

NO. 12-12-00319-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*JAVIER VALLE,
APPELLANT*

§

APPEAL FROM THE 114TH

V.

§

JUDICIAL DISTRICT COURT

*THE STATE OF TEXAS,
APPELLEE*

§

SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Pursuant to a plea bargain, Appellant Javier Valle pleaded guilty to continuous sexual abuse of a child, a first degree felony. The trial court sentenced Appellant to imprisonment for twenty-seven years.

We have received the trial court's certification stating that this "is a plea-bargain case, and the defendant has no right of appeal." *See* TEX. R. APP. P. 25.2(a)(2). Appellant timely filed a notice of appeal. The clerk's record, which includes the trial court's certification and a written plea bargain agreement, has been filed. *See* TEX. R. APP. P. 25.2(d). The clerk's record establishes the punishment assessed by the trial court does not exceed the punishment recommended by the prosecutor and agreed to by Appellant and does not indicate the trial court gave Appellant permission to appeal. *See* TEX. R. APP. P. 25.2(a)(2). Nor does the clerk's record include any pretrial motions that were filed and ruled on by the court except Appellant's motion for continuance, which was granted. *See id.*

Based on our review of the clerk's record, the trial court's certification appears to accurately state that this is a plea bargain case and Appellant does not have the right to appeal.

See Dears v. State, 154 S.W.3d 610 (Tex. Crim. App. 2005) (holding that court of appeals should review clerk's record to determine whether trial court's certification is accurate). This court must dismiss an appeal "if a certification that shows the defendant has the right of appeal has not been made part of the record." TEX. R. APP. P. 25.2(d). Accordingly, the appeal is *dismissed*.

Opinion delivered October 10, 2012.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)



**COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT**

OCTOBER 10, 2012

NO. 12-12-00319-CR

JAVIER VALLE,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 114th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 114-0772-12)

THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this court that this appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.