

Dismissed and Opinion filed May 10, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-00136-CR

ANGEL LOUIS ESCARENIO, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 228th District Court
Harris County, Texas
Trial Court Cause No. 847,399**

OPINION

Appellant pled guilty to the offense of murder on December 11, 2000. In accordance with the terms of a plea bargain agreement with the State, the trial court sentenced appellant to confinement for fifty years in the Institutional Division of Texas Department of Criminal Justice. We dismiss the appeal for want of jurisdiction.

Rule 25.2(b)(3) of the Texas Rules of Appellate Procedure provides that when an appeal is from a judgment rendered on a defendant's plea of guilty or nolo contendere and the punishment assessed does not exceed the punishment recommended by the State and agreed to by the defendant, the notice of appeal must: (1) specify that the appeal is for a jurisdictional

defect; (2) specify that the substance of the appeal was raised by written motion and ruled on before trial; or (3) state that the trial court granted permission to appeal. TEX. R. APP. P. 25.2(b)(3). The rule does not mean, however, that an appellate court's jurisdiction is properly invoked by the filing of a specific notice of appeal complying only in form with the extra-notice requirements of Rule 25.2(b)(3). *Betz v. State*, No. 14-99-01192-CR, 2001 WL 25908, *1 (Tex. App.—Houston [14th Dist.] January 11, 2001, no pet.); *Sherman v. State*, 12 S.W.3d 489, 492 (Tex. App.—Dallas 1999, no pet.). An appellant must, in good faith, comply in both form and substance with the extra-notice requirements of the rule. *Id.*; see *Manuel v. State*, 994 S.W.2d 658, 662 (Tex. Crim. App. 1999) (stating that appellant's general notice of appeal could not truthfully state that trial court had given permission to appeal). Not only must the specific notice of appeal recite the applicable extra-notice requirements, the record must substantiate the recitations in the notice of appeal and the issues raised in the brief must relate to the specific claims in the notice of appeal. See *Betz*, 2001 WL at *1; *Sherman*, 12 S.W.3d at 492. Statements required by the rule to be in the notice of appeal must be *true* to confer jurisdiction; mere allegations are not sufficient. *Sherman*, 12 S.W.3d at 492. (emphasis in the original). Noncompliance, in either form or substance, results in a failure to properly invoke the appellate court's jurisdiction over an appeal to which Rule 25.2(b)(3) is applicable. *Id.*

Appellant's notice of appeal failed to invoke this court's jurisdiction. The notice of appeal states, in pertinent part: "If the defendant has pled guilty or nolo contendere in this case, then he/she must state and prove that he/she has been granted permission to appeal the case by the trial court. Example: The defendant has been granted permission to appeal this cause by the trial court through the Honorable Judge Ted Poe on the 1 day of January, 2001. OR defendant must state that those matters were raised by written motion by the defendant and were ruled upon before the trial." While this language attempts to comply with the form requirements of Rule 25.2(b)(3), the record fails to substantiate these recitations. There is no indication the trial judge granted permission to appeal, and there were rulings on pre-trial motions.

The time for filing a proper notice of appeal has expired; therefore, appellant may not file an amended notice of appeal to correct jurisdictional defects. *State v. Riewe*, 13 S.W.3d 408, 413-14 (Tex. Crim. App. 2000). Because appellant's notice of appeal did not comply with the requirements of Rule 25.2(b)(3), we are without jurisdiction to consider the appeal, including a challenge to the voluntariness of the plea. *See Cooper v. State*, No. 1100-99, slip. op. at 8, 2002 WL 321579 at *1 (Tex. Crim. App. April 4, 2001) (holding that appellant who files general notice of appeal may not appeal voluntariness of negotiated plea).

Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed May 10, 2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy.¹

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

¹ Senior Chief Justice Paul C. Murphy sitting by assignment.