

Opinion issued October 6, 2011.



In The
Court of Appeals
For The
First District of Texas

NO. 01-10-00620-CR

ROBERT LYNN HALL, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 263rd District Court
Harris County, Texas
Trial Court Case No. 1213142**

MEMORANDUM OPINION

Robert Lynn Hall was charged by indictment of aggravated robbery and pleaded not guilty. After a jury found him guilty, the trial court found true the allegations in an enhancement paragraph and assessed punishment at 30 years'

confinement. In his sole issue on appeal, Hall contends that the judgment of the trial court should be modified to reflect that his punishment was assessed by the trial court, not the jury. We modify the judgment and, as modified, affirm.

MODIFICATION OF JUDGMENT

Hall's sole claim on appeal is that the judgment should be modified to reflect that the trial judge (and not the jury) assessed punishment. The State agrees that the judgment should be so modified.

“An appellate court has the power to correct and reform a trial court judgment to make the record speak the truth when it has the necessary data and information to do so, or make any appropriate order as the law and nature of the case may require.” *Nolan v. State*, 39 S.W.3d 697, 698 (Tex. App.—Houston [1st Dist.] 2001, no pet.). Under Rule 43.2(b) of the Texas Rules of Appellate Procedure, rather than correcting and reforming a judgment, the “Court of Appeals may . . . modify the trial court’s judgment and affirm it as modified.” TEX. R. APP. P. 43.2(b).

We sustain Hall’s sole issue.

CONCLUSION

We modify the trial court's judgment to show that appellant's punishment was assessed by the trial court and not by the jury. We affirm the judgment as modified. We overrule all pending motions as moot.

Rebeca Huddle
Justice

Panel consists of Chief Justice Radack and Justices Bland and Huddle.

Do not publish. TEX. R. APP. P. 47.2(b).