

Opinion issued March 31, 2011



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

NO. 01-10-00991-CR

TIMOTHY BALDASSARI, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 185th District Court
Harris County, Texas
Trial Court Cause No. 1231773**

MEMORANDUM OPINION

Appellant, Timothy Baldassari, pleaded guilty to the offense of driving while intoxicated, third offender, was sentenced to four years in prison on October 16, 2009. This sentence was suspended, and the defendant was placed on community supervision for four years. The trial court granted the State's motion to revoke

community supervision on December 21, 2009, and defendant pleaded true to the allegations he violated conditions of the community supervision order. Prior to the hearing to reform the original sentence, the parties agreed the State would recommend to the trial court that defendant be sentenced to two years' confinement, thus creating a plea agreement to the reformed sentence. The trial court accepted the State's recommendation, sentenced defendant to two years' confinement, and noted on both the judgment and certification of defendant's right of appeal that defendant had no right of appeal. Appellant timely filed a pro se notice of appeal. We dismiss the appeal.

In a plea bargain case, a defendant may appeal only those matters that were raised by written motion filed and ruled on before trial, or after getting the trial court's permission to appeal. TEX. R. APP. P. 25.2(a)(2). The trial court's certification states that this is a plea bargain case and that the defendant has no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2). Appellant did not appeal any pre-trial matters, and the trial court did not give permission for appellant to appeal. The record supports the trial court's certification. *See Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005). Because appellant has no right of appeal, we must dismiss this appeal. *See Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006) ("A court of appeals, while having jurisdiction to ascertain whether an

appellant who plea-bargained is permitted to appeal by Rule 25.2(a)(2), must dismiss a prohibited appeal without further action, regardless of the basis for the appeal.”).

Accordingly, we dismiss the appeal for want of jurisdiction. All pending motions are dismissed as moot.

PER CURIAM

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

Do not publish. TEX. R. APP. P. 47.2(b).