

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

Kaley Brynn Johnston v. The State of Texas

No. 02-25-00204-CR · No. No. 02-25-00204-CR · Decided June 11, 2026

SUMMARY

The Texas Court of Appeals for the Second District affirmed Kaley Brynn Johnston’s conviction for possession of methamphetamine, modifying the written judgment to delete a \$1,385 restitution fee that was not orally pronounced at sentencing. The court granted appointed counsel’s motion to withdraw under *Anders v. California* and concluded that the appeal was otherwise frivolous.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Dabney Bassel; Sudderth, C.J.; Kerr, J.; Bassel, J.
JURISDICTION	Texas Court of Appeals, Second Appellate District at Fort Worth
DECIDED	June 11, 2026
DOCKET	No. 02-25-00204-CR
DISPOSITION	other
PROCEDURAL POSTURE	Johnston appealed her conviction and sentence in an <i>Anders</i> appeal. Appointed appellate counsel moved to withdraw and filed an <i>Anders</i> brief asserting that the appeal was frivolous. The court independently reviewed the record and modified the written judgment to delete an improperly imposed restitution fee.
STANDARD OF REVIEW	In an <i>Anders</i> appeal, the appellate court independently examines the record for any arguable ground for relief before granting counsel's motion to withdraw. The court reviews whether the written judgment conforms to the oral pronouncement of sentence.
PRECEDENTIAL VALUE	unpublished
PARTIES	Kaley Brynn Johnston v. The State of Texas

TOPICS

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

PRACTICE AREAS

criminal procedure

appellate procedure

sentencing

restitution criminal

QUESTIONS PRESENTED

1. Whether counsel's Anders brief and motion to withdraw satisfied the applicable requirements and whether independent review revealed any arguable ground for relief.
2. Whether a restitution fee that was not included in the oral pronouncement of sentence could properly appear in the written judgment.
3. Whether the appellate court could reform the judgment in an Anders appeal by deleting the improperly imposed restitution fee.

HOLDINGS

1. After appointed counsel files a compliant Anders brief and motion to withdraw asserting that the appeal is frivolous, the appellate court must independently examine the record for any arguable ground for relief before granting the motion to withdraw.
2. When the oral pronouncement of sentence and the written judgment differ, the oral pronouncement controls; a restitution fee not included in the oral pronouncement is improperly imposed and must be deleted from the written judgment.
3. An appellate court has authority to reform a judgment in an Anders appeal and affirm the judgment as reformed.

KEY QUOTATIONS

“When the oral pronouncement of sentence and the written judgment vary, the oral pronouncement controls.”
(at 3)

“We grant counsel’s motion to withdraw and affirm the trial court’s judgment as modified.” (at 4)

FACTUAL BACKGROUND

A jury found Kaley Brynn Johnston guilty of possessing one or more but less than four grams of methamphetamine, a third-degree felony. The jury assessed seven years' imprisonment, and the trial court orally pronounced that sentence. The written judgment additionally imposed a \$1,385 restitution fee, although neither the jury assessed it nor the trial court included it in the oral pronouncement.

PROCEDURAL HISTORY

A jury found Johnston guilty of third-degree-felony possession of one to four grams of methamphetamine and assessed seven years' imprisonment. The trial court pronounced the jury-assessed sentence, but the written judgment added a \$1,385 restitution fee that was not orally pronounced. On appeal, counsel filed an Anders brief and motion to withdraw; Johnston filed no pro se response and the State filed no response. The court granted withdrawal, deleted the restitution fee, and affirmed the judgment as modified.

DISPOSITION

other

CASES CITED

- Anders v. California, 386 U.S. 738, 744–45, 87 S. Ct. 1396, 1400 (1967)
- Stafford v. State, 813 S.W.2d 503, 509–11 (Tex. Crim. App. 1991)
- Kelly v. State, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014)
- Penson v. Ohio, 488 U.S. 75, 82–83, 109 S. Ct. 346, 351 (1988)
- Taylor v. State, 131 S.W.3d 497, 500 (Tex. Crim. App. 2004)
- Coffey v. State, 979 S.W.2d 326, 328 (Tex. Crim. App. 1998)
- Ex parte Madding, 70 S.W.3d 131, 135 (Tex. Crim. App. 2002)
- Bray v. State, 179 S.W.3d 725, 726 (Tex. App.—Fort Worth 2005, no pet.) (en banc)
- Alexander v. State, 301 S.W.3d 361, 364 (Tex. App.—Fort Worth 2009, no pet.)
- Bledsoe v. State, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005)
- Meza v. State, 206 S.W.3d 684, 685 n.6 (Tex. Crim. App. 2006)

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