

Dismissed and Memorandum Opinion filed February 4, 2010.



In The

Fourteenth Court of Appeals

NO. 14-09-00392-CR

NO. 14-09-00393-CR

CASSANDRA VIOLET MCGUIRE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 212th District Court
Galveston County, Texas
Trial Court Cause Nos. 06CR0145 & 06CR0144**

MEMORANDUM OPINION

Appellant Cassandra Violet McGuire was indicted on two charges of aggravated sexual assault of a child. On August 6, 2007, she pleaded guilty to two charges of indecency with a child by exposure. The trial court ordered deferred adjudication of the charges, placing appellant on community supervision for seven years. On August 21, 2008, the State filed a motion to adjudicate guilt. After a hearing, the trial court found appellant guilty and assessed punishment for each charge at confinement for ten years in

the Institutional Division of the Texas Department of Criminal Justice. On appeal, appellant contends that she did not commit the offenses and she received ineffective assistance of counsel at the time of her original plea. She further contends that her guilty pleas on the original charges were involuntary due to ineffective assistance of counsel. Because we have no jurisdiction to consider the voluntariness of appellant's original plea of guilty after the trial court has adjudicated her guilt, we dismiss for want of jurisdiction.

A defendant placed on deferred adjudication community supervision may raise issues relating to the original plea proceeding, such as voluntariness, only in appeals taken when deferred adjudication is first imposed. *Manuel v. State*, 994 S.W.2d 658, 661–62 (Tex. Crim. App. 1999). Since the Court of Criminal Appeals decided *Manuel*, the legislature amended article 42.12 §5(b) to permit review of the trial court's determination to proceed with an adjudication of guilt on a criminal charge. Tex. Code Crim. Proc. Ann. art. 42.12 § 5(b) (Vernon Supp. 2009). Nothing in the amended language, however, evidences an intent to permit two reviews of the legality of a deferred adjudication order, one at the time deferred adjudication is first imposed, and another when, and if, it is later revoked. *See Pizana v. State*, No. 04-08-00535-CR, 2009 WL 700661 at *2 (Tex. App.—San Antonio March 18, 2009, no pet.) (applying restriction in *Manuel* to amended statute). Because McGuire did not challenge the voluntariness of her plea until after the trial court adjudicated her guilt and revoked her community supervision, we have no jurisdiction to entertain her appeal. *See id.* at 662.

Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Panel consists of Justices Yates, Seymore, and Brown.

Do Not Publish — Tex. R. App. P. 47.2(b).