



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-17-00216-CR

PATRICK JEROME MOORE JR.

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 371ST DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 1464926D

MEMORANDUM OPINION¹

On November 8, 2017, we abated this appeal. In our abatement order, we stated that we had reviewed the record and that we were concerned about whether the appeal required dismissal because appellant Patrick Jerome Moore Jr. had entered into a plea bargain. We explained that Moore's plea of guilty to sexual assault in exchange for the waiver of two counts of indecency with a child

¹See Tex. R. App. P. 47.4.

by contact qualified as a plea bargain subject to rule of appellate procedure 25.2(a)(2). See Tex. R. App. P. 25.2(a)(2) (restricting the right to appeal plea-bargained convictions); *Shankle v. State*, 119 S.W.3d 808, 813–14 (Tex. Crim. App. 2003); see also *Kennedy v. State*, 297 S.W.3d 338, 342 (Tex. Crim. App. 2009). We instructed the trial court to amend its certification of Moore’s right to appeal and to indicate on the amended certification whether the trial court had granted him permission to appeal or whether he had no right of appeal. See Tex. R. App. P. 25.2(a)(2), (d), (f).

On November 16, 2017, the trial court signed an amended certification stating that this is a plea bargain case and that Moore has “NO right of appeal.” An appeal “must be dismissed if a certification that shows the defendant has the right of appeal has not been made part of the record.” Tex. R. App. P. 25.2(d). Under rule of appellate procedure 25.2, we must “dismiss a prohibited appeal without further action, regardless of the basis for the appeal.” *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

Because the trial court has certified that Moore has no right of appeal, we dismiss this appeal. See Tex. R. App. P. 25.2(a)(2), (d), 43.2(f); *Chavez*, 183 S.W.3d at 680; *Serrell v. State*, No. 02-16-00219-CR, 2016 WL 6648757, at *1 (Tex. App.—Fort Worth Nov. 10, 2016, no pet.) (mem. op., not designated for publication).

/s/ Wade Birdwell
WADE BIRDWELL
JUSTICE

PANEL: KERR, PITTMAN, and BIRDWELL, JJ.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: December 28, 2017