

Opinion issued March 31, 2011



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-10-00614-CR

RODNEY DARIN VAUGHN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 248th District Court
Harris County, Texas
Trial Court Cause No. 1261611**

MEMORANDUM OPINION

On May 6, 2010, Rodney Darin Vaughn pleaded guilty pursuant to a plea agreement to assault of a family member. The plea agreement provided that the trial court would defer adjudication of guilt, and place appellant on two years' community supervision. The plea agreement also included appellant's waiver of his right to appeal. *See Blanco v. State*, 18 S.W.3d 218 (Tex. Crim. App. 2000). On May 6, 2010, the trial court took appellant's guilty plea, admonished appellant, and issued its certification of defendant's right of appeal, but postponed disposition of the matter. The disposition hearing was held July 8, 2010.

On May 24, 2010, appellant wrote in a letter to the trial court judge asserting his plea was involuntarily given on the basis of disinformation regarding the consequences of his plea, and stated that "[a]lthough I admit to signing [the plea agreement,] I feel I should be able to withdraw from my agreement or be assigned another attorney." On June 29, 2010, the trial court granted appellant's motion to substitute previously appointed counsel with retained counsel as attorneys of record in the case. At the disposition hearing on July 8, 2010, appellant's new counsel filed Defendant's Motion to Withdraw Guilty Plea, which the court denied. Appellant also filed a defective notice of appeal at the disposition hearing.

The Texas Court of Criminal Appeals has held that the voluntariness of a guilty plea may not be raised on appeal following a plea bargain agreement. *See Cooper v. State*, 45 S.W.3d 77, 81, 83 (Tex. Crim. App. 2001). Rather, the proper

avenue for attacking the voluntariness of a negotiated plea is by application for writ of habeas corpus. *See id.* at 82-83; *see* TEX. CODE CRIM. PROC. ANN. art. 11.072 (Vernon Supp. 2010) (habeas corpus procedure in community supervision case).

The trial court's certification states that the case is a plea bargain case, and the defendant has no right of appeal. The certification is supported by the record. Because appellant has no right of appeal, we must dismiss this appeal "without further action." *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

Accordingly, we dismiss the appeal for lack of jurisdiction.

We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Bland and Brown.