

Appeal Dismissed and Memorandum Opinion filed May 17, 2018.



In The

Fourteenth Court of Appeals

NO. 14-18-00249-CR

JORGE RAUL CABRERA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 177th District Court
Harris County, Texas
Trial Court Cause No. 1534335**

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

Appellant entered a plea of guilty to aggravated robbery with a deadly weapon without an agreed recommendation. In exchange for appellant's plea, the State recommended that appellant's punishment not exceed confinement in prison for more than 25 years. In accordance with the terms of this plea bargain agreement with the State, the trial court sentenced appellant to confinement for 25 years in the Institutional Division of the Texas Department of Criminal Justice. We dismiss the appeal for want of jurisdiction.

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 certified defendant had right of appeal); *Threadgill v. State*, 120 S.W.3d 871, 872 (Tex. App.—Houston [1st Dist.] 2003, no. pet.) (holding statement in record indicating that there was no agreed recommendation did not convert proceeding into an open plea where plea was entered pursuant to agreed sentencing cap); *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).

The trial 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).

Accordingly, we dismiss the appeal.

PER CURIAM

Panel consists of Chief Justice Frost and Justices Donovan and Brown.
Do Not Publish — Tex. R. App. P. 47.2(b).