



NUMBER 13-21-00470-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

KENNETH LEE CHAVEZ,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 93rd District Court
of Hidalgo County, Texas.**

MEMORANDUM OPINION

**Before Justices Benavides, Hinojosa, and Silva
Memorandum Opinion by Justice Silva**

Appellant Kenneth Lee Chavez attempts to appeal convictions for aggravated robbery and aggravated kidnapping with a deadly weapon in trial court cause number CR-2382-20-B in the 93rd District Court of Hidalgo County, Texas. See TEX. PENAL CODE ANN. §§ 29.03, 20.04(b). For each count, the trial court has certified that “this criminal

case . . . is a plea-bargain case, 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(a)(2). On January 11, 2022, this Court notified appellant’s counsel of the trial court’s certifications 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. After additional proceedings in the case, on July 6, 2022, counsel filed a letter brief with this Court regarding appellant’s right to appeal. Counsel asserts that:

The present case involves a negotiated plea in which the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant. The restrictions of Texas Code of Criminal Procedure Article 44.02 apply.

Review of the docket sheet and court filings shows that no pretrial motion, such as a motion to suppress or motion to dismiss, was urged and ruled upon.

Chavez does not have the right to appeal since he did not obtain permission from the court to appeal nor does this appeal involve an adverse ruling on a written motion that was urged and ruled upon prior to trial. Furthermore, the right to appeal was waived.

Chavez does not have the right to pursue this appeal. Chavez has been consulted with over this matter.

Thus, Counsel agrees that Chavez does not have the right to pursue this 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; *Dears v. State*, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005); *Pena v. State*, 323 S.W.3d 522, 525–27 (Tex. App.—Corpus Christi—

Edinburg 2010, no pet.); *Ernst v. State*, 159 S.W.3d 668, 670 (Tex. App.—Corpus Christi—Edinburg 2005, no pet.). Accordingly, we dismiss this appeal for lack of jurisdiction.

CLARISSA SILVA
Justice

Do not publish.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

Delivered and filed on the
11th day of August, 2022.