



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

No. 06-15-00230-CR

DONYELLE REEL, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 188th District Court
Gregg County, Texas
Trial Court No. 44996-A

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

MEMORANDUM OPINION

Donyelle Reel pled guilty to and was convicted of the offense of forgery. After a bench trial on punishment, the trial court sentenced Reel to twenty months' confinement in state jail and ordered her to pay \$425.00 in attorney fees for her court-appointed counsel. The record demonstrates that Reel is indigent. Thus, in her sole issue on appeal, Reel argues that the trial court erred in assessing attorney fees against her. The State concedes the error. Accordingly, we modify the trial court's judgment to delete the assessment of attorney fees and affirm the judgment, as modified.

A trial court has the authority to order the reimbursement of court-appointed attorney fees only if the court "determines that a defendant has financial resources that enable the defendant to offset in part or in whole the costs of the legal services provided to the defendant." TEX. CODE CRIM. PROC. ANN. art. 26.05(g) (West Supp. 2015). Reel's financial resources and ability to pay are key to the trial court's determination of whether to order reimbursement of legal fees. *Armstrong v. State*, 340 S.W.3d 759, 765–66 (Tex. Crim. App. 2011). Since there was no finding that Reel is able to pay attorney fees, assessing them was erroneous. *See Cates v. State*, 402 S.W.3d 250, 252 (Tex. Crim. App. 2013); *see also 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 \$425.00 for attorney fees from the judgment. *See Ferguson v. State*, 435 S.W.3d 291, 294 (Tex. App.—Waco 2014, pet. struck) (comprehensively discussing appellate cases that have modified judgments).

We affirm the judgment, as modified.

Bailey C. Moseley
Justice

Date Submitted: July 20, 2016
Date Decided: July 22, 2016

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