

NO. 12-22-00272-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*JOHN BOSWELL,
APPELLANT*

§ *APPEAL FROM THE 188TH*

V.

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,
APPELLEE*

§ *GREGG COUNTY, TEXAS*

*MEMORANDUM OPINION
PER CURIAM*

Pursuant to a plea bargain agreement, John Boswell pleaded “guilty” to aggravated assault with a deadly weapon, and the trial court sentenced him to four years in prison. Appellant appealed.

The clerk’s record has been filed and the trial court’s certification states that this is a plea bargain case and the defendant has no right of appeal. The certification is signed by Appellant and his counsel. *See* TEX. R. APP. P. 25.2(d). Appellant also signed a waiver of appeal.

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 this is a plea bargain case and Appellant has no 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 November 17, 2022.

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(DO NOT PUBLISH)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

NOVEMBER 17, 2022

NO. 12-22-00272-CR

JOHN BOSWELL,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 188th District Court
of Gregg County, Texas (Tr.Ct.No. 53020-A)

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.

