



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-20-00260-CR

Christopher MCKINNEY,
Appellant

v.

The STATE of Texas,
Appellee

From the 175th Judicial District Court, Bexar County, Texas
Trial Court No. 2019CR0831
Honorable Kevin M. O'Connell, Judge Presiding

PER CURIAM

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

Delivered and Filed: July 29, 2020

APPEAL DISMISSED

Appellant Christopher David McKinney entered into a plea bargain with the State pursuant to which he pleaded nolo contendere to aggravated assault with a deadly weapon. 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). 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.*

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, 614 (Tex. Crim. App. 2005) (holding that court of appeals should review clerk’s record to determine whether trial court’s certification is accurate).

On June 29, 2020, we gave appellant notice that this appeal would 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 was made part of the appellate record by July 29, 2020. *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). On July 13, 2020, appellant’s counsel filed a response agreeing this case is a plea-bargain case with no right of appeal. We therefore dismiss this appeal. *See* TEX. R. APP. P. 25.2(d).

PER CURIAM

DO NOT PUBLISH