

NO. 12-17-00151-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***WESLEY LAMARK BYNUM,
APPELLANT***

§ ***APPEAL FROM THE***

V.

§ ***COUNTY COURT AT LAW NO. 2***

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

§ ***SMITH COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Wesley Lamark Bynum pleaded guilty to driving while intoxicated. The trial court sentenced Appellant to confinement for forty-five days in county jail, with credit for time served. Appellant filed a notice of appeal.

The clerk's record has been filed. *See* TEX. R. APP. P. 25.2(d). The record contains the trial court's certification, which states that this "is a case in which the defendant entered a plea of guilty or nolo contendere to the crime charged and the Court did not exceed the punishment recommendation between the state's attorney and the defendant, therefore the defendant has NO right to appeal." The certification further states that Appellant waived the right to appeal. The certification was signed by Appellant and his counsel. *See id.* The clerk's record also contains a waiver of appeal signed by Appellant, and does not otherwise indicate the trial court gave Appellant permission to appeal. *See* TEX. R. APP. P. 25.2(a)(2).

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 (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 June 7, 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(DO NOT PUBLISH)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

JUNE 7, 2017

NO. 12-17-00151-CR

WESLEY LAMARK BYNUM,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the County Court at Law No. 2
of Smith County, Texas (Tr.Ct.No. 002-82217-16)

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.