



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00206-CR

James **HALSELL**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 437th Judicial District Court, Bexar County, Texas
Trial Court No. 2015CR7747
Honorable Lori I. Valenzuela, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
Marialyn Barnard, Justice
Rebeca C. Martinez, Justice

Delivered and Filed: June 14, 2017

DISMISSED

Pursuant to a plea-bargain agreement, James Halsell pled nolo contendere to two counts of money laundering and one count of forgery and was sentenced in accordance with the terms of his plea-bargain agreement. On March 6, 2017, the trial court signed a certification of defendant's right to appeal stating that this "is a plea-bargain case, and the defendant has NO right of appeal." *See* TEX. R. APP. P. 25.2(a)(2). After Halsell filed a notice of appeal, the trial court clerk sent copies of the certification and notice of appeal to this court. *See id.* 25.2(e). The clerk's record, which includes the trial court's Rule 25.2(a)(2) certification, has been filed. *See id.* 25.2(d).

“In a plea bargain case ... a defendant may appeal only: (A) those matters that were raised by written motion filed and ruled on before trial, or (B) after getting the trial court’s permission to appeal.” *Id.* 25.2(a)(2). The clerk’s record, which contains a written plea bargain, establishes the punishment assessed by the court does not exceed the punishment recommended by the prosecutor and agreed to by the defendant. *See id.* The clerk’s record does not include a written motion filed and ruled upon before trial; nor does it indicate that the trial court gave its permission to appeal. *See id.* The trial court’s certification, therefore, appears to accurately reflect that this is a plea-bargain case and that Halsell does not have a right to appeal. We 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.* 25.2(d).

Therefore, on April 25, 2017, we issued an order explaining that this appeal would be dismissed pursuant to Texas Rule of Appellate Procedure 25.2(d) unless an amended trial court certification showing that Halsell had the right to appeal was made part of the appellate record by May 25, 2017. *See* TEX. R. APP. P. 25.2(d), 37.1; *Daniels v. State*, 110 S.W.3d 174 (Tex. App.—San Antonio 2003, order).

On June 1, 2017, Halsell’s attorney filed a Motion to Extend Time to Respond to the Court’s Order. Halsell’s written response was filed on the same date. We GRANT Halsell’s motion to extend time to file the written response. Halsell’s attorney in the written response states that “the trial court’s certification of the defendant’s right of appeal accurately reflects that this is a plea-bargain case, the terms of the plea bargain were followed, and Appellant has no right of appeal.”

This appeal is therefore DISMISSED.

PER CURIAM

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