

Dismissed and Opinion filed November 8, 2001.



In The
Fourteenth Court of Appeals

NO. 14-00-01370-CR

URSULA JONES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 182nd District Court
Harris County, Texas
Trial Court Cause No. 775, 601**

OPINION

On February 16, 1998, appellant, Ursula Jones, was charged by indictment with aggravated robbery. She pleaded guilty and was placed on deferred adjudication. On June 2, 2000, the State filed a motion to adjudicate appellant's guilt on the basis she violated the terms of her probation. Appellant pleaded guilty to the State's allegations. The trial court proceeded with a determination of guilt on the original charge of aggravated robbery. In a single point of error, appellant appeals her conviction.

I. JURISDICTION

Appellant's sole point of error on appeal is that her counsel was ineffective during and in connection with the State's motion to adjudicate guilt. Appellant asserts her counsel was deficient because her attorney promised her if she pleaded guilty to the alleged probation violation, she would receive the minimum punishment of five years' confinement in Texas Department of Corrections. She also alleges she was unaware of the date of her revocation hearing until she appeared in court. Consequently, she did not have a chance to notify any of her witnesses.

An appellant whose deferred adjudication probation has been revoked and who has been found guilty of the original charge cannot appeal the trial court's determination to proceed with a finding of guilt. TEX. CRIM. PROC. CODE ANN art. 42.12, § 5(b) (Vernon Supp. 2001). Appellant's point of error constitutes an attempt to appeal the trial court's decision to adjudicate guilt. *See Phynes v. State*, 828 S.W.2d 1, 2 (Tex. Crim. App. 1992); *Cooper v. State*, 2 S.W.3d 500, 503–04 (Tex. App.—Texarkana 1999, pet. ref'd) (holding appellant's contention he received ineffective assistance of counsel during the adjudication proceeding was an impermissible appeal of the trial court's determination to proceed with guilt on the original charge). Therefore, we may not consider this point of error.

II. CONCLUSION

We dismiss this appeal.

/s/ John S. Anderson
 Justice

Judgment rendered and Opinion filed November 8, 2001.

Panel consists of Justices Anderson, Hudson, and Frost.

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