

**Affirm and Opinion Filed November 6, 2020**



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

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**No. 05-19-01088-CR and**

**No. 05-20-00031-CR**

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**POLYCARP OIGO ONCHOKE, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the Criminal District Court No. 6  
Dallas County, Texas  
Trial Court Cause Nos. F-1900423-X and F-1900422-X**

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**MEMORANDUM OPINION**

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

Polycarp Oigo Onchoke entered guilty pleas to two charges of invasive visual recording, and the court sentenced him to eighteen months' imprisonment on each charge. *See* TEX. PENAL CODE § 21.15(c). Onchoke contends his sentence violates the United States and Texas Constitutions because it is "grossly disproportionate" to the crime and does not match the offender. But Mr. Onchoke did not raise these issues in the trial court through a timely request, objection, or motion, and thus did not preserve them for our review. *See* TEX. R. APP. P. 33.1(a)(1); *Rhoades v. State*,

934 S.W.2d 113, 120 (Tex. Crim. App. 1996); *Bell v. State*, 326 S.W.3d 716, 724 (Tex. App.—Dallas 2010, pet. dismiss'd).

In a cross-point, the State asks us to modify the judgment in case number 05-20-00031-CR (trial court cause number F-1900422-X) to reflect that Onchoke made an open plea and did not have the benefit of a plea bargain when he pleaded guilty.

The record reflects that Onchoke made an open plea in both of the cases before us. We may modify the trial court's judgment to make the record speak the truth when we have the necessary information to do so. TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993) (en banc) (refusing to limit the authority of the courts of appeals to reform judgments to only those situations involving mistakes of a clerical nature); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. refused).

We affirm the trial court's judgment in case number 05-19-01088-CR (trial court cause number F-1900423-X). In case number 05-20-00031-CR (trial court cause number F-1900422-X), we modify the judgment by deleting the phrase “18 months state jail” after “Terms of Plea Bargain” and adding the word “open” instead.

/Ken Molberg/  
KEN MOLBERG  
JUSTICE

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TEX. R. APP. P. 47.2(b)



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

**JUDGMENT**

POLYCARP OIGO ONCHOKE,  
Appellant

No. 05-19-01088-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District  
Court No. 6, Dallas County, Texas  
Trial Court Cause No. F-1900423-X.  
Opinion delivered by Justice  
Molberg. Justices Carlyle and  
Browning participating.

Based on the Court's opinion of this date, the judgment of the trial court is  
**AFFIRMED.**

Judgment entered this 6<sup>th</sup> day of November, 2020.



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

**JUDGMENT**

POLYCARP OIGO ONCHOKE,  
Appellant

No. 05-20-00031-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District  
Court No. 6, Dallas County, Texas  
Trial Court Cause No. F-1900422-X.  
Opinion delivered by Justice  
Molberg. Justices Carlyle and  
Browning participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** by deleting the phrase "18 months state jail" after "Terms of Plea Bargain" and adding the word "open" instead.

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

Judgment entered this 6<sup>th</sup> day of November, 2020.