



NUMBER 13-17-00176-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

RUBEN GUTIERREZ JR.
A/K/A RUBEN GUTIERREZ,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

On appeal from the 404th District Court
of Cameron County, Texas.

MEMORANDUM OPINION

Before Chief Justice Valdez and Justices Contreras and Hinojosa
Memorandum Opinion Justice Contreras

Appellant, Ruben Gutierrez Jr. a/k/a Ruben Gutierrez, attempts to appeal his conviction for aggravated sexual 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 April 7, 2017, 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. Counsel failed to respond and the appeal was abated on May 24, 2017.

On September 1, 2017, counsel filed a statement of appellant's right to appeal with this Court. Accordingly, this case is reinstated. Counsel asserts that appellant has the right to appeal his sentence because his plea was given involuntarily based on prosecutors withholding material evidence that was favorable to appellant.

The Court, having examined and fully considered the record before the Court and counsel's statement, concludes that appellant has not established: (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. See TEX. R. APP. P. 25.2(d), 37.1, 44.3, 44.4. Accordingly, this appeal is DISMISSED. Any pending motions are dismissed as moot.

DORI CONTRERAS
Justice

Do not publish.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

Delivered and filed the
9th day of November, 2017.