

NO. 12-18-00122-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*YOSLAYS GARCIA-TORRES,
APPELLANT*

§ *APPEAL FROM THE 241ST*

V.

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,
APPELLEE*

§ *SMITH COUNTY, TEXAS*

MEMORANDUM OPINION

Yoslays Garcia-Torres appeals the trial court’s judgment and attached order to withdraw funds from his inmate trust account to pay court costs. We modify and affirm as modified.

BACKGROUND

Appellant was charged by indictment with engaging in organized criminal activity. He pleaded “not guilty,” and the matter proceeded to a jury trial. The jury found Appellant “guilty” as charged and assessed his punishment at imprisonment for thirty years. This appeal followed.

COURT COSTS

In Appellant’s sole issue, he argues that the trial court’s judgment and attached order to withdraw funds from his inmate trust account contain an incorrect amount of court costs. He contends that we should modify the judgment and attached withdrawal order to reflect the correct amount. The State agrees, and so do we.

The record in this case indicates that a clerical error was made in the amount of court costs reflected in the judgment and attached withdrawal order. The bill of costs shows a court cost amount of \$232.00 and a balance of \$229.00. Appellant and the State agree that this indicates

Appellant previously paid \$3.00 in court costs. However, the judgment and attached withdrawal order show a court cost amount of \$232.00.

An appellate court may reform a trial court's judgment when it has the necessary data and information. TEX. R. APP. P. 43.2(b); *Banks v. State*, 708 S.W.2d 460, 462 (Tex. Crim. App. 1986). The judgment in this case states that the attached withdrawal order is incorporated into the judgment and made a part of it. Therefore, we may reform the court cost amount in both the body of the judgment and the attached withdrawal order because we have the necessary data and information to do so. *See id.* Because the court cost amount in the judgment and attached withdrawal order conflicts with the amount in the bill of costs, we conclude that we should modify the judgment and the attached withdrawal order to reflect a court cost amount of \$229.00. *See id.* Accordingly, we sustain Appellant's sole issue.

DISPOSITION

Having sustained Appellant's sole issue, we *modify* the trial court's judgment and attached withdrawal order to reflect a court cost amount of \$229.00. We *affirm* the trial court's judgment *as modified*.

JAMES T. WORTHEN
Chief Justice

Opinion delivered February 6, 2019.
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

FEBRUARY 6, 2019

NO. 12-18-00122-CR

YOSLAYS GARCIA-TORRES,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 241st District Court
of Smith County, Texas (Tr.Ct.No. 241-1565-17)

THIS CAUSE came on to be heard on the appellate record and the briefs filed herein, and the same being inspected, 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 that the judgment of the court below and its attached withdrawal order be **modified** to reflect a court cost amount of \$229.00; **and as modified**, the trial court's judgment is **affirmed**; and that this decision be certified to the trial court below for observance.

James T. Worthen, Chief Justice.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.