

**NO. 12-14-00169-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***TROY FONTAIN HOWARD,  
APPELLANT***

§ ***APPEAL FROM THE 7TH***

***V.***

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,  
APPELLEE***

§ ***SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION  
PER CURIAM***

Pursuant to a plea bargain, Appellant Troy Fontain Howard pleaded guilty to aggravated sexual assault of a child, a first degree felony. The trial court sentenced Appellant to imprisonment for thirty 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 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 by Appellant and ruled on by the court. *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 July 9, 2014.

*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(DO NOT PUBLISH)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

JULY 9, 2014

NO. 12-14-00169-CR

**TROY FONTAIN HOWARD,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the 7th District Court  
of Smith County, Texas (Tr.Ct.No. 007-0068-14)

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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.*