



NUMBER 13-08-00489-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

GREGORY SMIKLE,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

On Appeal from the 347th District Court of Nueces County, Texas.

MEMORANDUM OPINION

**Before Justices Yanez, Garza, and Vela
Memorandum Opinion Per Curiam**

Appellant, Gregory Smikle, attempts to appeal a conviction for assault. The trial court has certified that this “is a plea-bargain case, and the defendant has NO right of appeal.” See TEX. R. APP. P. 25.2(a)(2).

On August 14, 2008, this Court notified appellant’s counsel of the trial court’s certification and ordered counsel to: (1) review the record; (2) determine whether appellant

has a right to appeal; and (3) forward to this Court, by letter, counsel's findings as to whether appellant has a right to appeal, or, alternatively, advise this Court as to the existence of any amended certification.

On September 6, 2008, counsel filed a letter brief with this Court. Counsel's response does not establish: (1) that the certification currently on file with this Court is incorrect, or (2) that appellant otherwise has a right to appeal.

The Texas Rules of Appellate Procedure provide that an appeal must be dismissed if the trial court's certification does not show that the defendant has the right of appeal. TEX. R. APP. P. 25.2(d); see TEX. R. APP. P. 37.1, 44.3, 44.4. Accordingly, this appeal is DISMISSED. Any pending motions are denied as moot.

PER CURIAM

Do not publish. See TEX. R. APP. P. 47.2(b).

Memorandum Opinion delivered and filed
this the 23rd day of October, 2008.