

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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TEX. R. APP. P. 47
121524F.U05



**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.

/Jim Moseley/
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