

Opinion issued June 2, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-15-00307-CR

NO. 01-15-00308-CR

NO. 01-15-00309-CR

BENJAMIN ROBERT HARPER, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 268th District Court
Fort Bend County, Texas
Trial Court Case Nos. 14-DCR-065812, 14-DCR-066803, and 14-DCR-066804**

MEMORANDUM OPINION

Appellant, Benjamin Robert Harper, pursuant to agreements with the State, pleaded guilty to the felony offenses of burglary of a habitation,¹ aggravated robbery,² and evading arrest with a motor vehicle.³ The trial court accepted the plea agreements and found appellant guilty of each offense. It assessed his punishment at confinement for twenty years for the offenses of burglary of a habitation and aggravated assault. It assessed his punishment at confinement for ten years for the offense of evading arrest. And it ordered that the sentences run concurrently. The trial court further certified that these are plea-bargained cases and appellant has no right of appeal. Appellant filed a pro se notice of appeal in each case.

We dismiss the appeals.

In a plea-bargained case, a defendant may appeal only those matters that were raised by written motion and ruled on before trial or after obtaining the trial court's permission to appeal. TEX. CODE CRIM. PROC. ANN. art 44.02 (Vernon 2006); TEX. R. APP. P. 25.2(a)(2). The trial court did not rule adversely to appellant on any pre-trial motions and did not give appellant permission to appeal. An appeal must be

¹ See TEX. PENAL CODE ANN. § 30.02(a) (Vernon 2011).

² See TEX. PENAL CODE ANN. § 29.02(a)(2), 29.03(a)(2) (Vernon 2011).

³ See TEX. PENAL CODE ANN. § 38.04(b)(2)(A) (Vernon Supp. 2015).

dismissed if a certification showing that the defendant has a right of appeal has not been made part of the record. TEX. R. APP. P. 25.2(d).

Here, in each case, the trial court's certification is included in the record and states that the case is a plea-bargained case and appellant has no right of appeal.⁴ See TEX. R. APP. P. 25.2(a)(2). The record in each case 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 these appeals. 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 each appeal for want of jurisdiction. We dismiss all pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Jennings and Lloyd.

Do not publish.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

⁴ The trial court's certifications also state that appellant waived his right to appeal. The record includes appellant's signed “Waiver of Right to Appeal,” indicating that appellant waived the right to appeal if the court accepted the plea agreement. A waiver of the right to appeal may be valid if made when the defendant knows the sentence he will receive. See *Ex parte Delaney*, 207 S.W.3d 794, 798 (Tex. Crim. App. 2006).