

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Jennifer R. Fulton v. the State of Texas

No. 07-26-00035-CR · No. No. 07-26-00035-CR · Decided May 11, 2026

SUMMARY

The Texas Court of Appeals for the Seventh District reviewed the revocation of Jennifer R. Fulton's deferred-adjudication community supervision and her ten-year sentence for assault causing bodily injury to a family or household member with a previous conviction. The court held that the judgment and related financial orders improperly included attorney's fees, a fine, reparations, and a premature time-payment fee. The court modified the judgment, Bill of Costs, and inmate-account withdrawal order, leaving \$300.00 in costs to be withdrawn, and affirmed as modified.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Alex Yarbrough; Doss; Yarbrough; Pratt
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	May 11, 2026
DOCKET	No. 07-26-00035-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order revoking community supervision, adjudicating appellant guilty of assault with bodily injury on a family or household member with a previous conviction, and sentencing her to ten years' imprisonment.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; not designated for publication.
PARTIES	Jennifer R. Fulton v. The State of Texas

TOPICS

- criminal procedure
- appellate procedure
- remedies
- sentencing
- restitution criminal

PRACTICE AREAS

- criminal procedure
- appellate procedure
- sentencing
- community supervision
- criminal financial assessments

QUESTIONS PRESENTED

1. Whether the trial court improperly assessed \$787.50 in appointed-attorney fees without evidence that Fulton had the financial resources to pay them.
2. Whether the written judgment could include a \$500 fine that was not orally pronounced when Fulton was adjudicated and sentenced.
3. Whether the record supported the \$443 reparations assessment.
4. Whether the order to withdraw \$2,045.50 from Fulton's inmate trust account lacked a factual basis and procedural opportunity to object.
5. Whether the \$15 time-payment fee should be stricken as premature while the appeal was pending.

HOLDINGS

1. A trial court may not order reimbursement of court-appointed attorney's fees without record evidence demonstrating that the defendant has financial resources to offset the cost of legal services. Because the record showed Fulton remained indigent and contained no evidence of changed financial circumstances, the attorney's-fee assessment had to be deleted.
2. When the oral pronouncement of sentence conflicts with the written judgment, the oral pronouncement controls. A fine not orally pronounced when guilt is adjudicated and sentence is imposed may not remain in the written judgment.
3. A reparations assessment in a judgment adjudicating guilt must be supported by evidence in the record. Because the record did not establish what the \$443 assessment represented or support its amount, the assessment had to be deleted.
4. A time-payment fee assessed before appellate mandate issues is premature and must be stricken in its entirety, without prejudice to refiling if the fee later becomes ripe.
5. The withdrawal order had to be reduced by the amounts improperly assessed in attorney's fees, the fine, reparations, and the premature time-payment fee, leaving \$300.00 consisting of uncontested court costs and a reimbursement fee.

KEY QUOTATIONS

“When there is a conflict between the oral pronouncement and the written judgment, the oral pronouncement controls.” (at 4)

“A time-payment fee assessed before appellate mandate issues is premature and should be stricken in its entirety, without prejudice to refiling should such fee become ripe.” (at 5)

FACTUAL BACKGROUND

Fulton pleaded guilty in June 2025 to assault causing bodily injury to a family member with a previous conviction and received deferred-adjudication community supervision. The State later alleged that she violated supervision by consuming alcohol, and Fulton admitted the violation at the adjudication hearing. The trial court adjudicated her guilty and sentenced her to ten years' imprisonment, while also including various fees, a fine, reparations, and withdrawal amounts in the judgment and related financial documents.

PROCEDURAL HISTORY

Fulton pleaded guilty and was placed on deferred-adjudication community supervision. After the State alleged that she violated a condition by consuming alcohol, the trial court held a hearing, found the allegation true, adjudicated her guilty, and imposed ten years' imprisonment. The court also included attorney's fees, a fine, reparations, a time-payment fee, and amounts in an order to withdraw funds from her inmate account. On appeal, the State agreed that the judgment, Bill of Costs, and withdrawal order should be modified.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The district clerk must prepare and file an Amended Judgment and Bill of Costs reflecting the modifications and provide copies to the Court, Fulton, and the Institutional Division of the Texas Department of Criminal Justice. The reformation also extends to the order to withdraw funds from Fulton's inmate account.

