

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-09-00127-CR

In re Johnny Ray Valchar

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 277TH JUDICIAL DISTRICT
NO. 95-522-K277, HONORABLE JACK R. MILLER, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

This is an appeal from an order denying post-conviction forensic DNA testing. The clerk's record does not contain the trial court's certification of Valchar's right of appeal. Tex. R. App. P. 25.2(a)(2). The denial of testing is an appealable order. Tex. Code Crim. Proc. Ann. art. 64.05 (West 2006). Notice that the certification is missing has twice been sent to the district clerk.

The appeal is abated for the trial court to prepare and file the certification of the right of appeal required by rule 25.2(a)(2). Tex. R. App. P. 37.1. A supplemental clerk's record containing the court's certification shall be tendered to the Clerk for filing no later than November 10, 2009.

Before Justices Patterson, Puryear and Pemberton

Abated

Filed: October 30, 2009

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