



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

No. 06-15-00177-CR

MICHAEL DEAN RAGLIN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 8th District Court
Hopkins County, Texas
Trial Court No. 1122316

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

MEMORANDUM OPINION

Michael Dean Raglin appeals the judgment revoking his community supervision, adjudicating him guilty of possession of marihuana in an amount greater than five pounds but less than fifty pounds, sentencing him to ten years' imprisonment, fining him \$2,941.00, and ordering that he pay \$500.00 to cover the costs of his court-appointed counsel.

Raglin's appellate counsel has filed a brief stating that he reviewed the record and found no genuinely arguable issues that could be raised on appeal. The brief sets out the procedural history and summarizes the evidence elicited during the course of the trial court proceedings.

Meeting the requirements of *Anders v. California*, counsel has provided a professional evaluation of the record demonstrating why there are no reversible grounds to be advanced. *Anders v. California*, 386 U.S. 738, 743–44 (1967); *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008) (orig. proceeding); *Stafford v. State*, 813 S.W.2d 503, 509–10 (Tex. Crim. App. 1991); *High v. State*, 573 S.W.2d 807, 812–13 (Tex. Crim. App. [Panel Op.] 1978). Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal.

We note that in *Anders* cases, “appellate courts have the authority to reform judgments and affirm[,] as modified[,] in cases where there is non reversible [sic] error.” *Ferguson v. State*, 435 S.W.3d 291, 294 (Tex. App.—Waco 2014, pet. struck) (comprehensively discussing appellate cases that have modified judgments in *Anders* cases). Here, we must modify the judgment by deleting the assessment of court-appointed attorney fees.

Even though the record demonstrated that Raglin was indigent, the trial court's judgment ordered him to pay attorney fees in the amount of \$500.00. Under Article 26.05(g) of the Texas

Code of Criminal Procedure, a trial court has the authority to order an indigent defendant to pay court-appointed attorney fees only if “the court determines that [the] defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses and costs.” TEX. CODE CRIM. PROC. ANN. art. 26.05(g) (West Supp. 2015). “[T]he defendant’s financial resources and ability to pay are explicit critical elements in the trial court’s determination of the propriety of ordering reimbursement of costs” of legal services provided. *Armstrong v. State*, 340 S.W.3d 759, 765–66 (Tex. Crim. App. 2011) (quoting *Mayer v. State*, 309 S.W.3d 552, 556 (Tex. Crim. App. 2010)).

Here, the record is devoid of any determination or finding by the trial court that Raglin had financial resources or was otherwise able to pay his appointed attorney fees. Thus, the assessment of attorney fees was erroneous and should be removed. *Cates v. State*, 402 S.W.3d 250, 252 (Tex. Crim. App. 2013); see *Mayer v. State*, 309 S.W.3d 552 (Tex. Crim. App. 2010); *Martin v. State*, 405 S.W.3d 944, 946–47 (Tex. App.—Texarkana 2013, no pet.). Accordingly, we modify the trial court’s judgment by deleting the assessment of attorney fees.

The trial court also issued an “Order to Withdraw Funds” from Raglin’s inmate trust account on the date the judgment was entered.¹ That order requires the withdrawal of funds from Raglin’s inmate trust account in the amount of \$3,441.00, as “represented in the certified Bill of Costs attached to the Judgment.” No such bill of costs has been made a part of the record in this appeal. However, it is apparent that the \$500.00 Raglin was ordered to pay in attorney fees is

¹This document is more properly termed a notice of withdrawal of funds.

included in the total funds to be withdrawn in the amount of \$3,441.00.² We, therefore, modify the notice of withdrawal of funds, in the interests of justice, to indicate the total of the funds to be withdrawn from Raglin's inmate trust account is \$2,941.00.

We have independently reviewed the entire record, and we find no reversible error. *See Halbert v. Michigan*, 545 U.S. 605, 623 (2005). Therefore, with the exception of the improper assessment of court-appointed attorney fees, we conclude that no genuinely arguable issues support an appeal. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005).

We affirm the trial court's judgment, as modified.³

Ralph K. Burgess
Justice

Date Submitted: February 17, 2016
Date Decided: March 4, 2016

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²The judgment imposed a fine in the amount of \$2,941.00 and attorney fees of \$500.00. These two sums total \$3,441.00.

³Since we agree this case presents no reversible error, we also, in accordance with *Anders*, grant counsel's request to withdraw from further representation of appellant in this case. *Anders*, 386 U.S. at 744. No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of this opinion. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk of the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68.3. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 68.4.