CASES CITED

- Mayer v. State, 309 S.W.3d 552, 556 (Tex. Crim. App. 2010)
- King v. State, No. 07-24-00414-CR, 2025 Tex. App. LEXIS 5849, at *4–5 (Tex. App.—Amarillo Aug. 6, 2025, no pet.) (mem. op., not designated for publication)
- Taylor v. State, 131 S.W.3d 497, 502 (Tex. Crim. App. 2004)
- Taylor v. State, No. 02-15-00425-CR, 2016 Tex. App. LEXIS 5926, at *10–15 (Tex. App.—Fort Worth June 2, 2016, pet. ref'd) (mem. op., not designated for publication)
- Hongpathoum v. State, 578 S.W.3d 213, 216 (Tex. App.—Fort Worth 2019, no pet.)
- Dulin v. State, 620 S.W.3d 129, 133 (Tex. Crim. App. 2021)

OPINION

PER CURIAM.

In The Court of Appeals Seventh District of Texas at Amarillo No. 07-26-00035-CR JENNIFER R. FULTON, APPELLANT V. THE STATE OF TEXAS, APPELLEE On Appeal from the Criminal District Court 4 Tarrant County, Texas¹ Trial Court No. 1855457, Honorable Andy Porter, Presiding May 11, 2026 MEMORANDUM OPINION Before DOSS and YARBROUGH and PRATT, JJ. Appellant, Jennifer R. Fulton, appeals from the trial court's order revoking her community supervision, adjudicating her guilty of the offense of assault with bodily injury on a family or household member with a previous conviction, and sentencing her to serve ten years of imprisonment.

By four issues, Appellant contends the trial court erred and deprived her of her due process rights by including a fine and certain fees in the judgment. We affirm the judgment as modified herein. 1

Because this matter was transferred from the Second Court of Appeals, we apply its precedent when it conflicts with that of the Seventh Court of Appeals. TEX. R. APP.

P. 41.3. BACKGROUND Appellant was charged with the third-degree felony offense of assault causing bodily injury to a family member with a previous conviction for same. She pleaded guilty to the offense in June 2025, and the court placed her on deferred adjudication community supervision for two years. Her community supervision was subject to certain terms and conditions.

Two weeks later, the State filed a motion to proceed to adjudication, alleging Appellant violated the terms and conditions of her community supervision by committing the offense of driving while intoxicated on July 1, 2025, and consuming alcohol on July 1, 2025.

The court held a hearing on the motion in November 2025. The State waived the first allegation and proceeded on the second. The State presented evidence supporting its second allegation. During her testimony, Appellant admitted to violating the condition of her community supervision that prohibited her from drinking. At the conclusion of the hearing, the trial court found the allegation to be true and assessed punishment against Appellant at ten years of imprisonment and noted she had a “balance of \$787.50 in restitution owing to Tarrant County Texas” and imposed it as part of the judgment.

It did not orally pronounce a fine. The written judgment includes a fine of \$500.00. It also includes a “special finding” setting forth reparations in the amount of \$443.00. The Bill of Costs includes \$787.50 in attorney’s fees and a \$15.00 time-payment fee. 2 ANALYSIS By four issues, Appellant argues (1) the trial court deprived her of due process of law in ordering her to repay \$787.50 in appointed attorney’s fees because there is no evidence to support a finding that she was no longer indigent; (2) the written judgment erroneously includes a \$500 fine because the trial court did not orally pronounce the fine as part of its sentence; (3) the trial court deprived her of due process of law in ordering \$443.00 to be paid as “reparations” because there is no factual basis for the order; and (4) the trial court deprived her of due process of law in ordering withdrawal of \$2,045.50 from her inmate trust account because there is no factual basis for the amount ordered, and she was given no opportunity to object to the order.

The State agrees the judgment, Bill of Costs, and order to withdraw funds from Appellant’s inmate account should be modified as requested. We sustain Appellant’s issues and modify the judgment, Bill of Costs, and Order Withdrawing Funds From Inmate Trust Account accordingly. Attorney’s Fees The record shows Appellant was assessed \$787.50 in attorney’s fees.

The clerk’s record includes a July 29, 2025 order finding Appellant had the resources to offset in part or in whole the costs of the legal services provided to her and ordered her to pay \$787.50 in attorney’s fees. The order was issued without a hearing or other inquiry on the record concerning Appellant’s ability to pay the fees.

The same fee is noted in an August 4, 2025 supplement/amendment to conditions of supervision. Appellant's signature does not appear on that document. 3 A trial court errs if it orders reimbursement of court-appointed attorney's fees without record evidence demonstrating a defendant's financial resources to offset the costs of legal services. *Mayer v. State*, 309 S.W.3d 552, 556 (Tex.

