

Dismissed and Opinion filed May 3, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-00172-CR

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PEDRO BELTRAN BATALLA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 230th District Court
Harris County, Texas
Trial Court Cause Nos. 713,844 & 713,845**

MEMORANDUM OPINION

Appellant was charged by indictment with the felony offenses of indecency with a child. Pursuant to an agreed recommendation, appellant pled guilty to the offenses charged, and punishment was assessed at ten years deferred adjudication probation and a \$500 fine. On September 13, 2000, the State moved to adjudicate guilt. On December 22, 2000, appellant entered a plea of true to the allegations in the motion and was adjudicated guilty. The court sentenced appellant to confinement for two years in the Institutional Division of the Texas Department of Criminal Justice pursuant to an agreed recommendation. The punishment assessed did not exceed the recommendation.

Appellant's counsel is retained. She filed a brief in which, after reviewing the record, she concludes that the appeal is wholly frivolous and without merit, purportedly under the authority of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967). The *Anders* procedural safeguards are not applicable, however, to an appellant who is represented by a retained attorney. See *Nguyen v. State*, 11 S.W.3d 376, 379 (Tex. App.–Houston [14th Dist.] 2000, no pet.). Appellant's counsel filed a motion to withdraw, which the Court granted, after assuring her compliance with Texas Rule of Appellate Procedure 6.5. See *id.*

Our practice is to strike an *Anders* brief filed by retained counsel and permit appellant to file a pro se brief or obtain new counsel. We have reviewed the record, however, and determined that these actions are unnecessary because we are without jurisdiction over the appeal.

Appellant did not appeal the order deferring adjudication of his guilt. See *Manuel v. State*, 994 S.W.2d 658, 661-62 (Tex. Crim. App. 1999). This court does not have jurisdiction to review the trial court's decision to proceed with an adjudication of guilt. TEX. CODE CRIM. PROC. ANN. Art. 42.12 § 5(b) (Vernon Supp. 2000); *Connolly v. State*, 983 S.W.2d 738, 741 (Tex. Crim. App. 1999).

Appellant filed a general notice of appeal to the judgment adjudicating his guilt. The extranotice requirements of Texas Rule of Appellate Procedure 25.2(b)(3) apply to judgments adjudicating guilt and assessing punishment, entered pursuant to plea agreements, after deferred adjudication probation has been revoked. *Watson v. State*, 924 S.W.2d 711, 713-14 (Tex. Crim. App. 1996). A challenge to the voluntariness of a plea is not an exception to the special notice requirements of Rule 25.2(b)(3). *Cooper v. State*, No. 1100-99, 2001 WL321579 (Tex. Crim. App. April 4, 2001).

In this case, appellant's notice of appeal does not specify that the appeal is for jurisdictional defects, from a ruling on a pre-trial motion, or that trial court granted appellant permission to appeal. Accordingly, we dismiss the appeal for want of jurisdiction.

PER CURIAM

Judgment rendered and Opinion filed ,2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy.¹

Do not publish — TEX. R. APP. P. 47.3(b).

¹ Senior Chief Justice Paul C. Murphy sitting by assignment.