



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

**MEMORANDUM OPINION**

No. 04-18-00912-CR

Ian Alan **HARMS**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 399th Judicial District Court, Bexar County, Texas  
Trial Court No. 2017CR12593  
Honorable Frank J. Castro, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice  
Beth Watkins, Justice  
Liza A. Rodriguez, Justice

Delivered and Filed: April 3, 2019

**APPEAL DISMISSED**

Appellant Ian Alan Harms entered into a plea bargain with the State pursuant to which he pleaded nolo contendere to forgery of a financial instrument. The trial court imposed sentence in accordance with the agreement and signed a certificate stating this “is a plea-bargain case, and the defendant has NO right of appeal.” *See* TEX. R. APP. P. 25.2(a)(2). Appellant timely filed a notice of appeal, and the district clerk filed a copy of the clerk’s record, which includes the trial court’s rule 25.2(a)(2) certification and a written plea bargain agreement. *See id.* R. 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.* R. 25.2(a). 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.* R. 25.2(d).

Here, the clerk’s record establishes the punishment assessed by the trial court does not exceed the punishment recommended by the prosecutor and agreed to by the defendant. *See id.* R. 25.2(a)(2). The record also supports the trial court’s certification that 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).

On February 1, 2019, we gave appellant notice that this appeal will be dismissed pursuant to rule 25.2(d) of the Texas Rules of Appellate Procedure unless an amended certification showing that appellant has the right to appeal is made part of the appellate record on or before March 4, 2019. *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). Neither an amended certification nor other response has been filed. We therefore dismiss this appeal. *See* TEX. R. APP. P. 25.2(d).

PER CURIAM

DO NOT PUBLISH