

**Dismissed and Opinion filed January 17, 2002.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-01-01225-CR**

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**CREIGHTON JAMES DELVERNE, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 232nd District Court  
Harris County, Texas  
Trial Court Cause No. 874,158**

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**MEMORANDUM OPINION**

Appellant entered a guilty plea to the offense of possession with intent to manufacture or deliver methamphetamine in an amount more than four grams, but less than 200 grams. In accordance with the terms of a plea bargain agreement with the State, on October 16, 2001, the trial court sentenced appellant to fifteen years confinement in the Institutional Division of the Texas Department of Criminal Justice. As part of the plea bargain agreement, appellant signed a written waiver of his right to appeal. Nonetheless, appellant filed a pro se notice of appeal that does not comply with Texas Rule of Appellate Procedure 25.2(b)(3). Accordingly, we dismiss the appeal.

On December 21, 2001, notification was transmitted to the parties of the Court's intent to dismiss the appeal for want of jurisdiction because it appeared that appellant's pro se notice of appeal was untimely. In response, appellant's counsel filed a motion to extend time to file the notice of appeal, asserting that appellant timely mailed the notice. Because appellant entered a guilty plea pursuant to a negotiated plea agreement and waived his right to appeal, this motion has been rendered moot.

Appellant entered a plea of guilty and the trial court followed the plea bargain agreement in assessing punishment. Despite having waived the right to appeal, appellant filed a notice of appeal. Appellant chose to enter into an agreement that included a waiver of the right to appeal. Appellant was informed of his right to appeal, knew with certainty the punishment he would receive, and that he could withdraw his plea if the trial court did not act in accordance with the plea agreement. As appellant was fully aware of the consequences when he waived his right to appeal, it is "not unfair to expect him to live with those consequences now." *Alzarka v. State*, No. 14-00-00837-CR, 2001 WL 837602, \*\*3 (Tex. App.—Houston [14th Dist.] July 26, 2001, pet. filed September 28, 2001) (quoting *Mabry v. Johnson*, 467 U.S. 504, 104 S.Ct. 2543, 2547-48, 81 L.Ed.2d 437 (1984)). See also *Blanco v. State*, 18 S.W.3d 218, 219-20 (Tex. Crim. App. 2000); *Buck v. State*, 45 S.W.3d 275, 278 (Tex. App.—Houston [1st Dist.] 2001, no pet.).

Accordingly, we dismiss the appeal.

PER CURIAM

Judgment rendered and Opinion filed January 17, 2002.

Panel consists of Chief Justice Brister, Justices Fowler and Seymore.

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