



IN THE
TENTH COURT OF APPEALS

No. 10-17-00366-CR

AARON LEE BROTHERTON,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 54th District Court
McLennan County, Texas
Trial Court No. 2015-1172-C2

MEMORANDUM OPINION

Aaron Lee Brotherton has filed a "Petition for Leave to File Out-of-Time Appeal." He requests that we grant him leave to file an out-of-time appeal from the judgment of conviction and sentence rendered against him on May 8, 2017. We, however, have no jurisdiction to grant an untimely appeal. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Furthermore, the trial court's certification of Brotherton's right of appeal, which Brotherton and his counsel signed, indicates that the underlying case was a plea-bargain case and that Brotherton has no right of appeal and also that Brotherton has

waived his right of appeal. Therefore, even if we had jurisdiction to grant Brotherton an out-of-time appeal, the appeal must be dismissed. See TEX. R. APP. P. 25.2(d) (“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.”); *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006) (plea bargain); *Monreal v. State*, 99 S.W.3d 615, 622 (Tex. Crim. App. 2003) (waiver of appeal).

For these reasons, we dismiss Brotherton’s “Petition for Leave to File Out-of-Time Appeal.”

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Dismissed
Opinion delivered and filed November 22, 2017
Do not publish
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