

Dismissed and Opinion filed February 10, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00101-CR

SAM HENRY LERCHE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 21st District Court
Burleson County, Texas
Trial Court Cause No. 11,531**

OPINION

Appellant was charged by indictment with the offense of sexual assault. Upon the State's recommendation, the trial judge accepted appellant's plea of guilty, found the evidence sufficient to substantiate guilt, but withheld an adjudication of guilt and placed appellant on community supervision for a period of ten years. The State later moved to adjudicate appellant's guilt. The trial court granted the State's motion and assessed punishment at twelve years confinement in the Texas Department of Criminal Justice—Institutional Division.

Appellant's sole point of error contends the trial court erred in proceeding with the initial bench trial where the plea agreement was approved because appellant had not executed a written waiver of his right to trial by jury. However, a defendant placed on deferred adjudication community supervision may raise issues relating to the original plea proceeding *only* in appeals taken when deferred adjudication is first imposed. *Manuel v. State*, 994 S.W.2d 658, 661 (Tex. Crim. App. 1999). As appellant's complaint relates to the original plea proceeding, we do not have jurisdiction to reach the merits of the point of error.¹

Accordingly, we dismiss this appeal for lack of jurisdiction.

/s/ Charles F. Baird
Justice

Judgment rendered and Opinion filed February 10, 2000.

Panel consists of Justices Yates, Fowler and Baird.²

Do Not Publish — TEX.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

¹ Even if we had jurisdiction to reach the merits of appellant's point of error, we would affirm the judgment of the trial court. Since the filing of appellant's brief, the appellate record has been supplemented with a document entitled "Defendant's Plea of Guilty, Waiver, Stipulation & Judicial Confession." Within the document is the following language: "I desire to waive and do . . . waive the right to trial by jury and request the consent and approval of the Court and of the attorney representing the State of such waiver." This document was executed and sworn to by appellant. Additionally, the document was signed by appellant's trial counsel, counsel for the State, and the trial judge.

² Former Judge Charles F. Baird sitting by assignment.