



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-16-00131-CR

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**ROBERT JACKSON, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 140th District Court  
Lubbock County, Texas  
Trial Court No. 2013-400,175, Honorable Jim Bob Darnell, Presiding

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April 29, 2016

**MEMORANDUM OPINION**

Before **CAMPBELL** and **HANCOCK** and **PIRTLE, JJ.**

Appellant, Robert Jackson, seeks to appeal a plea-bargained judgment of conviction for the offense of burglary of a habitation.<sup>1</sup> In accordance with the terms of the plea bargain, appellant was sentenced to eight years' imprisonment. Because appellant's notice of appeal was filed untimely and appellant has no right of appeal, we will dismiss.

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<sup>1</sup> TEX. PENAL CODE ANN. § 30.02(c)(2) (West 2011).

To be timely, a notice of appeal must be filed within thirty days after sentence is imposed or suspended in open court or within ninety days after that date if a motion for new trial is timely filed. TEX. R. APP. P. 26.2(a). Appellant was sentenced in open court on June 24, 2014, and did not file a motion for new trial. Therefore, his notice of appeal was due by July 24, 2014. Appellant did not file a notice of appeal until April 4, 2016, almost two years after the deadline. By letter dated April 6, 2016, this Court notified appellant that his notice of appeal was filed untimely and directed him to show why the Court has jurisdiction by April 18. Appellant did not respond to the Court's letter. Because appellant's notice of appeal was filed untimely, this Court is without jurisdiction over the appeal and has no authority to take any action other than to dismiss. See *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012); *Olivo v. State*, 918 S.W.2d 519, 522-23 (Tex. Crim. App. 1996).

Moreover, an appeal must be dismissed unless a trial court's certification showing that the defendant has the right of appeal has been made part of the record. TEX. R. APP. P. 25.2(d). In this case, the Trial Court's Certification of the Defendant's Right to Appeal indicates that this was "a plea-bargain case and the Defendant has NO right of appeal." Based upon our review of the record, we find that appellant voluntarily, knowingly, and intelligently entered into a plea bargain and that the terms of this plea bargain were accepted by the trial court. See *Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005).

By the same letter dated April 6, 2016, we also notified appellant that the trial court's certification showed that this was a plea-bargain case for which appellant had no right of appeal. We advised appellant that the appeal must be dismissed unless an amended certification reflecting that appellant has the right of appeal is received or appellant can demonstrate other grounds for continuing the appeal. Appellant was given until April 18 to file a response. Appellant has not filed a response or an amended certification to date. Therefore, we must also dismiss as appellant has no right of appeal. See TEX. R. APP. P. 25.2(d); *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

Accordingly, we now dismiss the appeal for want of jurisdiction and because appellant failed to comply with an order of this Court. TEX. R. APP. P. 42.3(a), (c).

Per Curiam

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