



NUMBERS 13-17-00244-CR, 13-17-00245-CR, AND 13-17-00246-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

DEVIN GARZA,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 28th District Court
of Nueces County, Texas.**

MEMORANDUM OPINION

**Before Justices Rodriguez, Contreras, and Benavides
Memorandum Opinion by Justice Contreras**

Appellant, Devin Garza, attempts to appeal from orders modifying the terms of his community supervision. We dismiss the appeals.

On November 6, 2015, pursuant to a plea agreement, appellant pled guilty to the offenses of aggravated robbery and possession of a controlled substance. The trial court

deferred adjudication of his guilt and placed him on community supervision. The appellant did not file a notice of appeal at that time, but instead brought this appeal of the trial court's subsequent orders signed on March 24, 2017 imposing sanctions on defendant and continuing or modifying probation.

On May 24, 2017, the Clerk of this Court notified appellant that it appeared that the orders from which the appeals were taken were not appealable orders, and requested correction of these defects within ten days or the appeals would be dismissed. Appellant has failed to respond to the Court's directive.

The right to appeal is conferred by the legislature, and a party may appeal only that which the legislature has authorized. *Marin v. State*, 851 S.W.2d 275, 278 (Tex. Crim. App. 1993). A defendant has a right to appeal when his community supervision is revoked and he is adjudicated guilty and sentenced. See TEX. CODE CRIM. PROC. art. 42.12, § 23(b). To the contrary, there is no statutory basis for an appeal of an order modifying a term or condition of probation. See *Christopher v. State*, 7 S.W.3d 224, 225 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd). Case law has long held that an order modifying or refusing to modify probation is not subject to appeal. See *Basaldua v. State*, 558 S.W.2d 2, 5 (Tex. Crim. App. 1977); *Perez v. State*, 938 S.W.2d 761, 762-63 (Tex. App.—Austin 1997, pet. ref'd); *Eaden v. State* 901 S.W.2d 535, 536 (Tex. App.—El Paso 1995, no pet.).

In this case, the record does not contain any order revoking Garza's community supervision, adjudicating his guilt, or assessing a jail or prison sentence. The Court, having examined and fully considered the documents on file, is of the opinion that the appeals should be dismissed for want of jurisdiction. Accordingly, the appeals are

hereby DISMISSED FOR WANT OF JURISDICTION. See TEX. R. APP. P. 42.3(a).

DORI CONTRERAS
Justice

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

Delivered and filed the
6th day of July, 2017.