

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PRECEDENTIAL VALUE	Nonprecedential unpublished memorandum opinion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.)

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