



IN THE
TENTH COURT OF APPEALS

No. 10-12-00223-CR

ALEXANDER VANTOLT TOLBERT,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 21st District Court
Burleson County, Texas
Trial Court No. 13,990

MEMORANDUM OPINION

Alexander Vantolt Tolbert was convicted of the offenses of aggravated robbery and injury to an elderly person. TEX. PEN. CODE ANN. §§ 29.03, 22.04 (West 2011). Tolbert's sole issue complains that the evidence was insufficient for the trial court to have assessed attorney's fees in the judgment on the aggravated robbery (Count I). The State agrees with Tolbert. The trial court determined that Tolbert was indigent during the proceedings and no evidence was presented of any change in that status. In accordance with the opinion of the Court of Criminal Appeals in *Mayer v. State*, 309

S.W.3d 552, 557 (Tex. Crim. App. 2010), we agree that the evidence was insufficient and the judgment in Count I should be modified to delete these assessments. Tolbert's sole issue is sustained.

We find that the trial court erred by assessing attorney's fees and modify the judgment in Count I by deleting the award of attorney's fees. As modified, the judgments of conviction are affirmed.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Modified, and as Modified, Affirmed
Opinion delivered and filed May 9, 2013
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