

Dismissed and Opinion filed January 20, 2000.



In The

Fourteenth Court of Appeals

NO. 14-98-00905-CR

ERICK DEAN OLSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 339th District Court
Harris County, Texas
Trial Court Cause No. 749,546**

O P I N I O N

After Erick Dean Olson pleaded no contest to possession of cocaine, the trial court placed him on five years' deferred adjudication probation. The following year, however, the trial court revoked Olson's probation because he had been involved in a hit-and-run car collision with a bicyclist. The court sentenced him to two years' imprisonment. In three points of error, Olson appeals that: 1) the trial court abused its discretion in adjudicating his guilt; 2) the evidence was insufficient to establish a violation of his probationary terms; and 3) his due process and due course of law rights were violated when the trial court determined that he violated the terms of his probation. Because we have no jurisdiction to hear a direct appeal from a determination to adjudicate guilt, we dismiss Olson's appeal.

A defendant who is placed on deferred adjudication probation may not appeal a trial court's determination to proceed with an adjudication of guilt. TEX. CODE CRIM. PROC. art. 42.12, § 5(b) (Vernon Supp. 2000); *Phynes v. State*, 828 S.W.2d 1, 2 (Tex. Crim. App. 1992). A claim that the evidence is insufficient to prove a probation violation is an appeal from the determination to adjudicate guilt. *Rocha v. State*, 903 S.W.2d 789, 790 (Tex. App.—Dallas 1995, no pet.). Further, Olson may not directly appeal that the trial court's decision to proceed with an adjudication of guilt violated his due process and due course of law rights. *See Price v. State*, 890 S.W.2d 478 (Tex. App.—Dallas 1994, no pet.). Accordingly, as we are prohibited by law from hearing the merits of Olson's appeal, we dismiss the appeal for want of jurisdiction.

Norman Lee
Justice

Judgment rendered and Opinion filed January 20, 2000.

Panel consists of Justices Cannon, Draughn, and Lee.*

Do Not Publish — TEX. R. APP. P. 47.3(b).

* Senior Justices Bill Cannon, Joe L. Draughn, and Norman Lee sitting by assignment.