

NO. 12-14-00119-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

DEXTER FIELDS-KAY,
APPELLANT

§ ***APPEAL FROM THE***

V.

§ ***COUNTY COURT AT LAW NO. 2***

THE STATE OF TEXAS,
APPELLEE

§ ***SMITH COUNTY, TEXAS***

MEMORANDUM OPINION

Dexter Fields-Kay appeals following the revocation of his community supervision. In one issue, Appellant argues that the trial court erroneously assessed attorney’s fees as part of his court costs. We affirm.

BACKGROUND

Appellant was charged by information with assault-family violence and pleaded “guilty.” The trial court found Appellant “guilty” as charged and sentenced him to confinement for one year. However, the trial court suspended Appellant’s sentence and placed him on community supervision for two years.

Thereafter, the State moved to revoke Appellant’s community supervision, arguing that he had violated the terms and conditions thereof. A hearing was conducted on the State’s motion, at which time Appellant pleaded “true” to multiple allegations. Ultimately, the trial court found that Appellant had violated certain terms of his community supervision, revoked his community supervision, and sentenced him to confinement for one year. This appeal followed.

ATTORNEY'S FEES

In his sole issue, Appellant argues that the trial court improperly assessed costs against him in the form of attorney's fees after it found him to be indigent. The record demonstrates that Appellant was found to be indigent, and there is no contradictory evidence concerning that finding. The judgment placing Appellant on community supervision includes an assessment of \$622.00 in court costs. A bill of costs signed and dated that same day indicates that these costs include \$300.00 in attorney's fees.

Following the revocation of Appellant's community supervision, Appellant was ordered to pay court costs, and another bill of costs was prepared. That bill of costs sets forth \$300.00 in court costs as attorney's fees and reflects a remaining balance of \$300.00 pertaining to attorney's fees.¹

Any issues related to Appellant's original plea proceeding may be considered only in an appeal of the original order placing Appellant on community supervision. See *Riles v. State*, 452 S.W.3d 333, 337 (Tex. Crim. App. 2015). However, any procedural default of this kind must be premised on the appellant's knowledge of, and failure to challenge, an issue. See *id.*

Appellant did not appeal from the judgment placing him on community supervision. But the record reflects that Appellant previously had acknowledged his obligation to pay court costs. Specifically, Appellant signed a written statement of the conditions of his community supervision. Among those conditions, under the boldfaced heading entitled "**FINANCIAL CONDITIONS**["], was the requirement that Appellant "Pay Court Costs of \$622.00 on or before 9/10/13." The bill of costs prepared that same day indicates that \$300.00 is assessed for attorney's fees.²

In *Riles*, the court noted that the order placing the appellant on deferred adjudication community supervision set forth next to the fine that for "court costs: see attached." *Id.* The court continued, stating that the appellant "should have taken pause at this. However, she did

¹ The record reflects that Appellant appeared pro se at the revocation hearing, and the trial court did not appoint counsel to represent him. The record does not indicate that this subsequent bill of costs serves to assess attorney fees in addition to those assessed in conjunction with the initial judgment placing Appellant on community supervision.

² In the clerk's record's current form, it is not readily apparent whether the bill of costs was attached to the initial judgment. Appellant has raised no argument on appeal asserting that he lacked knowledge of the existence of this bill of costs at that time.

not.” *Id.* The court further noted that there was no bill of costs attached to the order at that time. *See id.*

In the instant case, there is no such “see attached” language in the financial conditions set forth in the initial judgment. However, the bill of costs is signed and dated by the deputy clerk and bears the same date as the judgment. It appears in the clerk’s record immediately following the terms and conditions of community supervision in the initial judgment.

Based on the foregoing, we conclude that Appellant had sufficient knowledge that costs had been assessed against him, which included fees for appointed counsel as reflected in the initial judgment and contemporaneous bill of costs. Therefore, we hold that Appellant has forfeited his complaint, if any, that the trial court erred in assessing attorney’s fees against him in conjunction with the 2013 judgment placing him on community supervision. *See id.* Appellant’s sole issue is overruled.

DISPOSITION

Having overruled Appellant’s sole issue, we *affirm* the trial court’s judgment.

GREG NEELEY
Justice

Opinion delivered April 29, 2016.

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

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

APRIL 29, 2016

NO. 12-14-00119-CR

DEXTER FIELDS-KAY,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the County Court at Law No 2
of Smith County, Texas (Tr.Ct.No. 002-82621-12)

THIS CAUSE came to be heard on the appellate record and brief filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

By per curiam opinion.

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