

Dismissed and Opinion filed March 2, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00098-CR

MACEO COLLINS FIFER, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 182nd District Court
Harris County, Texas
Trial Court Cause No. 687,965**

OPINION

Following his negotiated plea of no contest to the felony offense of aggravated assault, the trial court granted deferred adjudication to Maceo Collins Fifer (Appellant) and placed him on community supervision for a term of five-years. The State subsequently filed a motion to adjudicate Appellant's guilt because of alleged violations of the terms of his community supervision. After an evidentiary hearing on the State's allegations, the trial court adjudicated Appellant guilty and sentenced him to twenty years' imprisonment. On appeal to this Court, Appellant contends that his right to due process was violated because he was mentally incompetent when he committed the acts that gave rise to the trial court's decision to adjudicate his guilt. In other words, Appellant is challenging the adjudication of guilt process. We dismiss for lack of jurisdiction.

Article 42.12 of the Texas Code of Criminal Procedure provides, in pertinent, the following:

On violation of a condition of community supervision . . . the defendant may be arrested and detained as provided in Section 21 of this article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. *No appeal may be taken from this determination.*

TEX. CODE CRIM. PROC. ANN. art. 42.12, § 5(b) (Vernon Supp. 2000) (emphasis added).

Concerning this section of article 42.12, the Texas Court of Criminal Appeals has recently stated the following:

[We] have tried to make clear that, given the plain meaning of Article 42.12, § 5(b), an appellant whose deferred adjudication probation has been revoked and who has been adjudicated guilty of the original charge, *may not raise on appeal contentions of error in the adjudication of guilt process.* See G. Dix & R. Dawson, TEXAS CRIMINAL PRACTICE AND PROCEDURE § 43.117 (1995). Moreover, since the Legislature has not overturned our interpretation of the statute after all these years, we are confident that our interpretation is correct. See *State v. Hall*, 829 S.W.2d 184, 187 (Tex. Crim. App. 1992) (prolonged legislative silence following judicial interpretation of statute implies approval of interpretation).

Connolly v. State, 983 S.W.2d 738, 741 (Tex. Crim. App. 1999) (emphasis added).

Accordingly, section 5(b) of article 42.12 prohibits Appellant from raising any claim of error relative to the adjudication of guilt process. See *id.*; see also *Olowosuko v. State*, 826 S.W.2d 940, 942 (Tex. Crim. App. 1992); *Anrade v. State*, 963 S.W.2d 832, 833 (Tex. App.—Fort Worth 1998, no pet.). We therefore dismiss Appellant's sole point of error for lack of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed March 2, 2000.

Panel consists of Justices Yates, Fowler, and Edelman.

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