Affirmed as Modified; Opinion filed July 30, 2013.



# In The Court of Appeals Fifth District of Texas at Dallas

No. 05-12-01524-CR No. 05-12-01525-CR

## DARRELL DEWAYNE MORGAN, Appellant

V.

## THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court No. 6 Dallas County, Texas Trial Court Cause Nos. F07-30718-X, F07-30719-X

### MEMORANDUM OPINION

Before Justices Moseley, Bridges, and Lang-Miers Opinion by Justice Moseley

Darrell Dewayne Morgan appeals from the adjudication of his guilt for possession with intent to deliver cocaine in an amount of four grams or more but less than 200 grams and unlawful possession of a firearm by a felon. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.112(a), (d) (West 2010); TEX. PENAL CODE ANN. § 46.04(a)(1) (West 2011). In two issues, appellant contends the judgments adjudicating guilt should be modified to correct errors in them. The State agrees the judgments should be modified as appellant suggests. We modify the trial court's judgments adjudicating guilt and affirm as modified.

In his first issue, appellant contends the judgment in cause no. 05-12-01524-CR should

be modified to reflect he pleaded not true to the motion to adjudicate guilt. In his second issue,

appellant contends the judgment in cause no. 05-12-01525-CR should be modified to reflect the

correct statute for the offense.

The record shows that in each case, appellant pleaded not true to the motion to adjudicate

guilt. However, the judgment in cause no. 05-12-01524-CR recites the plea to the motion to

adjudicate was true. Thus, the judgment is incorrect. We sustain appellant's first issue.

In cause no. 05-12-01525-CR, appellant was convicted of unlawful possession of a

firearm by a felon pursuant to section 46.04 of the Texas Penal Code. The judgment, however,

incorrectly identifies the statute for the offense as "46.05 Penal Code." We sustain appellant's

second issue.

In cause no. 05-12-01524-CR, we modify the judgment adjudicating guilt to show

appellant pleaded not true to the motion to adjudicate guilt. See Tex. R. App. P. 43.2(b); Bigley

v. State, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993); Asberry v. State, 813 S.W.2d 526, 529–

30 (Tex. App.—Dallas 1991, pet. ref'd). In cause no. 05-12-01525-CR, we modify the judgment

adjudicating guilt to show the statute for the offense is "46.04 Penal Code."

As modified, we affirm the trial court's judgments adjudicating guilt.

/Jim Moseley/

JIM MOSELEY

**JUSTICE** 

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# Court of Appeals Fifth District of Texas at Dallas

### **JUDGMENT**

DARRELL DEWAYNE MORGAN, Appellant

No. 05-12-01524-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the Criminal District Court No. 6 of Dallas County, Texas (Tr.Ct.No. F07-30718-X). Opinion delivered by Justice Moseley, Justices Bridges and Lang-Miers

participating.

Based on the Court's opinion of this date, the trial court's judgment adjudicating guilt is **MODIFIED** as follows:

The section entitled "Plea to Motion to Adjudicate" is modified to show "Not True."

As modified, we **AFFIRM** the trial court's judgment adjudicating guilt.

Judgment entered July 30, 2013.

/<u>Jim Moseley/</u> JIM MOSELEY JUSTICE



# Court of Appeals Fifth District of Texas at Dallas

### **JUDGMENT**

DARRELL DEWAYNE MORGAN, Appellant

No. 05-12-01525-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the Criminal District Court No. 6 of Dallas County, Texas (Tr.Ct.No. F07-30719-X).
Opinion delivered by Justice Moseley, Justices Bridges and Lang-Miers participating.

Based on the Court's opinion of this date, the trial court's judgment adjudicating guilt is **MODIFIED** as follows:

The section entitled "Statute for Offense" is modified to show "46.04 Penal Code."

As modified, we **AFFIRM** the trial court's judgment adjudicating guilt.

Judgment entered July 30, 2013.

/Jim Moseley/ JIM MOSELEY JUSTICE