



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. PD-0196-20

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**ALBERT FORISTER, Appellant**

**V.**

**THE STATE OF TEXAS**

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**ON STATE'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE FIRST COURT OF APPEALS  
BURNET COUNTY**

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*Per curiam.* YEARY, J., filed a dissenting opinion in which SLAUGHTER, J., joined.

## OPINION

Appellant was convicted of manufacture or delivery of a controlled substance and sentenced to 50 years in prison. In the bill of costs, the trial court assessed Appellant a \$25 time payment fee. See TEX. LOCAL GOV'T CODE § 133.103. On appeal, the Court of Appeals

struck a portion of that fee as being unconstitutional. *Forister v. State*, No. 01-19-00030-CR, 2020 Tex. App. LEXIS 1647 (Tex. App. – Houston [1<sup>st</sup> Dist.] Feb. 27, 2020).

The State has filed a petition for discretionary review arguing that the time payment fee was prematurely assessed. We recently handed down our opinion in *Dulin v. State*, Nos. PD-0856-19 & PD-0857-19, 2021 Tex. Crim. App. LEXIS 273 (Tex. Crim. App. Mar. 31, 2021), in which we held that the time payment fee was assessed prematurely because the pendency of appeal suspends the obligation to pay court costs.

Accordingly, we grant ground one of the State’s petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals for proceedings consistent with this opinion. The State’s other grounds are refused.

DATE DELIVERED: May 12, 2021

DO NOT PUBLISH