Motion for Rehearing Overruled; Opinion of June 7, 2001 Withdrawn; Dismissed and Substitute Opinion filed July 26, 2001.

In The

Fourteenth Court of Appeals

NO. 14-99-01375-CR

WELDON GREER, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause No. 820,450

S U B S T I T U T E O P I N I O N

The trial court convicted appellant of credit card abuse upon his plea of guilty, and assessed punishment at ten years' confinement. Appellant raised one point of error, contending that his guilty plea was involuntary because the State breached its plea agreement. We affirmed the conviction holding that the plea agreement was not breached, because there was no evidence to support appellant's contention that a promise to dismiss forever a charge of aggravated sexual assault was ever part of the plea agreement. On June

15, 2001, appellant filed his motion for rehearing. After submission of appellant's case, but prior to issuance of our opinion, the Texas Court of Criminal Appeals decided *Cooper v. State*, which held that an appellant who files a general notice of appeal may not appeal voluntariness of a negotiated plea. No. 1100-99, slip op. at 8, 2001 WL 321579 at *1 (Tex Crim. App. April 4, 2001). In reaching this decision the Court of Criminal Appeals reasoned:

> Experience has shown us that most cases of involuntary pleas result from circumstances that existed outside the record, such as misunderstandings, erroneous information, impaired judgment, ineffective assistance of counsel, and plea-bargains that were not followed or turn out to be impossible of performance. The legislature reasonably determined to eliminate a small number of meritorious appeals to prevent a much larger number of meritless appeals.

Id. Accordingly, we withdraw our previous opinion, and substitute the following in its place.

Appellant filed a timely general notice of appeal that did not comply with the requirements of Rule 25.2(b)(3) of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 25.2(b)(3). Rule 25.2(b)(3) provides that when an appeal is from a judgment rendered on a defendant's plea of guilty or *nolo contendere* and the punishment assessed does not exceed the punishment recommended by the State and agreed to by the defendant, the notice of appeal must: (1) specify that the appeal is for a jurisdictional defect; (2) specify that the substance of the appeal was raised by written motion and ruled on before trial; or (3) state that the trial court granted permission to appeal. *Id*. Because the time for filing a proper notice of appeal has expired, appellant may not file an amended notice of appeal to correct jurisdictional defects. *State v. Riewe*, 13 S.W.3d 408, 413–14 (Tex. Crim.

App. 2000). Because appellant's notice of appeal did not comply with the requirements of Rule 25.2(b)(3), we are without jurisdiction to consider any of appellant's issues, including the voluntariness of the plea. *See Cooper v. State*, No. 1100-99, slip op. at 8, 2001 WL 321579 at *1 (Tex. Crim. App. April 4, 2001)(holding that appellant who files general notice of appeal may not appeal voluntariness of negotiated plea).

Accordingly, we dismiss the appeal for want of jurisdiction.

/s/ Paul C. Murphy
Senior Chief Justice

Judgment rendered and Substitute Opinion filed July 26, 2001.

Panel consists of Justices Edelman, Frost, and Murphy.*

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

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