Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio

MEMORANDUM OPINION

No. 04-11-00249-CR

Benjamin Guadalupe **LOPEZ**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 187th Judicial District Court, Bexar County, Texas
Trial Court No. 2010-CR-6848
Honorable Raymond Angelini, Judge Presiding

PER CURIAM

Sitting: Phylis J. Speedlin, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: June 1, 2011

DISMISSED

The trial court's certification in this appeal states that "this criminal case is a plea-bargain case, and the defendant has NO right of appeal." Rule 25.2(d) of the Texas Rules of Appellate Procedure provides that an appeal "must be dismissed if a certification that shows the defendant has the right of appeal has not been made part of the record under these rules." TEX. R. APP. P. 25.2(d). The clerk's record, which was filed on CD-ROM, contains a written plea bargain, and the punishment assessed did not exceed the punishment recommended by the prosecutor and

agreed to by the defendant; therefore, the clerk's record supports the trial court's certification that defendant has no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2). In addition, appellant's counsel has filed a letter in which she states that she has reviewed the electronic clerk's record and "can find no right of appeal for Appellant;" counsel concedes that the appeal must be dismissed. In light of the record presented, we agree with appellant's counsel that Rule 25.2(d) requires this court to dismiss this appeal. TEX. R. APP. P. 25.2(d). Accordingly, the appeal is dismissed. *See* TEX. R. APP. P. 25.2(d).

PER CURIAM

DO NOT PUBLISH