

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

---

**NO. 03-03-00232-CR**

---

**Joe Ybarra, Appellant**

**v.**

**The State of Texas, Appellee**

---

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 368TH JUDICIAL DISTRICT  
NO. 00-372-K368, HONORABLE BURT CARNES, JUDGE PRESIDING**

---

**MEMORANDUM OPINION**

Following his conviction for felony driving while intoxicated, Joe Ybarra filed both a notice of appeal and a motion for new trial. This Court gave the appeal cause number 03-03-00119-CR. The clerk's record was filed on March 24, 2003. The record contained the trial court's certification that this was a plea bargain case and that Ybarra had no right of appeal. *See* Tex. R. App. P. 25.2(a)(2). Accordingly, the appeal was dismissed. *Ybarra v. State*, No. 03-03-00119-CR (Tex. App. CAustin Apr. 3, 2003, no pet.) (not designated for publication); *see* Tex. R. App. P. 25.2(d).

On April 2, 2003, the district court signed an order overruling Ybarra's motion for new trial. Ybarra filed a second notice of appeal, which was entered on this Court's docket under the present cause number. We are aware of no statute or rule conferring a right to independently appeal the overruling of a motion for new trial. Instead, the appellate rules clearly contemplate that the ruling on a motion for new trial

is to be considered as part of the appeal from the judgment of conviction. *See* Tex. R. App. P. 26.2(a)(2) (extending time for perfecting appeal if motion for new trial filed). As the trial court has previously certified, Ybarra has no right of appeal from the judgment of conviction in district court cause number 00-372-K368.

For the reasons stated, this appeal is dismissed.

---

W. Kenneth Law, Chief Justice

Before Chief Justice Law, Justices B. A. Smith and Puryear

Dismissed

Filed: May 15, 2003

Do Not Publish