

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-00-00745-CR

Kirby Wayne Robinson, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 27TH JUDICIAL DISTRICT
NO. 50,914, HONORABLE RICK MORRIS, JUDGE PRESIDING**

Appellant Kirby Wayne Robinson pleaded guilty to aggravated assault. *See* Tex. Penal Code Ann. § 22.02 (West 1994). The district court adjudged him guilty and assessed punishment at imprisonment for ten years, as called for in a plea bargain agreement.

Appellant's court-appointed attorney filed a brief concluding that the appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See also Penson v. Ohio*, 488 U.S. 75 (1988); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex. Crim. App. 1974); *Jackson v. State*, 485 S.W.2d 553 (Tex. Crim. App. 1972); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). A copy of counsel's brief was delivered to appellant, and appellant was advised of his right to examine the appellate record and to file a pro se brief. No pro se brief has been filed.

When a defendant pleads guilty to a felony and the punishment assessed does not exceed that recommended by the prosecutor and agreed to by the defendant, the notice of appeal must state that the appeal is for a jurisdictional defect, or that the substance of the appeal was raised by written motion and ruled on before trial, or that the trial court granted permission to appeal. Tex. R. App. P. 25.2(b)(3). The notice of appeal in this cause does not comply with this rule. In opinions announced after the briefs were filed in this cause, both this Court and the Texas Court of Criminal Appeals have held that if a notice of appeal does not comply with rule 25.2(b)(3), it fails to confer appellate jurisdiction. *Whitt v. State*, No. 03-00-00194-CR (Tex. App.—Austin April 19, 2001, no pet. hist.); *see also Cooper v. State*, No. 1100-99, slip op. at 6-8 (Tex. Crim. App. April 4, 2001).

The appeal is dismissed for want of jurisdiction.

Lee Yeakel, Justice

Before Chief Justice Aboussie, Justices Yeakel and Patterson

Dismissed for Want of Jurisdiction

Filed: May 17, 2001

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