

Dismissed and Opinion filed July 12, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-00662-CR

MATTHEW EVERETT KELLY, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause No. 747,839**

OPINION

Appellant pled guilty to the offense of sexual assault of a child on June 27, 1997. In accordance with the terms of a plea bargain agreement, the trial judge deferred adjudication of guilt and placed appellant on community supervision for 5 years. The State filed a motion to adjudicate guilt. After a hearing, the trial court found appellant guilty and assessed punishment at a fine of \$500.00 and confinement for eight years in the Institutional Division of Texas Department of Criminal Justice.

Appellant's appointed counsel filed a brief in which she concludes that the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), by presenting a

professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978).

A copy of counsel's brief was delivered to appellant. Appellant was advised of the right to examine the appellate record and file a pro se response. As of this date, no pro se response has been filed.

In the *Anders* brief, appellant's counsel argues that the evidence was insufficient to support the trial court's adjudication of appellant and subsequent sentencing to eight years confinement.¹ Appellant's counsel concedes that this Court is without jurisdiction to address a complaint about the adjudication of guilt. Appellant filed a timely general notice of appeal that did not comply with the requirements of Rule 25.2(b)(3) of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 25.2(b)(3). The requirements of Rule 25.2(b)(3) apply to an appeal from a judgment adjudicating guilt when, as in the present case, the State recommended deferred adjudication probation at the original plea. *See Watson v. State*, 924 S.W.2d 711, 714-15 (Tex. Crim. App. 1996). Because the time for filing a proper notice of appeal has expired, 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). Therefore, we are without jurisdiction to consider complaints concerning the adjudication of guilt.

Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed July 12, 2001.

Panel consists of Justices Yates, Fowler, and Wittig.

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

¹ Appellant does not challenge the sentence imposed by the trial court. Appellant merely argues that the trial court ignore defensive evidence regarding appellant's ability to succeed on probation. Thus, appellant's complaint merely concerns the trial court's decision to proceed to adjudicate appellant guilty.