Crim. App. 2010). The record shows Appellant is indigent, and nothing indicates that has changed. Indeed, the trial court found Appellant indigent three times, twice before the July 29, 2025 order was entered and once after.

Therefore, the remedy is to delete the assessment of attorney's fees. See *King v. State*, No. 07-24-00414-CR, 2025 Tex. App. LEXIS 5849, at *4–5 (Tex. App.—Amarillo Aug. 6, 2025, no pet.) (mem. op., not designated for publication) (modifying the judgment to delete assessed attorney's fees because the record reflected the appellant did not have a present ability to pay the cost of his court-appointed attorney's fees).

Accordingly, we modify the Bill of Costs associated with the judgment to delete \$787.50 of attorney's fees assessed against Appellant. Fine The record shows Appellant was assessed a fine of \$500.00 at the time she was placed on deferred adjudication community supervision.

The order granting Appellant deferred adjudication was set aside when the trial court adjudicated her guilty of the offense. *Taylor v. State*, 131 S.W.3d 497, 502 (Tex. Crim. App. 2004). Appellant was not sentenced until her guilt was adjudicated. *Id.* At that time, the judge did not orally pronounce a fine but nevertheless included a fine within the written judgment.

When there is a conflict between the oral pronouncement and the written judgment, the oral pronouncement controls. *Id.* Because the judge did not orally assess a fine as part of Appellant's sentence when guilt was adjudicated, it was incorrectly assessed. *Id.* Therefore, we modify the judgment to delete the \$500.00 fine. 4 Reparations The written judgment includes a "special finding" setting forth reparations in the amount of \$443.00.

Appellant argues the record does not support the reparations award and the State agrees. Nothing in the record indicates what this fee represents or why Appellant owed this fee. While we acknowledge that unpaid community supervision fees may be included as reparations in judgments adjudicating guilt, there must be some evidence to support the award. See *Taylor v. State*, No. 02-15-00425-CR, 2016 Tex. App.

LEXIS 5926, at *10–15 (Tex. App.—Fort Worth June 2, 2016, pet. ref'd) (mem. op., not designated for publication) (discussing such fees and evidence to support them). The record shows only that Appellant was ordered to pay community supervision fees of \$60.00 per month and a \$25.00 Crime Stopper Fee within 30 days from the start of her community supervision.

However, Appellant was arrested five days after being placed on community supervision, and therefore, those fees cannot make up the \$443.00 assessed as reparations. We find the evidence in the record insufficient to support the fees as required. See *Hongpathoum v. State*, 578 S.W.3d 213, 216 (Tex. App.—Fort Worth 2019, no pet.) (striking some reparation fees due to insufficient evidence supporting the award).

We modify the judgment to delete the \$443.00 reparations fee. Time-Payment Fee Although not challenged by Appellant, we note, as did the State, the Bill of Cost associated with the judgment here includes a \$15.00 time-payment fee.

In *Dulin v. State*, 620 S.W.3d 129, 133 (Tex. Crim. App. 2021), the Court held that the pendency of an appeal stops the clock for purposes of the time-payment fee. A time-payment fee assessed before appellate mandate issues is premature and should be stricken in its entirety, without prejudice to refiling should such fee become ripe. *Id.* Thus, we modify the Bill of Costs associated with the judgment to delete the \$15 time-payment fee assessed against Appellant.

Withdrawal From Inmate Trust Account As discussed herein, we have determined \$787.50 in attorney's fees, the \$500.00 fine, reparations in the amount of \$443.00, and the assessed \$15.00 time-payment fee must all be deleted from the judgment and associated Bill of Costs. Consequently, we also find those amounts must be deleted from the Order to Withdraw Funds From Inmate's Trust Account, leaving a total to be withdrawn of \$300.00.

That amount reflects the uncontested \$290.00 in court costs and \$10.00 reimbursement fee under article 102.011(a)(5). CONCLUSION We modify the judgment, Bill of Costs, and withdrawal order as set forth herein. The district clerk is directed to prepare and file an Amended Judgment and Bill of Costs reflecting the modifications made herein and provide copies to this Court, Appellant, and the Institutional Division of the Texas Department of Criminal Justice.

This order of reformation extends to the order to withdraw funds from Appellant's inmate account. As modified, the judgment is affirmed. Alex Yarbrough Justice Do not publish. 6