

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



MEMORANDUM OPINION

No. 04-10-00239-CR

David M. **SEPULVEDA**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 227th Judicial District Court, Bexar County, Texas
Trial Court No. 2007-CR-4404
Honorable Philip A. Kazen Jr., Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Marialyn Barnard, Justice

Delivered and Filed: May 12, 2010

DISMISSED

Appellant David M. Sepulveda pleaded guilty to the offense of aggravated robbery pursuant to a plea bargain agreement. As part of his plea-bargain, appellant signed a separate “Waiver of Appeal.” The trial court imposed sentence and signed a certificate stating that this “is a plea-bargain case, and the defendant has NO right of appeal” and “the defendant has waived the right of appeal.” See TEX. R. APP. P. 25.2(a)(2). Appellant timely filed a notice of appeal. The clerk’s record, which

includes the plea bargain agreement and the trial court's Rule 25.2(a)(2) certification, has been filed. See TEX. R. APP. P. 25.2(d). This court must dismiss an appeal "if a certification that shows the defendant has the right of appeal has not been made part of the record." *Id.*

The court gave appellant notice that the appeal would be dismissed unless an amended trial court certification showing he has the right to appeal were made part of the appellate record within thirty days. See TEX. R. APP. P. 25.2(d); 37.1; *Daniels v. State*, 110 S.W.3d 174 (Tex. App.—San Antonio 2003, order), *disp. on merits*, No. 04-03-00176-CR, 2003 WL 21508347 (July 2, 2003, pet. ref'd) (not designated for publication). Appellant's appointed appellate counsel filed a written response, stating she has reviewed the record and can find no right of appeal. After reviewing the record and counsel's notice, we agree appellant does not have a right to appeal. See *Dears v. State*, 154 S.W.3d 610 (Tex. Crim. App. 2005) (holding that court of appeals should review clerk's record to determine whether trial court's certification is accurate). We therefore dismiss this appeal. TEX. R. APP. P. 25.2(d).

PER CURIAM

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