

NO. 12-11-00213-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*JIMMY LEERAY DENTON,
APPELLANT*

§

APPEAL FROM THE 241ST

V.

§

JUDICIAL DISTRICT COURT

*THE STATE OF TEXAS,
APPELLEE*

§

SMITH COUNTY, TEXAS

MEMORANDUM OPINION

Jimmie Leeray Denton appeals his conviction for burglary of a habitation following the revocation of his deferred adjudication community supervision, for which he was sentenced to imprisonment for twenty-five years. In one issue, Appellant argues that the written judgment of the trial court incorrectly reflects the identity of his counsel at trial. We modify and affirm as modified.

BACKGROUND

Appellant was charged by indictment with burglary of a habitation with intent to commit aggravated assault and pleaded “guilty.” The trial court deferred finding Appellant “guilty” and placed him on community supervision for ten years.

Subsequently, the State filed a motion to revoke Appellant’s community supervision alleging that Appellant had violated certain terms and conditions thereof. Specifically, the State argued that Appellant had committed the offense of public intoxication and had consumed an alcoholic beverage. A hearing was conducted on the State’s motion, at which Appellant pleaded “true” to the aforementioned allegations in the State’s motion. At the conclusion of the hearing, the trial court found that Appellant had violated the terms and conditions of his community

supervision as alleged in the State’s motion. Thereafter, the trial court revoked Appellant’s community supervision, adjudicated him “guilty” of burglary of a habitation, and sentenced him to imprisonment for twenty-five years. Subsequently, the trial court entered a written judgment in which Appellant’s trial counsel was identified as “Austin Reeve Jackson.” This appeal followed.

MISIDENTIFICATION OF TRIAL COUNSEL IN WRITTEN JUDGMENT

In his sole issue, Appellant argues that the trial court misidentified his trial counsel in its written “Judgment Adjudicating Guilt” as “JACKSON, AUSTIN REEVE.” An appellate court may modify a trial court’s judgment to correct, among other things, clerical errors. *See Asberry v. State*, 813 S.W.2d 526, 530 (Tex. App.–Dallas 1991, pet. ref’d); *see also Ex parte Poe*, 751 S.W.2d 873, 876 (Tex. Crim. App. 1988).

In the instant case, the judgment was entered on June 30, 2011. The record reflects that Appellant was represented before the trial court by Donald S. Davidson. Davidson moved to withdraw as Appellant’s counsel on July 1, 2011. The trial court granted Davidson’s motion and appointed Austin Reeve Jackson as Appellant’s new counsel by written order dated July 1, 2011. Accordingly, we conclude that the trial court’s written judgment adjudicating guilt misidentifies Jackson as Appellant’s trial counsel and should be modified. Appellant’s sole issue is sustained.

CONCLUSION

We have sustained Appellant’s sole issue. Accordingly, we *modify* the trial court’s “Judgment Adjudicating Guilt” dated June 30, 2011 by deleting the notation identifying “JACKSON, AUSTIN REEVE” as “Attorney for Defendant” and inserting the notation “DAVIDSON, DONALD S.” as “Attorney for Defendant.” We *affirm* the trial court’s judgment as *modified*.

BRIAN HOYLE

Justice

Opinion delivered June 29, 2012.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)



**COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT**

JUNE 29, 2012

NO. 12-11-00213-CR

JIMMY LEERAY DENTON,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 241st Judicial District Court of
Smith County, Texas. (Tr.Ct.No. 241-1720-07)

THIS CAUSE came to be heard on the appellate record and briefs filed herein; and the same being considered, it is the opinion of this court that the judgment of the trial court below should be modified and as modified, affirmed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that the "Judgment Adjudicating Guilt" dated June 30, 2011, be **modified** by deleting the notation identifying "JACKSON, AUSTIN REEVE" as "Attorney for Defendant" and inserting the notation "DAVIDSON, DONALD S." as "Attorney for Defendant," and as modified, the judgment of the trial court is **affirmed**; and that this decision be certified to the trial court below for observance.

Brian Hoyle, Justice.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.