

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

Joseph Milton Mitchum v. The State of Texas

No. 13-25-00589-CR · No. 13-25-00589-CR · Decided March 5, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas dismissed Joseph Milton Mitchum’s appeal from a conviction for possession of child pornography for want of jurisdiction. The court held that the trial court’s certification correctly stated that Mitchum had no right of appeal because the case was a plea-bargain case and the right of appeal had been waived.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas
WRITING FOR THE COURT	Jon West; Chief Justice Tijerina; Justice Peña; Justice West
JURISDICTION	Thirteenth Court of Appeals of Texas
DECIDED	March 5, 2026
DOCKET	13-25-00589-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant filed a pro se notice of appeal from a judgment of conviction following a plea-bargain case. The appeal was dismissed for want of jurisdiction because the trial court's certification stated that appellant had no right of appeal and had waived that right.
STANDARD OF REVIEW	The appellate court independently reviews the record to determine whether the trial court's certification of the defendant's right of appeal is accurate or defective.
PRECEDENTIAL VALUE	Nonprecedential unpublished memorandum opinion
PARTIES	Joseph Milton Mitchum v. The State of Texas

TOPICS

- appellate jurisdiction
- appellate procedure
- plea bargaining
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction over an appeal when the trial court's certification stated that the defendant had no right of appeal in a plea-bargain case.
2. Whether the trial court's certification was accurate based on the record.

HOLDINGS

1. When the trial court's certification does not show that a criminal defendant has the right of appeal, and the record supports the certification, the appellate court must dismiss the appeal for want of jurisdiction.
2. A trial court certification is accurate, rather than defective, when it states that the defendant has no right of appeal and the record supports that determination.

KEY QUOTATIONS

“The purpose of the certification requirement is to efficiently sort appealable cases from non-appealable cases so that appealable cases can “move through the system unhindered while eliminating, at an early stage, the time and expense associated with non-appealable cases.” (2)

“The Court, having examined and fully considered the documents on file and the applicable law, is of the opinion that this appeal should be dismissed.” (3)

“Therefore, we dismiss this appeal for want of jurisdiction.” (4)

FACTUAL BACKGROUND

Mitchum was convicted of possession of child pornography under Texas Penal Code section 43.26(d) in a plea-bargain case. The trial court's certification stated that Mitchum had no right of appeal and had waived any right of appeal. After a potential conflict with initial court-appointed counsel led to the appointment of new appellate counsel, the new counsel confirmed that the certification accurately reflected Mitchum's lack of a right to appeal.

PROCEDURAL HISTORY

On November 4, 2025, Mitchum filed a notice of appeal from his conviction for possession of child pornography in Nueces County trial court cause number 23FC-3496B (S1). After the initial court-appointed counsel advised that Mitchum had no right of appeal, the Court of Appeals identified a potential conflict and abated and remanded the case for consideration of new counsel. The trial court appointed new appellate counsel, the appeal was reinstated, and new counsel confirmed that Mitchum had no right of appeal and that the trial court's certification was correct. The Court of Appeals dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Dears v. State, 154 S.W.3d 610, 613, 614–15 (Tex. Crim. App. 2005)

- Vasquez v. State, 695 S.W.3d 556, 559 (Tex. App.—Houston [1st Dist.] 2023, pet. ref'd)
- Torres v. State, 493 S.W.3d 213, 215 (Tex. App.—San Antonio 2016, no pet.)
- Pena v. State, 323 S.W.3d 522, 525–26 (Tex. App.—Corpus Christi–Edinburg 2010, no pet.)
- Greenwell v. Ct. of Apps. for the Thirteenth Jud. Dist., 159 S.W.3d 645, 649 (Tex. Crim. App. 2005)
- Marsh v. State, 444 S.W.3d 654, 658 (Tex. Crim. App. 2014)
- Carroll v. State, 176 S.W.3d 249, 255 (Tex. App.—Houston [1st Dist.] 2004, pet. ref'd)
- Carroll v. State, 119 S.W.3d 838, 841 (Tex. App.—San Antonio 2003, no pet.)

OPINION

PER CURIAM.

