

NO. 12-17-00273-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***JOHNNY RAY PERRY,
APPELLANT***

§ ***APPEAL FROM THE 369TH***

V.

§ ***JUDICIAL DISTRICT COURT***

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

§ ***CHEROKEE COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

A jury convicted Johnny Ray Perry of possession of a controlled substance. The trial court sentenced Appellant to imprisonment for seven years. 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 Appellant has waived the right to appeal. The certification was signed by Appellant and his counsel. *See id.* The clerk's record does not otherwise indicate the trial court gave Appellant permission to appeal. *See* TEX. R. APP. P. 25.2(a)(2). Moreover, at a hearing, Appellant confirmed his desire to waive the right to appeal.

Based on our review of the 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 (Tex. Crim. App. 2005). 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 October 25, 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(DO NOT PUBLISH)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

OCTOBER 25, 2017

NO. 12-17-00273-CR

JOHNNY RAY PERRY,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 369th District Court
of Cherokee County, Texas (Tr.Ct.No. 19,803)

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.