

Dismissed and Opinion filed November 29, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-01098-CR

MICHAEL ANTHONY JEFFERSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 183rd District Court
Harris County, Texas
Trial Court Cause No. 882,146**

OPINION

Appellant pled guilty to aggravated assault on September 18, 2001. In accordance with the terms of a plea bargain agreement with the State, the trial court sentenced appellant to three years confinement in the Texas Department of Criminal Justice--Institutional Division. Because we have no jurisdiction over this appeal, we dismiss.

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*, 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.*

Appellant's notice of appeal failed to invoke this Court's jurisdiction. The notice of appeal states that certain pretrial motions were denied prior to trial. While this language complies with the form requirements of Rule 25.2(b)(3), the record fails to substantiate this recitations. *See id.* Therefore, we are without jurisdiction to review appellant's appeal.

Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed November 29, 2001.

Panel consists of Justices Yates, Edelman, and Wittig.

Do Not Publish — TEX.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