



**IN THE COURT OF CRIMINAL APPEALS  
OF TEXAS**

---

---

**NO. PD-1193-19**

---

---

**DELFINO ORTEGA, JR., Appellant**

**V.**

**THE STATE OF TEXAS**

---

---

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE ELEVENTH COURT OF APPEALS  
ERATH COUNTY**

---

---

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

**OPINION**

Appellant was convicted of driving while intoxicated and sentenced to twenty 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. *Ortega v. State*, No. 11-19-00081-CR, 2019 Tex. App. LEXIS

9199 (Tex. App. – Eastland Oct. 18, 2019).

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DO NOT PUBLISH