appellate procedure 25.2(d) stating appellant has no right to appeal his convictions because he entered into plea bargain agreements and waived his right to appeal. Concluding the trial court's certifications are correct, we dismiss the appeals.

During appellant's plea hearing, defense counsel informed the trial court that the parties had "reached an agreement in all of the felony pending cases that the Court has before it in

regards to a plea agreement to resolve the guilty plea today.” Defense counsel stated appellant would enter guilty pleas and go open on sentencing with the understanding that all sentences would run concurrently and he would get credit for time served. The State announced that the agreement required the State to abandon two counts charging manslaughter and aggravated kidnapping. The State further agreed not to seek deadly weapon findings on the intoxication manslaughter and possession cases. The deadly weapon findings would be made on those counts where use of a deadly weapon was alleged as part of the offense. The trial court reviewed the terms with the parties and received affirmations from trial counsel, appellant, and the prosecutor that they all agreed to the terms. As part of the plea paperwork, appellant signed plea documents that, taken together, reflected the agreement. Appellant also signed a document in which he expressly waived his right to appeal. The trial court questioned appellant on the record and received his assurances that he had gone over the waiver of the right to appeal and the trial court’s certification showing no right to appeal and that he understood that if the trial court approved the agreement the parties had reached, he was giving up his right to appeal.

At sentencing, the trial court assessed punishment at seventy years’ imprisonment for intoxication manslaughter, causing an accident involving death, and possession of methamphetamine, forty-five years’ imprisonment for aggravated robbery and the aggravated assault offenses, and twenty years’ imprisonment for obstruction or retaliation. Appellant’s counsel filed notices of appeal on appellant’s behalf but then withdrew from representation.

To resolve issues regarding appellant’s representation and indigence, the Court abated the appeals to the trial court for a hearing. During the abatement, the trial court appointed appellate counsel and entered findings of fact that appellant had reached an agreement with the State in which he agreed to plead guilty and waive his right to file a motion for new trial and to appeal in exchange for the State dropping counts for manslaughter and attempted aggravated kidnapping,

not seeking deadly weapon findings on some of the cases, and the State's agreement not to seek consecutive sentencing. The trial court found it accepted the agreement, prepared a certification showing appellant had no right to appeal, and admonished appellant on waiving his right to appeal. The trial court further found that the judgments entered state inaccurately that appellant entered open pleas. The trial court recommended that the appeals be dismissed because appellant was sentenced in accordance with the plea bargain and waived his right to appeal. The trial court further recommended that the judgments be modified to reflect appellant was sentenced pursuant to plea bargain agreements.

The Court requested letter briefs from the parties to address concerns about its jurisdiction over the appeals. Appellant's letter brief conceded that appellant accepted a plea bargain, waived his right to appeal, and the appeals should be dismissed.

The record before us shows appellant and the State reached a plea bargain in which appellant waived his right to appeal in exchange for the State's abandonment of two charges and agreement not to seek consecutive sentencing or deadly weapon findings on some of the offenses. Because appellant received valuable consideration for his pleas, the plea bargain and his waivers of the right to appeal are enforceable against him. *See Jones v. State*, 488 S.W.3d 801, 807–08 (Tex. Crim. App. 2016); *Ex parte Broadway*, 301 S.W.3d 694, 699 (Tex. Crim. App. 2009). The record does not reveal any pretrial motions that were resolved before trial. *See* TEX. R. APP. P. 25.2(a) (allowing appeal of certain matters raised by written motion and ruled upon before trial). Under the circumstances, we are required to dismiss the appeals without further action. *See Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

As the trial court has pointed out, the judgments in these appeals state incorrectly that appellant entered open guilty pleas. Because we do not have jurisdiction over the appeals, we lack the power to modify the judgments. *See id.*

We dismiss the appeals for want of jurisdiction.

/Elizabeth Lang-Miers/  
ELIZABETH LANG-MIERS  
JUSTICE

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TEX. R. APP. P. 47

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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

CLYDE RANDALL STANBERY,  
Appellant

No. 05-17-00105-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 397th Judicial District  
Court, Grayson County, Texas  
Trial Court Cause No. 066345.  
Opinion delivered by Justice Lang-Miers.  
Justices Bridges and Evans participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered this 3rd day of May, 2017.



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

CLYDE RANDALL STANBERY,  
Appellant

No. 05-17-00106-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 397th Judicial District  
Court, Grayson County, Texas  
Trial Court Cause No. 066346.  
Opinion delivered by Justice Lang-Miers.  
Justices Bridges and Evans participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered this 3rd day of May, 2017.



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

CLYDE RANDALL STANBERY,  
Appellant

No. 05-17-00107-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 397th Judicial District  
Court, Grayson County, Texas  
Trial Court Cause No. 067135.  
Opinion delivered by Justice Lang-Miers.  
Justices Bridges and Evans participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered this 3rd day of May, 2017.