

NO. 12-18-00332-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*TIMOTHY ROBIN NELSON, JR.,  
APPELLANT*

§ *APPEAL FROM THE*

V.

§ *COUNTY COURT AT LAW NO. 2*

*THE STATE OF TEXAS,  
APPELLEE*

§ *SMITH COUNTY, TEXAS*

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*MEMORANDUM OPINION  
PER CURIAM*

Timothy Robin Nelson, Jr. appeals from his conviction for possession of marijuana in an amount less than two ounces, to which he pleaded “guilty” and received a sentence of 150 days in county jail with credit for time served. According to the trial court’s certification, Appellant “entered a plea of guilty or nolo contendere to the criminal charge and the Court did not exceed the punishment recommendation between the states 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* TEX. R. APP. P. 25.2(d).

When the defendant is the appellant, the record must include the trial court’s certification of the defendant’s right of appeal. *Id.* 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.” *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 (Tex. Crim. App. 2005) (holding that court of appeals should review clerk’s record to determine whether trial court’s certification is accurate). Because the trial court did not grant Appellant the right to appeal his conviction, we *dismiss* the appeal.

Opinion delivered January 9, 2019.

*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(DO NOT PUBLISH)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

JANUARY 9, 2019

NO. 12-18-00332-CR

**TIMOTHY ROBIN NELSON, JR.,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the County Court at Law No. 2  
of Smith County, Texas (Tr.Ct.No. 002-82224-18)

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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., Hoyle, J. and Neeley, J.*