

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-09-00436-CR

Gerardo **SANCHEZ**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 399th Judicial District Court, Bexar County, Texas
Trial Court No. 2009-CR-1341
Honorable David A. Berchelmann, Jr., Judge Presiding

PER CURIAM

Sitting: Phylis J. Speedlin, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: August 26, 2009

DISMISSED

On August 7, 2009, this court issued an order stating this appeal would be dismissed pursuant to Rule 25.2(d) unless an amended trial court certification that shows appellant has the right of appeal was made part of the appellate record on or before September 8, 2009. *See* TEX. R. APP. P. 25.2(d), 37.1; *see also Daniels v. State*, 110 S.W.3d 174, 175-76 (Tex. App.—San Antonio 2003, order). Appellant's counsel filed a response in which she states that she has reviewed the electronic

record and “can find no right of appeal for Appellant;” counsel concedes that the appeal must be dismissed. In light of the record presented, we agree with appellant’s counsel that Rule 25.2(d) requires this court to dismiss this appeal. TEX. R. APP. P. 25.2(d). The record does not contain a certification that shows the defendant has the right of appeal; to the contrary, the trial court certification in the record states “this criminal case is a plea-bargain case, and the defendant has NO right of appeal.” The clerk’s record contains a written plea bargain, and the punishment assessed did not exceed the punishment recommended by the prosecutor and agreed to by the defendant; therefore, the clerk’s record supports the trial court’s certification that defendant has no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2). Accordingly, we dismiss the appeal. *See* TEX. R. APP. P. 25.2(d).

PER CURIAM

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