



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-11-00021-CR

CLYDE PHILLIPS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 114th Judicial District Court
Smith County, Texas
Trial Court No. 114-1028-09

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

In proceedings before the 241st Judicial District Court in Smith County,¹ Clyde Phillips was adjudicated guilty of possession of marihuana and was sentenced to eighteen months in a state jail facility.² Appealing that result, Phillips complains in a single point of error that the trial court's judgment³ "incorrectly reflect[s] that Mr. Phillips entered a plea of 'true' to the entirety of the Motion to Adjudicate." Phillips argues that, although he pled true to several allegations of community supervision violations, he pled "not true" as to one allegation. He urges this Court to reform the portion of the judgment stating "Plea to Motion to Adjudicate: True." The State has agreed that "the Court has the authority to correct this mistake in the judgment." We modify the judgment accordingly.

The Texas Rules of Appellate Procedure give this Court authority to reform judgments to make the record speak the truth when the matter has been called to our attention by any source. TEX. R. APP. P. 43.2; *French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992); *Rhoten v. State*, 299 S.W.3d 349, 356 (Tex. App.—Texarkana 2009, no pet.). The record reflects that

¹Originally appealed to the Twelfth Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. See TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005). We are unaware of any conflict between precedent of the Twelfth Court of Appeals and that of this Court on any relevant issue. See TEX. R. APP. P. 41.3.

²Phillips presents a single brief addressing this case and the trial court's adjudication of guilt for a separate offense of possession of a controlled substance. The issues and arguments are the same for both convictions, and we reach the same conclusion in both cases. Please see our opinion of instant date, *Phillips v. State*, cause number 06-11-00020-CR.

³Phillips does not challenge the sufficiency of the evidence supporting revocation.

Phillips pled true to the following allegations in the State’s motion to adjudicate: commission of the new offense of fleeing from a police officer, change of address without permission, and failure to pay court-appointed counsel fees.⁴ With respect to the allegation that Phillips attempted to alter or falsify drug test results by “flushing with water,” however, a plea of “not true” was entered.

We hereby modify the trial court's judgment to reflect Phillips’ plea of “true” to the allegations contained within paragraphs II, III, and VII of the State’s motion to adjudicate and his plea of “not true” to the allegation contained within paragraph VI.

We affirm the trial court’s judgment as modified.

Josh R. Morriss, III
Chief Justice

Date Submitted: June 15, 2011
Date Decided: June 16, 2011

Do Not Publish

⁴The allegations to which Phillips pled true were contained within paragraphs II, III, and VII in the State’s motion to adjudicate guilt. The State abandoned the allegations contained in paragraphs IV and V. Phillips pled “not true” to Paragraph VI. There was no allegation contained in paragraph I.