



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. PD-0253-16 & PD-0254-16

WILLIE LEE AMIE, JR., Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SECOND COURT OF APPEALS
TARRANT COUNTY**

***Per curiam.* YEARY, J., filed a dissenting opinion.**

OPINION

Appellant was convicted of two counts of robbery and sentenced to fifteen years in prison in each count, to run concurrently. On appeal, Appellant claimed that the Consolidated Court Cost fee imposed pursuant to Local Government Code § 133.102(a)(1) was facially unconstitutional. The Court of Appeals held that this claim was not preserved

for review because Appellant did not object to the imposition of the fee before the trial court. In the alternative, it found the claim meritless. *Amie v. State*, Nos. 02-15-00385-CR & 02-15-00386-CR, 2016 Tex. App. LEXIS 1990 (Tex. App.—Fort Worth February 25, 2016) (not designated for publication).

In the context of court-cost challenges, an appellant may not be faulted for failing to object when he or she was not given the opportunity to do so. *London v. State*, 490 S.W.3d 503, 507 (Tex. Crim. App. 2016). Appellant was entitled to challenge this mandatory court cost for the first time on appeal.

This Court recently determined that portions of the Consolidated Court Cost fee – specifically, the abused children’s counseling fee and the comprehensive rehabilitation fee – are unconstitutional as a violation of the Separation of Powers Clause of the Texas Constitution. *Salinas v. State*, 523 S.W.3d 103 (Tex. Crim. App. 2017). Pursuant to *Salinas*, the \$133 consolidated court costs should be reduced *pro rata* by the percentage allocated to these impermissible accounts. The combined percentage attributable to these accounts under the statute is 9.8306 percent. That percentage of the \$133 fee assessed in Appellant’s case is \$13.07. Subtracting this amount from the \$133 yields a fee of \$119.93. We reverse the judgment of the Court of Appeals with respect to the issue of court costs, and we modify the trial court’s judgment to change the \$133 consolidated fee to \$119.93.

DATE DELIVERED: November 15, 2017

DO NOT PUBLISH