

NO. 12-19-00278-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***DONNELL THOMPSON, JR.,
APPELLANT***

§ ***APPEAL FROM THE 273RD***

V.

§ ***JUDICIAL DISTRICT COURT***

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

§ ***SHELBY COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Donnell Thompson, Jr. pleaded “guilty” to terroristic threat. At the plea hearing, Appellant acknowledged his understanding that by pleading “guilty,” he is waiving his right to appeal. The trial court adjudged Appellant “guilty” and sentenced him to two years in prison. Appellant filed a notice of appeal.

The clerk’s record has been filed. The trial court’s certification states that this is a plea bargain case and Appellant has no right of appeal and Appellant waived the right of appeal. The certification is signed by Appellant and his counsel. *See* TEX. R. APP. P. 25.2(d). The reporter’s record also contains a written waiver of the right to appeal, which is signed by Appellant and his counsel. The record does not otherwise indicate the trial court gave Appellant permission to appeal. *See id.*

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 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 December 4, 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(DO NOT PUBLISH)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

DECEMBER 4, 2019

NO. 12-19-00278-CR

DONNELL THOMPSON, JR.,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 273rd District Court
of Shelby County, Texas (Tr.Ct.No. 2018-CR-20925)

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.