

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



**MEMORANDUM OPINION**

No. 04-10-00244-CR

David **CALZADA**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 226th Judicial District Court, Bexar County, Texas  
Trial Court No. 2009-CR-7747  
Honorable Sid L. Harle, Judge Presiding

PER CURIAM

Sitting: Rebecca Simmons, Justice  
Steven C. Hilbig, Justice  
Marialyn Barnard, Justice

Delivered and Filed: May 19, 2010

DISMISSED

The trial court's certification in this appeal states that "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 trial court's certification accurately reflects that the underlying case is a plea-bargain case. *See* TEX. R. APP. P. 25.2(a)(2).

Rule 25.2(d) of the Texas Rules of Appellate Procedure provides, “The appeal must be dismissed if a certification that shows the defendant has a right of appeal has not been made part of the record under these rules.” TEX. R. APP. P. 25.2(d). Appellant’s counsel has filed written notice with this court that counsel has reviewed the record and “can find no right of appeal for Appellant.” We construe this notice as an indication that appellant will not seek to file an amended trial court certification showing that he has the right of appeal. See TEX. R. APP. P. 25.2(d); 37.1; see also *Daniels v. State*, 110 S.W.3d 174, 177 (Tex. App.—San Antonio 2003, no pet.). In light of the record presented, we agree with appellant’s counsel that Rule 25.2(d) requires this court to dismiss this appeal. Accordingly, this appeal is dismissed.

PER CURIAM

DO NOT PUBLISH