

NO. 12-14-00278-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*STEPHAN FRANCIS ARTERBERRY,
APPELLANT*

§ *APPEAL FROM THE 7TH*

V.

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,
APPELLEE*

§ *SMITH COUNTY, TEXAS*

***MEMORANDUM OPINION
PER CURIAM***

Appellant, Stephan Francis Arterberry, pleaded guilty to the offense of driving while intoxicated. Appellant signed an acknowledgment of admonishments, a stipulation of evidence, a waiver of jury trial, and an agreement to stipulate testimony. Appellant, his counsel, and counsel for the State also signed an agreed punishment recommendation. The trial court certified that this “is a plea bargain case, and the defendant has NO RIGHT OF APPEAL[.]” The trial court’s certification is signed by the trial court, Appellant, and Appellant’s counsel. *See* TEX. R. APP. P. 25.2(a)(2).

Texas Rule of Appellate Procedure 25.2(a)(2) limits a defendant’s right to appeal in a plea bargain case when he pleads guilty and his punishment does not exceed the punishment recommended by the prosecutor and agreed to by the defendant. *See* TEX. R. APP. P. 25.2(a)(2). Under those circumstances, the defendant may appeal only (1) matters raised by written motion and ruled on before trial or (2) after getting the trial court’s permission to appeal. *Id.* Here, the trial court sentenced Appellant in accordance with the agreed recommendation by the State. The trial court did not give Appellant permission to appeal, and the record does not reflect that Appellant filed any pretrial motions. Therefore, we conclude that the certification of the right of appeal filed by the trial court is supported by the record and that Appellant has no right to appeal because he was sentenced pursuant to the agreed terms of a plea bargain and did not satisfy

either of the exceptions stated in Rule 25.2(a)(2). Accordingly, we *dismiss* the appeal “without further action.” See *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006).

Opinion delivered September 24, 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(DO NOT PUBLISH)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

SEPTEMBER 24, 2014

NO. 12-14-00278-CR

STEPHAN FRANCIS ARTERBERRY,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 7th District Court
of Smith County, Texas (Tr.Ct.No. 007-0802-14)

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.