



NUMBER 13-19-00117-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

CONRADO TOVAR JR.,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 275th District Court
of Hidalgo County, Texas.**

MEMORANDUM OPINION

**Before Justices Longoria, Hinojosa, and Perkes
Memorandum Opinion by Justice Hinojosa**

Appellant Conrado Tovar Jr. appealed his conviction for murder. See TEX. PENAL CODE ANN. § 19.02(c). The trial court's certification of appellant's right to appeal indicates both that the "case is a plea bargain, and the Defendant has NO right of appeal" and that the "Defendant has waived the right of appeal." See TEX. R. APP. P. 25.2(d).

In view of the certification, we abated this appeal for the trial court to determine whether appellant desired to prosecute the appeal, whether appellant is indigent, and whether appellant is entitled to appointed counsel. However, appellant's counsel has now filed an amended motion to dismiss this appeal.

Texas Rule of Appellate Procedure 42.2(a) governs the voluntary dismissal of appeals in criminal cases. See TEX. R. APP. P. 42.2. In relevant part, it provides:

At any time before the appellate court's decision, the appellate court may dismiss the appeal upon the appellant's motion. The appellant and his or her attorney must sign the written motion to dismiss and file it in duplicate with the appellate clerk, who must immediately send the duplicate copy to the trial court clerk.

Id. R. 42.2(a). “[T]he purpose of the requirement in rule 42.2(a) that a motion to withdraw appeal be signed by both appellant and counsel may have been to protect appellants from having their appeals dismissed by counsel without their consent and to insure that counsel had notice of the dismissal in order to allow him to counsel his client concerning the decision.” *Conners v. State*, 966 S.W.2d 108, 110 (Tex. App.—Houston [1st Dist.] 1998, pet. ref'd); see also *Gonzalez v. State*, No. 07-19-00021-CR, 2019 WL 1923005, at *1 (Tex. App.—Amarillo Apr. 25, 2019, no pet. h.) (mem. op., not designated for publication) (suspending Rule 42.2(a) and allowing dismissal of the appeal where the appellant had not signed the motion to dismiss but evidence showed that the appellant did not wish to pursue the appeal).

The Court, having examined and fully considered the amended motion to dismiss, is of the opinion that it should be granted. We have not issued a decision in this appeal. See TEX. R. APP. P. 42.2(a). Appellant's attorney has signed the amended motion to dismiss and appellant has filed a signed verification in support of the amended motion to

dismiss. See *id.* Accordingly, we reinstate this appeal. We withdraw our order requiring the trial court to issue findings and conclusions regarding appellant's right to appeal. We grant the amended motion to dismiss and dismiss the appeal. See *Wells v. State*, 127 S.W.3d 269 (Tex. App.—Waco 2003, no pet.).

LETICIA HINOJOSA
Justice

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

Delivered and filed the
8th day of August, 2019.