



**In The  
Court of Appeals  
Sixth Appellate District of Texas at Texarkana**

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No. 06-13-00259-CR

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RENE OLVERA LOPEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 71st District Court  
Harrison County, Texas  
Trial Court No. 06-0155X

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Before Morriss, C.J., Carter and Moseley, JJ.  
Memorandum Opinion by Chief Justice Morriss

## MEMORANDUM OPINION

Rene Olvera Lopez appeals from the final adjudication of his guilt for aggravated assault. He raises a single issue on appeal that the trial court erred by nonetheless assessing \$400.00 in attorney's fees against him as an indigent. We agree, and modify the judgment to delete the award of attorney's fees.

Court-appointed-attorney's fees cannot be assessed against an indigent defendant unless there is proof and a finding that he is no longer indigent. *Cates v. State*, 402 S.W. 3d 250 (Tex. Crim. App. 2013); *Mayer v State*, 399 S.W.3d 552 (Tex. Crim. App. 2010). In this case, there is no such evidence or finding. The trial court thus erred by assessing attorney's fees against Lopez. The proper remedy is to modify the judgment and remove the fee award. *Cates*, 402 S.W.3d at 252; *Martin v. State*, 405 S.W.3d 944, 947 (Tex. App.—Texarkana 2013, no pet.).

We modify the judgment of the trial court to delete the fees for Lopez's court-appointed attorney. As modified, the trial court's judgment is affirmed.

Josh R. Morriss, III  
Chief Justice

Date Submitted: April 15, 2014  
Date Decided: April 30, 2014

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