

NO. 07-06-0115-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
JUNE 12, 2006

BENNIE GOMEZ,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 154TH DISTRICT COURT OF LAMB COUNTY;
NO. 4169; HON. FELIX KLEIN, PRESIDING

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Bennie Gomez (appellant) appeals his conviction for Driving While Intoxicated. Pursuant to a plea agreement, the trial court assessed punishment at seven years in prison. The certification of appeal executed by the trial court does not disclose that he has the right of appeal; rather it states that he has no right of appeal. By letter dated June 5, 2006, this court notified appellant of this circumstance and that the appeal was subject to

dismissal. The court also requested that he either supply us with an amended certification illustrating that he has a right to appeal or inform us why we should continue the appeal, by June 15, 2006. By letter filed June 6, 2006, appellant contends that pursuant to *Cooper v State*, 45 S.W.3d 77 (Tex. Crim. App. 2001), he has a right to appeal the voluntariness of his plea which was the subject of his motion for new trial. We disagree and find *Cooper* inapposite. *Cooper* does not permit the voluntariness of the plea to be raised on appeal when the special notice requirements in plea bargain cases have not been met. *Id.* at 83. Therefore, we dismiss the appeal. See TEX. R. APP. P. 25.2(d) (requiring that the appeal be dismissed if a certification that shows that the defendant has a right of appeal has not been made part of the record).

Accordingly, the appeal is dismissed.

Brian Quinn
Chief Justice

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