

**Dismissed and Memorandum Opinion filed September 12, 2017.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-17-00637-CR**

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**GILBERT SALAS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 228th District Court  
Harris County, Texas  
Trial Court Cause No. 1438490**

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**M E M O R A N D U M     O P I N I O N**

Appellant entered a plea of guilty to murder. Appellant and the State agreed that appellant's punishment would not exceed confinement in prison for more than 45 years. In accordance with the terms of this plea bargain agreement with the State, the trial court sentenced appellant to confinement for 45 years in the Institutional Division of the Texas Department of Criminal Justice. Appellant appealed. We dismiss the appeal.

The trial court entered a certification of the defendant's right to appeal in which the court certified that this is a plea bargain case, and the defendant has no right of appeal. *See* Tex. R. App. P. 25.2(a)(2). The trial court's certification is included in the record on appeal. *See* Tex. R. App. P. 25.2(d). The record supports the trial court's certification. *See Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005).

An agreement that places a cap on punishment is a plea bargain for purposes of Texas Rule of Appellate Procedure 25.2(a)(2). *Waters v. State*, 124 S.W.3d 825, 826–27 (Tex. App.—Houston [14th Dist.] 2003, pet. ref'd) (holding reviewing court lacked jurisdiction where defendant pled guilty with a sentencing cap of ten years, even though trial judge mistakenly certified defendant had right of appeal); *see also Shankle v. State*, 119 S.W.3d 808, 813 (Tex. Crim. App. 2003) (stating sentence-bargaining may be for recommendations to the court on sentences, including a recommended “cap” on sentencing).

Because appellant's plea was made pursuant to a plea bargain, he may appeal only matters raised by a written pretrial motion or with the trial court's permission. *See* Tex. R. App. P. 25.2(a)(2). The record does not contain any adverse pretrial rulings, and the trial court did not grant permission to appeal.

Accordingly, we dismiss the appeal.

PER CURIAM

Panel consists of Justices Jamison, Busby, and Donovan.  
Do Not Publish — Tex. R. App. P. 47.2(b).