



**IN THE
TENTH COURT OF APPEALS**

No. 10-12-00246-CR

EX PARTE BENITO MOJICA

**From the 66th District Court
Hill County, Texas
Trial Court No. 36090-A**

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, Benito Mojica entered a plea of nolo contendere to the offense of possession of a controlled substance. The trial court convicted Mojica of the offense and assessed punishment at eight years confinement and a \$500 fine. The trial court suspended imposition of the confinement portion of the sentence and placed Mojica on community supervision for eight years.

On April 25, 2012, Mojica filed an application for writ of habeas corpus in the trial court seeking to set aside his conviction because he received ineffective assistance of counsel. On June 7, 2012, the trial court denied the application for writ of habeas corpus, and Mojica filed a notice of appeal in this court. On August 1, 2012, this Court notified Mojica that no certification of his right to appeal had been filed. *See* TEX. R. APP.

P. 25.2(a)(2). This Court informed Mojica that the proceeding would be dismissed within 14 days of that letter unless a certification of defendant's right to appeal was provided to the Court. TEX. R. APP. P. 44.3.

Rule 25.2 of the Texas Rules of Appellate Procedure provides that a "trial court shall enter a certification of the defendant's right of appeal each time it enters a judgment of guilt or other appealable order." TEX. R. APP. P. 25.2(a)(2). The denial of a writ of habeas corpus is an appealable order. *Greenwell v. Court of Appeals for the Thirteenth Judicial Dist.*, 159 S.W.3d 645, 650 (Tex. Crim. App. 2005). "The appeal must be dismissed if a certification that shows the defendant has the right of appeal has not been made part of the record under these rules." TEX. R. APP. P. 25.2(d).

No certification of defendant's right to appeal has been provided, and Mojica has not sought extraordinary relief in this Court to compel the trial court to enter a certification of defendant's right of appeal. Accordingly, the appeal is dismissed.

AL SCOGGINS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Appeal Dismissed
Opinion delivered and filed September 13, 2012
[CR25]