

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

Marcus Johnson v. The State of Texas

Johnson · No. Nos. 02-25-00142-CR and 02-25-00144-CR · Decided December 11, 2025

SUMMARY

The Texas Court of Appeals considered Marcus Johnson’s challenges to his convictions and sentences for two counts of aggravated sexual assault of a child and three counts of aggravated sexual assault. The court held that Johnson’s guilty pleas and written waiver permitted the trial court to adjudicate guilt before a jury assessed punishment, and that no additional jury finding of guilt was required. The court affirmed the judgments but ordered both bills of costs modified to remove the fines and time-payment fees and clarify that court costs were not yet due.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Brian Walker; Kerr; Womack; Walker
JURISDICTION	Court of Appeals for the Second Appellate District of Texas at Fort Worth
DECIDED	December 11, 2025
DOCKET	Nos. 02-25-00142-CR and 02-25-00144-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Johnson appealed his felony convictions and sentences for two counts of aggravated sexual assault of a child and three counts of aggravated sexual assault. He challenged the lack of an express jury finding of guilt, the fines included in the judgments and bills of costs, premature time-payment fees, and the failure to state that costs were not yet due.
STANDARD OF REVIEW	For the alleged jury-charge error, the court first determined whether the instruction was erroneous and would have analyzed harm only if error existed. The court independently reviewed the judgments and bills of costs for the challenged assessments and had authority to modify the bills of costs.
PRECEDENTIAL VALUE	Published and precedential under the source metadata.

PARTIES

Marcus Johnson v. The State of Texas

TOPICS

criminal procedure

sentencing

appellate procedure

appellate jurisdiction

preservation of error

PRACTICE AREAS

Texas criminal procedure

felony sentencing

jury-assessed punishment

criminal judgments and bills of costs

appellate modification of court costs

QUESTIONS PRESENTED

1. Whether Johnson was sentenced without a finding of guilt because the jury assessed punishment without returning an express verdict of guilt.
2. Whether the trial court erred by failing to instruct the jury to return a guilty verdict after Johnson had pleaded guilty before the trial court and the jury.
3. Whether concurrent \$10,000 fines were improperly included in the judgments.
4. Whether the fines were improperly included in the bills of costs.
5. Whether the \$15 time-payment fees were prematurely assessed while the appeals were pending.
6. Whether the bills of costs should state that the assessed costs and fees were not payable until Johnson's release from confinement.

HOLDINGS

1. Johnson was not sentenced without a finding of guilt because he waived a jury trial on guilt in writing, pleaded guilty before the trial court, and the trial court adjudicated him guilty before the jury was empaneled to assess punishment.
2. The trial court did not err by failing to instruct the punishment jury to return a guilty verdict because guilt had already been adjudicated and was not an issue before that jury.
3. The trial court properly included a \$10,000 fine for each count in the judgments even though the sentences, including the fines, were ordered to run concurrently.
4. Fines are not court costs and must be deleted from the bills of costs, although the unitary concurrent fine remains part of the judgments.
5. The \$15 time-payment fees were prematurely assessed during the pendency of the appeals and had to be deleted from the bills of costs, without prejudice to later assessment if the statutory conditions are met after mandate.
6. The bills of costs had to be modified to state that the assessed costs and fees were not payable until Johnson's release from confinement.

KEY QUOTATIONS

“For purposes of due process, a plea of guilty substitutes for a jury verdict of guilt and is itself a conviction.”
(at 17)

“A fine is not a court cost or fee; it is part of the punishment.” (at 21)

“Thus, the pendency of an appeal “stops the clock” for purposes of the time-payment fee.” (at 22)

FACTUAL BACKGROUND

Two sexual assaults occurred at North Lakes Park in Denton in 1993 and 1997. DNA profiles from biological evidence associated with the assaults matched, but the perpetrator remained unidentified for approximately twenty-five years. Familial DNA testing identified Johnson as a suspect, and DNA obtained from a discarded bottle and from a court-authorized buccal swab strongly matched the crime-scene profile, leading to indictments and guilty pleas.

PROCEDURAL HISTORY

Johnson was indicted in Denton County trial court on five aggravated-sexual-assault counts arising from two assaults. Before voir dire, he pleaded guilty to all counts, waived a jury determination of guilt in writing, and requested a jury to assess punishment. The trial court accepted the pleas and adjudicated him guilty; a jury then assessed life imprisonment and a \$10,000 fine on each count. The trial court entered concurrent sentences, and Johnson appealed.

DISPOSITION

affirmed

CASES CITED

- Segundo v. State, 270 S.W.3d 79, 83 n.3 (Tex. Crim. App. 2008)
- Dowden v. State, 455 S.W.3d 252, 255 (Tex. App.—Fort Worth 2015, no pet.)
- Menefee v. State, 287 S.W.3d 9, 13 (Tex. Crim. App. 2009)
- Villela v. State, 564 S.W.2d 750, 751 (Tex. Crim. App. [Panel Op.] 1978)
- In re State ex rel. Mau v. Third Ct. of Appeals, 560 S.W.3d 640, 642-47 (Tex. Crim. App. 2018)
- Barrow v. State, 207 S.W.3d 377, 380 (Tex. Crim. App. 2006)
- Guerrero v. State, No. 11-96-00143-CR, 1998 WL 34193658, at *1 (Tex. App.—Eastland Aug. 26, 1998, pet. ref'd)
- Sanchez v. State, 376 S.W.3d 767, 773 (Tex. Crim. App. 2012)
- Delgado v. State, 235 S.W.3d 244, 249 (Tex. Crim. App. 2007)
- Kirsch v. State, 357 S.W.3d 645, 649 (Tex. Crim. App. 2012)
- Eberhardt v. State, 437 S.W.3d 582, 583 (Tex. App.—Houston [14th Dist.] 2014, pet. ref'd)
- Holland v. State, 761 S.W.2d 307, 313 (Tex. Crim. App. 1988)
- In re State ex rel. Tharp, 393 S.W.3d 751, 757 (Tex. Crim. App. 2012)

- Fuller v. State, 253 S.W.3d 220, 227 (Tex. Crim. App. 2008)
- Morales v. State, 416 S.W.2d 403, 405 (Tex. Crim. App. 1967)
- Anastassov v. State, 664 S.W.3d 815, 822-23 (Tex. Crim. App. 2022)
- Armstrong v. State, 340 S.W.3d 759, 767 (Tex. Crim. App. 2011)
- State v. Crook, 248 S.W.3d 172, 177 (Tex. Crim. App. 2008)
- Williams v. State, 495 S.W.3d 583, 591 (Tex. App.—Houston [1st Dist.] 2016), pet. dism'd, improvidently granted, No. PD-0947-16, 2017 WL 1493488 (Tex. Crim. App. Apr. 26, 2017)
- Cornelio v. State, No. 12-24-00279-CR, 2025 WL 657302, at *2 (Tex. App.—Tyler Feb. 28, 2025, no pet.)
- Pruitt v. State, 646 S.W.3d 879, 883, 886 (Tex. App.—Amarillo 2022, no pet.)
- Jones v. State, 691 S.W.3d 671, 679 (Tex. App.—Houston [14th Dist.] 2024, pet. ref'd)
- Dulin v. State, 620 S.W.3d 129, 133 (Tex. Crim. App. 2021)
- Ramirez v. State, No. 02-24-00224-CR, 2025 WL 1350046, at *2 (Tex. App.—Fort Worth May 8, 2025, no pet.)
- Gates v. State, No. 02-23-00004-CR, 2024 WL 482436, at *4 (Tex. App.—Fort Worth Feb. 8, 2024, no pet.)

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