

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00277-CR

Tracy Joe Stephenson, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF CALDWELL COUNTY, 421ST JUDICIAL DISTRICT
NO. 2012-252, HONORABLE TODD A. BLOMERTH, JUDGE PRESIDING**

MEMORANDUM OPINION

A jury convicted appellant Tracy Joe Stephenson of the offense of burglary of a building.¹ Punishment was assessed at 730 days in state jail and a \$10,000 fine. In a single issue on appeal, Stephenson argues that the judgment should be reformed to correctly reflect the statutory offense for which he was convicted. Specifically, Stephenson observes that he was convicted of the offense of burglary of a building pursuant to section 30.02(c)(1) of the penal code, but the judgment erroneously reflects that he was convicted pursuant to section 30.02(c)(2), which applies to burglary of a habitation.

The State concedes error. However, in its brief, the State represents that it has filed a motion for judgment nunc pro tunc to correct the error and that the district court has subsequently entered a nunc pro tunc order correcting the judgment. A copy of the nunc pro tunc

¹ See Tex. Penal Code § 30.02(c)(1).

order, signed by the district court and file stamped by the district clerk, is attached to the State's brief, and it reflects the correct statutory provision. Accordingly, the issue is now moot.

We overrule Stephenson's sole point of error. The judgment of conviction is affirmed.

Bob Pemberton, Justice

Before Chief Justice Jones, Justices Pemberton and Field

Affirmed

Filed: July 25, 2014

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