

AFFIRMED as MODIFIED and Opinion Filed November 5, 2020



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

No. 05-19-00475-CR

**EULALIO BRAVO MEZA, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 363rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. F-1600492-W**

MEMORANDUM OPINION

**Before Justices Molberg, Carlyle, and Browning
Opinion by Justice Browning**

The trial court found appellant Eulalio Bravo Meza guilty of aggravated sexual assault of a child under the age of fourteen and assessed punishment at six years' confinement. On appeal, he argues that the judgment should be reformed because it incorrectly states he pleaded true to two enhancement paragraphs and that the trial court found such enhancements true. The State raises two cross-points likewise requesting modification of the judgment. As modified, we affirm the trial court's judgment. Because a detailed recitation of the underlying facts are

unnecessary to disposition of the appeal, we include only those required to address the issues presented. *See* TEX. R. APP. P. 47.1.

Discussion

In appellant’s sole issue, he argues that the indictment did not contain any enhancement paragraphs; therefore, there were no enhancement allegations for appellant to plead to or any enhancement allegations for the trial court to find true. Thus, he requests the Court to modify the judgment to delete “TRUE.” The State agrees the judgment should be modified.

When the record provides the necessary information to correct inaccuracies in the trial court’s judgment, we have the authority to reform the judgment to speak the truth. TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993) (courts of appeals have authority to modify a judgment); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref’d).

Our review of the record unambiguously shows the indictment did not contain any enhancement paragraphs, the State never filed a notice of intent to enhance the offense, and the State never amended the indictment to include any enhancements. Accordingly, we agree the judgment should be modified to delete “TRUE” from the following recitations: “Plea to 1st Enhancement Paragraph:”; “Plea to 2nd Enhancement/Habitual Paragraph:”; “Findings on 1st Enhancement:”; and “Findings on 2nd Enhancement/Habitual Paragraph.” *See* TEX. R. APP. P. 43.2(b);

Bigley, 865 S.W.2d at 27–28; *Asberry*, 813 S.W.2d at 529–30. We sustain appellant’s issue.

In two cross-points, the State requests the Court to modify the judgment to reflect appellant pleaded not guilty and to reflect his sentence was not pursuant to a plea-bargain agreement.

During the July 30, 2018 admonishment hearing, the trial court acknowledged the State’s plea bargain offer to reduce the case from a first degree felony to a second degree felony. Appellant rejected the offer and proceeded with a non-jury trial. Appellant also waived formal arraignment and entered a plea of not guilty.

On August 1, 2018, prior to the State presenting its case, the trial court again stated on the record that appellant rejected the plea bargain, waived his right to a jury trial, and pleaded not guilty to the offense.

The “Trial Court’s Certification of Defendant’s Right of Appeal” indicates the case “is not a plea bargain case, and the defendant has the right of appeal.”

Our review of the record unambiguously establishes that appellant pleaded not guilty to the charge, and it was not a plea bargain case. Accordingly, we delete “6 YEARS TDCJ” and replace with “N/A” under “Terms of Plea Bargain:.” *See, e.g., Lewis v. State*, No. 05-17-00758-CR, 2018 WL 2315898, at *2 (Tex. App.—Dallas May 22, 2018, no pet.) (mem. op., not designated for publication) (modifying judgment to correctly reflect open guilty plea rather than terms of plea bargain). We likewise modify the judgment to replace “GUILTY” with “NOT GUILTY” in the

“Plea to Offense:” portion of the judgment. *See* TEX. R. APP. P. 43.2(b); *Bigley*, 865 S.W.2d at 27–28; *Asberry*, 813 S.W.2d at 529–30. We sustain the State’s two cross-points.

Conclusion

As modified, the judgment of the trial court is affirmed.

/John G. Browning/
JOHN G. BROWNING
JUSTICE

Do Not Publish
TEX. R. APP. P. 47.2(b)
190475F.U05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

EULALIO BRAVO MEZA,
Appellant

No. 05-19-00475-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 363rd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F-1600492-W.
Opinion delivered by Justice
Browning. Justices Molberg and
Carlyle participating.

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

“TRUE” is **DELETED** from the following recitations in the judgment:

- Plea to 1st Enhancement Paragraph
- Plea to 2nd Enhancement/Habitual Paragraph
- Findings on 1st Enhancement
- Findings on 2nd Enhancement/Habitual Paragraph

“6 YEARS TDCJ” is **DELETED** and **REPLACED** with “N/A.”

“GUILTY” is **DELETED** and **REPLACED** with “NOT GUILTY.”

As **REFORMED**, the judgment is **AFFIRMED**.

Judgment entered November 5, 2020.