NUMBER 13-25-00589-CR COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS CORPUS CHRISTI – EDINBURG JOSEPH MILTON MITCHUM, Appellant, v. THE STATE OF TEXAS, Appellee. ON APPEAL FROM THE 117TH DISTRICT COURT OF NUECES COUNTY, TEXAS MEMORANDUM OPINION Before Chief Justice Tijerina and Justices Peña and West Memorandum Opinion by Justice West On November 4, 2025, appellant Joseph Milton Mitchum filed a pro se notice of appeal regarding his judgment of conviction for the possession of child pornography in trial court cause number 23FC-3496B (S1) in the 117th District Court of Nueces County, Texas.

See TEX. PENAL CODE § 43.26(d). The trial court’s certification of appellant’s right of appeal states that the matter is a plea bargain case, appellant has no right of appeal, and appellant has waived the right of appeal. See TEX. R. APP. P. 25.2(a)(2).

We dismiss the appeal for want of jurisdiction. The Texas Rules of Appellate Procedure provide that an appeal must be dismissed if the trial court’s certification does not show that the defendant has the right of appeal. See *id.* R. 25.2(d); *Dears v. State*, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005); *Vasquez v. State*, 695 S.W.3d 556, 559 (Tex. App.—Houston [1st Dist.]

2023, pet. ref'd); *Torres v. State*, 493 S.W.3d 213, 215 (Tex. App.—San Antonio 2016, no pet.); *Pena v. State*, 323 S.W.3d 522, 525–26 (Tex. App.—Corpus Christi–Edinburg 2010, no pet.). The purpose of the certification requirement is to efficiently sort appealable cases from non-appealable cases so that appealable cases can “move through the system unhindered while eliminating, at an early stage, the time and expense associated with non-appealable cases.” *Greenwell v. Ct. of Apps. for the Thirteenth Jud.*

Dist., 159 S.W.3d 645, 649 (Tex. Crim. App. 2005). A certification is defective if it is inaccurate when compared to the record, and appellate courts have a duty to review the record in ascertaining whether the certification is defective. *Marsh v. State*, 444 S.W.3d 654, 658 (Tex. Crim. App. 2014); *Dears*, 154 S.W.3d at 615.

On December 2, 2025, we ordered appellant's counsel to review the record and determine whether the trial court's certification of appellant's right of appeal was correct. Appellant's court-appointed counsel advised the Court that appellant did not have a right of appeal.

However, upon review of the documents before us, we determined that there appeared to be a potential conflict between appellant and his court-appointed counsel that might necessitate the appointment of new counsel.

Accordingly, we abated and remanded this case to the trial court, and we directed the trial court to determine, *inter alia*, whether appellant was entitled to new court-appointed counsel. See *Carroll v. State*, 176 S.W.3d 249, 255 (Tex. App.—Houston [1st Dist.] 2004, pet. ref'd).

On remand, the trial court appointed new appellate counsel for appellant. We reinstated the appeal, and by order issued on January 5, 2026, we directed appellant's newly appointed counsel to: (1) review the record; (2) determine whether appellant has the right of appeal; and (3) provide this Court with counsel's findings as to whether appellant has a right to appeal and whether the trial court has issued an amended certification.

See TEX. R. APP. P. 44.3, 44.4; *Dears*, 154 S.W.3d at 614–15; *Carroll v. State*, 119 S.W.3d 838, 841 (Tex. App.—San Antonio 2003, no pet.). On February 2, 2026, appellant's newly appointed counsel advised the Court that appellant has no right of appeal as correctly reflected in the trial court's certification.

The Court, having examined and fully considered the documents on file and the applicable law, is of the opinion that this appeal should be dismissed. As stated previously, the trial court's certification of appellant's right of appeal shows that appellant does not have the right to appeal, and the record before the Court supports that determination.

Under these circumstances, the Texas Rules of Appellate Procedure require us to dismiss the appeal. See TEX. R. APP. P. 25.2(d); *Dears*, 154 S.W.3d at 613; 3 *Vasquez*, 695 S.W.3d at 559; *Torres*, 493 S.W.3d at 215; *Pena*, 323 S.W.3d at 525–26.

Therefore, we dismiss this appeal for want of jurisdiction. JON WEST Justice Do not publish. TEX. R. APP. P. 47.2(b). Delivered and filed on the 5th day of March, 2026. 4