

Opinion issued October 13, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00169-CR

DANIEL JACOBSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 182nd District Court
Harris County, Texas
Trial Court Case No. 1485376**

MEMORANDUM OPINION

Appellant Daniel Jacobson pleaded guilty to the offense of driving while intoxicated. *See* TEX. PENAL CODE § 49.04. In accordance with Jacobson's plea bargain, the trial court sentenced him to imprisonment for five years, but it suspended the sentence and placed him on community supervision for five years.

Jacobson filed a notice of appeal. The State has filed a motion to dismiss the appeal, contending he has no right to appeal. Jacobson has not responded to this motion.

In a plea bargain case, a defendant only may appeal 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. CODE CRIM. PROC. art. 44.02; TEX. R. APP. P. 25.2(a)(2). An appeal must be dismissed if a certification showing that the defendant has the right of appeal has not been made part of the record. TEX. R. APP. P. 25.2(d).

Here, the trial court's certification is included in the record on appeal. *See id.* 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). 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 grant the State's motion and dismiss the appeal for want of jurisdiction. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Bland, Massengale, and Lloyd.

Do not publish.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