

Dismissed and Opinion filed May 24, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-00914-CR

THOMAS ARNOLD GONZALES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 172nd District Court
Harris County, Texas
Trial Court Cause No. 733,111**

OPINION

Appellant pled guilty to the offense of sexual assault of a child on December 3, 1996. In accordance with the terms of a plea bargain agreement, the trial judge deferred adjudication of guilt and placed appellant on community supervision for ten years. The State filed a motion to adjudicate guilt. After a hearing, the trial court found appellant guilty and assessed punishment at confinement for six years.

Appellant filed a notice of appeal within 30 days of the order adjudicating guilt, noting that appellant also appealed all jurisdictional defects. In his brief, however, appellant challenges the evidence supporting the trial court's decision to adjudicate appellant's guilt.

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 that appellant is appealing the trial court's order adjudicating guilt and all jurisdictional defects. While this language complies with the form requirements of Rule 25.2(b)(3), appellant's brief does not raise issues involving jurisdiction. See *id.* The only issues raised by appellant in the brief relate to the evidence supporting the adjudication of

guilt.¹ Therefore, we are without jurisdiction to consider any of appellant's issues or points of error.

Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed May 24, 2001.

Panel consists of Justices Yates, Fowler, and Wittig.

Do Not Publish — TEX.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

¹ The Court of Criminal Appeals has stated that, within the plain meaning of TEX. CODE CRIM. PROC. ANN. Art. 42.12, § 5(b) (Vernon Supp. 2000), an appellant whose deferred adjudication probation has been revoked and who has been adjudicated guilty of the original charge may not raise on appeal contentions of error in the adjudication of guilt process. *Connolly v. State*, 983 S.W.2d 738, 741 (Tex. Crim. App. 1999).