

**NO. 12-11-00367-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*SHELIA LADON ROSSITER,  
APPELLANT*

§

*APPEAL FROM THE 7TH*

*V.*

§

*JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,  
APPELLEE*

§

*SMITH COUNTY, TEXAS*

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***MEMORANDUM OPINION***

Shelia Ladon Rossiter appeals her conviction for aggravated assault against a public servant. In her sole issue, Appellant argues that the trial court's judgment should be reformed to accurately reflect the proceedings below. We modify the judgment and affirm as modified.

**BACKGROUND**

Appellant was charged by indictment with aggravated assault of a public servant, a first degree felony as alleged.<sup>1</sup> Appellant pleaded guilty to the charged offense and received ten years of deferred adjudication community supervision. The conditions of Appellant's community supervision included that she was to have no contact with the victim, and to refrain from coming within 500 feet of the victim.

In October 2011, the State filed an application to proceed to final adjudication. The application contained five paragraphs. The first paragraph established the identity of Appellant. The remaining four alleged that Appellant violated the aforementioned conditions of her community supervision by attempting to contact the victim or come within 500 feet of the victim on four occasions. Appellant pleaded "true" to paragraphs one and two, but "not true" to the allegations in

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<sup>1</sup> See TEX. PENAL CODE ANN. § 22.02(a), (b)(2)(B) (West 2011).

the remaining three paragraphs.

After a hearing, the trial court found all the allegations in the State’s application to be true, adjudicated Appellant’s guilt and found her “guilty” of the charged offense, revoked her community supervision, and sentenced her to ten years of imprisonment. This appeal followed.

### JUDGMENT

In her sole issue, Appellant asks that we reform the trial court’s judgment to accurately reflect the proceedings at trial. She points out that the written judgment incorrectly reflects that she pleaded “true” to every paragraph in the State’s application to proceed to final adjudication. The State has joined Appellant in this request.

As a general rule, when an oral pronouncement of sentence and a written judgment differ, the oral pronouncement controls. *Ex parte Madding*, 70 S.W.3d 131, 135 (Tex. Crim. App. 2002). Further, when it has the necessary information before it, an appellate court may correct a trial court’s written judgment to reflect its oral pronouncement. *Thompson v. State*, 108 S.W.3d 287, 290 (Tex. Crim. App. 2003); *Ingram v. State*, 261 S.W.3d 749, 754 (Tex. App.—Tyler 2008, no pet.). The Texas Rules of Appellate Procedure expressly authorize us to modify the judgment of the trial court. TEX. R. APP. P. 43.2.

The record before us clearly demonstrates that Appellant pleaded “true” to paragraphs one and two, but pleaded “not true” to the remaining three paragraphs. The written judgment incorrectly reflects that Appellant pleaded “true” to all five paragraphs. We conclude that we have the necessary information to correct the error in the trial court’s judgment and can modify the judgment so that it speaks the truth. *See id.* Therefore, we sustain Appellant’s sole issue.

### DISPOSITION

Having sustained Appellant’s sole issue, we *modify* the trial court’s judgment to reflect that Appellant pleaded “true” to paragraphs one and two, but pleaded “not true” to paragraphs three, four, and five in the State’s application to proceed to final adjudication. As *modified*, we *affirm* the judgment of the trial court.

**BRIAN HOYLE**

Justice

Opinion delivered April 25, 2012.

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

(DO NOT PUBLISH)