



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-19-00317-CR

No. 02-19-00319-CR

JOEL ENGOBO MAMBE, Appellant

v.

THE STATE OF TEXAS

On Appeal from the 396th District Court
Tarrant County, Texas
Trial Court Nos. 1550888D, 1550895D

Before Gabriel, Kerr, and Wallach, JJ.
Memorandum Opinion by Justice Wallach

MEMORANDUM OPINION

Appellant Joel Engobo Mambe pled guilty without the benefit of a bargain to two first-degree felony offenses: aggravated kidnapping in cause number 1550888 and aggravated robbery in cause number 1550895.¹ *See* Tex. Penal Code. Ann. §§ 20.04(b), (c), 29.03(a)(2), (b). The trial court heard the cases together in a single proceeding, adjudicating Mambe guilty, sentencing him to sixty years' confinement for each offense, and ordering the sentences to run concurrently. The judgment in each case assessed the following court costs against Mambe: \$529 in cause number 1550888 and \$279 in cause number 1550895. The clerk assessed identical line-item costs in each case, with the exception of the \$250 DNA testing fee, which was not assessed in cause number 1550895. The assessed costs (excluding the \$250 DNA testing fee) were as follows:

Clerk Fees-R	\$40.00
DC Recs Tech	\$4.00
DC Rec Pre&A·R	\$2.50
Security Fees·R	\$5.00
Crim. Records	\$22.50
Jury Service FD	\$4.00
PO Arrest Fee	\$50.00
PO Commit/Rel	\$5.00

¹Appellant also appealed from a third companion case heard in the proceeding, trial court cause number 1550893. That appeal was docketed as appellate cause number 02-19-00318-CR and remains pending in this court.

Ind DefenseFund	\$2.00
Jud Support·CRM	\$6.00
E·File Crim	\$5.00
CCC-Felony	\$133.00

In his sole issue, Mambe argues that the court costs imposed against him are legally limited to only one assessment. The State agrees, and so do we. By statute, “[i]n a single criminal action in which a defendant is convicted of two or more offenses or of multiple counts of the same offense, the court may assess each court cost or fee only once against the defendant.” Tex. Code Crim. Proc. Ann. art. 102.073(a). The phrase “a single criminal action” used in the statute includes a trial on multiple offenses, like the one in this case, regardless of whether the offenses were committed in a single criminal episode. *Guerin v. State*, Nos. 02-18-00509-CR, 02-18-00510-CR, 2019 WL 4010361, at *1 (Tex. App.—Fort Worth Aug. 26, 2019, no pet.) (mem. op., not designated for publication); see *Hernandez v. State*, Nos. 02-17-00300-CR, 02-17-00301-CR, 02-17-00302-CR, 2018 WL 2346970, at *3 (Tex. App.—Fort Worth May 24, 2018, pet. ref’d) (mem. op., not designated for publication).

“When a trial court erroneously assesses court costs for multiple convictions tried in a single proceeding, we retain the court costs for the offense of the highest category.” *Guerin*, 2019 WL 4010361, at *1 (citing Tex. Code Crim. Proc. Ann. art. 102.073(b)). Here, each offense is a first-degree felony. See Tex. Penal Code. Ann. §§ 20.04(c), 29.03(b). We therefore retain the court costs from the case with the lower

cause number, which is the aggravated kidnapping case. *See Duchesneau v. State*, Nos. 02-18-00321-CR, 02-18-00322-CR, 2019 WL 2455619, at *7 (Tex. App.—Fort Worth June 13, 2019, pet. ref'd) (mem. op., not designated for publication) (citing *Williams v. State*, 495 S.W.3d 583, 590 (Tex. App.—Houston [1st Dist.] 2016) (op. on reh'g), *pet. dismiss'd*, No. PD-0947-16, 2017 WL 1493488, at *1 (Tex. Crim. App. Apr. 26, 2017) (not designated for publication)). Accordingly, in cause number 1550895, we delete the costs of \$279 from the judgment and replace that amount with \$0 costs.

We affirm the trial court's judgment in trial court cause number 1550888 (appellate cause number 02-19-317-CR). Having modified the trial court's judgment in trial court cause number 1550895 (appellate cause number 02-19-319-CR) by deleting costs of \$279 and substituting costs of \$0, we affirm as modified the trial court's judgment in that case.

/s/ Mike Wallach
Mike Wallach
Justice

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Delivered: April 30, 2020