

Dismissed For Want of Jurisdiction and Opinion filed December 7, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00638-CR

NO. 14-99-00639-CR

CHARLES BALDWIN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 184th District Court
Harris County, Texas
Trial Court Cause No. 718,739 and 718,738**

OPINION

In 1996, pursuant to a plea agreement, appellant, Charles Baldwin, entered a plea of nolo contendere, to two separate indictments for the offense of aggravated sexual assault of a child. In connection with the plea agreement, the trial court deferred adjudication of appellant's guilt and placed him under community supervision for a period of ten years. In March of 1999, the State moved to adjudicate appellant's guilt. The State's motion to adjudicate alleged that appellant violated the conditions of his community supervision, namely failing to participate in a sex offender treatment program until successfully discharged, and having unsupervised

contact with a minor under the age of 17. Upon finding that appellant violated those conditions, the trial court revoked appellant's community supervision, adjudicated appellant's guilt, and assessed punishment at eight years' confinement in the Texas Department of Criminal Justice, Institutional Division, for each indictment. In a single point of error, appellant complains that due to his alleged deafness at the time of the proceedings against him, his plea of nolo contendere to the two indictments was involuntary. For the reasons below we dismiss for want of jurisdiction.

In substance, appellant's argument is that in the original proceedings against him, he was deaf and therefore unable to understand the proceedings as a whole. Though he tried to read lips, he had difficulty doing this, and ultimately had too much pride to admit his deafness. Part and parcel to this argument is that appellant never made anyone, not even his lawyer, aware of his deafness. He alleges that as a result, his lawyer did not take care to make sure that appellant understood the plea admonishments. Appellant complains on appeal that the trial court should have appointed an interpreter for him.

By his sole point of error, appellant argues that due to his hearing loss at the time of his original plea and in 1999 when his deferred adjudication was revoked, his right of confrontation was violated and he was not competent to stand trial. By this point of error, appellant seeks review of the trial court's decision to place him on deferred adjudication and of the decision to adjudicate his guilt. *Hargrave v. State*, 10 S.W.3d 355, 357 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd).

Appellant can appeal neither of these decisions. With regard to the original decision to place him on deferred adjudication, the time has passed for an appeal and we no longer have jurisdiction to consider an appeal. *Manuel v. State*, 994 S.W.2d 658, 661-62 (Tex. Crim. App. 1999) (holding that "a defendant placed on deferred adjudication community supervision may raise issues relating to the original plea proceeding, such as evidentiary sufficiency, only in appeals taken when deferred adjudication is first imposed"). In this case, appellant could have

appealed from the order placing him on deferred adjudication, and at that time could have argued that his hearing impairment and lack of interpreter violated his right of confrontation and caused him to be incompetent to stand trial. Instead, he did not raise these issues until after his guilt was adjudicated. Thus we are without jurisdiction to consider this.

As for the decision to proceed with an adjudication of guilt, no appeal may be taken. TEX. CODE CRIM. PROC. ANN. art. 42.12, §5(b) (Vernon Supp. 2000); *Connoly v. State*, 983 S.W.2d 738, 741 (Tex. Crim. App. 1999); *Phynes v. State*, 828 S.W.2d 1, 2 (Tex. Crim. App. 1992); *Olowosuko v. State*, 826 S.W.2d 940, 942 (Tex. Crim. App. 1992). Without jurisdiction over an appeal, the only action this court can take is to dismiss the appeal. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998).

Accordingly, we dismiss the appeal in cause numbers 14-99-00638-CR and 14-99-00639-CR for want of jurisdiction.

/s/ Wanda McKee Fowler
Justice

Judgment rendered and Opinion filed December 7, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

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