

NO. 12-17-00129-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***DEZMOND HILL,
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 agreement, Dezmond Hill pleaded guilty to burglary of a habitation. The trial court signed an order of deferred adjudication and placed Appellant on community supervision for ten years. The State subsequently filed a motion to adjudicate guilt. The trial court found Appellant guilty of burglary of a habitation and sentenced Appellant to imprisonment for twenty-five years. Appellant filed a notice of appeal.

The clerk's record has been filed. *See* TEX. R. APP. P. 25.2(d). The trial court's certification states that "defendant has waived the right of appeal." *See* TEX. R. APP. P. 25.2(a)(2). The certification was signed by Appellant and his counsel. The clerk's record contains a waiver of appeal signed by Appellant, and does not otherwise indicate the trial court gave Appellant permission to appeal. *See id.*

Based on our review of the clerk's record, the trial court's certification appears to accurately state that Appellant does not have the right to appeal. *See Dears v. State*, 154 S.W.3d 610, 614-15 (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, we *dismiss* the appeal.

Opinion delivered May 3, 2017.

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

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

MAY 3, 2017

NO. 12-17-00129-CR

DEZMOND HILL,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 114th District Court
of Smith County, Texas (Tr.Ct.No. 114-1288-16)

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., Hoyle, J. and Neeley, J.