

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00488-CR

Jasmine Shante Quattlebaum, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 264TH JUDICIAL DISTRICT
NO. 68323, HONORABLE MARTHA J. TRUDO, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant Jasmine Shante Quattlebaum pleaded guilty to the offense of deadly conduct and the district court placed her on deferred-adjudication community supervision for a period of three years. Subsequently, the State filed a motion to proceed with an adjudication of guilt. Quattlebaum pleaded true to the allegations in the motion to adjudicate and was sentenced to four years' imprisonment. This appeal followed.

The rules of appellate procedure provide, "The 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). We are required "to examine a certification for defectiveness, and to use Rules 37.1 and 34.5(c) to obtain another certification, whenever appropriate." *Dears v. State*, 154 S.W.3d 610, 614 (Tex. Crim. App. 2005) (citing Tex. R. App. P. 37.1, 34.5(c)). A defective

certification is one “which is correct in form but which, when compared with the record before the court, proves to be inaccurate.” *Id.*

The certification in this cause indicates that this is a plea-bargain case and the defendant has no right of appeal. This certification does not appear to conform to the record. A plea-bargain case is defined as one in which a defendant’s plea was guilty or nolo contendere and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant. Tex. R. App. P. 25.2(a)(2). Here, Quattlebaum did not plead guilty or nolo contendere. Instead, she pleaded true to the allegations in the State’s motion to adjudicate. *See Hargesheimer v. State*, 182 S.W.3d 906, 909-10 (Tex. Crim. App. 2006) (holding that case in which defendant pleads true to allegations in motion to adjudicate is not considered plea-bargain case for purposes of Rule 25.2(a)(2)); *see also Dears*, 154 S.W.3d at 613 (“[Rule 25.2(a)(2)] refers only to plea bargains with regard to guilty pleas, not pleas of true on revocation motions.”).

In light of the apparent discrepancy between the certification and the record, we abate the appeal and remand the cause to the district court for entry of an amended certification addressing Quattlebaum’s right of appeal from the judgment adjudicating guilt. Once entered, the certification shall be included in a supplemental clerk’s record and filed with this Court no later than October 19, 2015.

Before Justices Puryear, Goodwin, and Bourland

Abated and Remanded

Filed: October 2, 2015

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