



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-16-00176-CR

JOSHUA RAY BROWN-BRANNON, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 100th District Court
Childress County, Texas
Trial Court No. 5809, Honorable Stuart Messer, Presiding

November 3, 2016

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Joshua Ray Brown-Brannon appeals his conviction for possessing a controlled substance. Through his two issues, appellant contends that because the trial court did not assess a fine of \$2000 or restitution of \$180 during its oral pronouncement of the sentence, it erred by including both in its written judgment. Consequently, the judgment should be modified "to delete" the fine and restitution. The State agrees.

When there exists a conflict between the oral pronouncement of a sentence and the written judgment, the oral pronouncement controls. *Burt v. State*, 445 S.W.3d 752,

757 (Tex. Crim. App. 2014). Because the oral pronouncement of the sentence mentioned nothing of a \$2000 fine or restitution of \$180, it was improper to assess them in the written judgment. Accordingly, we modify the judgment and redact from it reference to the assessment of a \$2000 fine and \$180 in restitution. As modified, the judgment is affirmed.

Brian Quinn
Chief Justice

Do not publish.