

**NO. 12-18-00320-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*ERIC MARKEITH BIRCHER,  
APPELLANT*

§ *APPEAL FROM THE 7TH*

*V.*

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,  
APPELLEE*

§ *SMITH COUNTY, TEXAS*

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***MEMORANDUM OPINION***

Eric Markeith Bircher appeals his conviction for felony driving while intoxicated. In his sole issue, Appellant argues that the judgment contains an error. We modify and affirm as modified.

**BACKGROUND**

Appellant was charged by indictment with driving while intoxicated with two prior convictions for offenses relating to the operating of a motor vehicle while intoxicated, enhanced by two prior felony convictions. Appellant retained counsel to represent him in the trial court. Ultimately, he pleaded “guilty” to the offense and “true” to the enhancement paragraphs, and the trial court assessed his punishment at imprisonment for ten years. The trial court appointed appellate counsel, and this appeal followed.

**JUDGMENT ERROR**

In Appellant’s sole issue, he argues that the trial court’s judgment incorrectly names his trial counsel. The judgment names Jeffrey D. Sanders and A. Reeve Jackson as Appellant’s trial counsel. However, the record indicates that A. Reeve Jackson was appointed as Appellant’s appellate counsel, and Jackson’s name does not appear in the record before this appointment. On

appeal, Appellant requests that we reform the judgment to reflect that he was represented at trial by Sanders alone. The State concedes the error but notes that the record shows both Sanders and Curt Ellis represented Appellant at the plea hearing.

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). Here, based on the record before us, we conclude that the judgment should be modified to reflect that Appellant's trial attorneys were Jeffrey D. Sanders and Curt Ellis. *See id.* Accordingly, we sustain Appellant's sole issue.

#### **DISPOSITION**

Having sustained Appellant's sole issue, we *modify* the trial court's judgment to reflect that Appellant's trial attorneys were Jeffrey D. Sanders and Curt Ellis. We *affirm* the trial court's judgment *as modified*.

**GREG NEELEY**  
Justice

Opinion delivered October 31, 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**

**OCTOBER 31, 2019**

**NO. 12-18-00320-CR**

**ERIC MARKEITH BIRCHER,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 7th District Court  
of Smith County, Texas (Tr.Ct.No. 007-0368-18)

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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 the 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 be **modified** to reflect that Appellant's trial attorneys were Jeffrey D. Sanders and Curt Ellis; **and as modified**, the trial court's judgment is **affirmed**; and that this decision be certified to the trial court below for observance.

Greg Neeley, Justice.

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