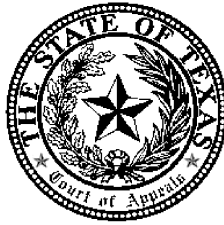


**Dismissed and Opinion filed October 18, 2001.**



**In The**  
**Fourteenth Court of Appeals**

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**NO. 14-01-00873-CR**

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**CURTIS KEITH CASH, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 178th District Court  
Harris County, Texas  
Trial Court Cause No. 863,543**

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**OPINION**

Appellant pled guilty to possession of a controlled substance, namely cocaine, on May 29, 2001. In accordance with the terms of a plea bargain agreement with the State, the trial court sentenced appellant to ten months confinement in a State Jail Facility. Because we have no jurisdiction over this appeal, we dismiss.

Appellant filed a timely notice of appeal that did not comply in substance 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). Rule 25.2(b)(3) 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. *Id.* 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*, 36 S.W.3d 227, 228 (Tex. App.—Houston [14th Dist.] 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. See *Betz*, 36 S.W.3d at 228-29; *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.*

Though appellant specified in his notice of appeal that the substance of the appeal was raised by written motion and ruled on prior to trial, there are no motions in the record filed by appellant, which were denied and, therefore, no pretrial motions that can form the basis of any complaint on appeal. Thus, the record fails to substantiate the recitation in appellant's notice of appeal. See *id.*

Moreover, 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). Because appellant's notice of appeal did not comply in substance with the requirements of Rule 25.2(b)(3), we are without

jurisdiction to consider any of appellant's issues, including the voluntariness of the plea. *See Cooper v. State*, 45 S.W.2d 77, 83 (Tex. Crim. App. 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 October 18, 2001.

Panel consists of Justices Yates, Edelman, and Wittig.

Do Not Publish — TEX.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