

Affirmed and Affirmed as Modified; Opinion Filed June 16, 2020



**In The
Court of Appeals
Fifth District of Texas at Dallas**

**No. 05-19-01008-CR
No. 05-19-01009-CR
No. 05-19-01010-CR**

**ERIK ISRAEL MORENO, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 6
Dallas County, Texas
Trial Court Cause Nos. F-19-51263-X, F-19-51265-X, F-18-34537-X**

MEMORANDUM OPINION

Before Justices Schenck, Molberg, and Nowell
Opinion by Justice Nowell

Erik Israel Moreno entered open guilty pleas to two counts of aggravated robbery and one count of aggravated assault. The trial court found appellant guilty and assessed punishment at fifteen years' imprisonment in each case, to be served concurrently.

On appeal, appellant's attorney filed a brief in which he concluded the appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). See *Murphy v. State*, 111 S.W.3d 846, 849 (Tex.

App.—Dallas 2003, no pet.). The brief presents a professional evaluation of the record showing why, in effect, there are no arguable grounds to advance. *See High v. State* 572 S.W.2d 807, 811 (Tex. Crim. App. [Panel Op.] 1978).

Counsel delivered a copy of the brief to appellant, and by letter dated December 27, 2019, we advised appellant of his right to file a pro se response by February 3, 2020. We further advised appellant that failure to file a pro se response by that date would result in the case being submitted on the *Anders* brief alone. Though appellant requested and was granted access to the clerk's record and an extension of time to file his pro se response by March 6, 2020, appellant ultimately did not file a response.

We have reviewed the record and counsel's brief. *See Bledsoe v. State*, 178 S.W.3d 824, 827 (Tex. Crim. App. 2005) (explaining appellate court's duty in *Anders* cases). We agree that the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal.

However, we note in trial court cause no. F-18-34537-X, the judgment assesses punishment at ten years' imprisonment, while the record reflects that the trial court orally pronounced punishment at fifteen years' imprisonment. When there is a variation between oral pronouncement and written memorialization, the oral pronouncement controls. *Coffey v. State*, 979 S.W.2d 326, 328 (Tex. Crim. App. 1998). Additionally, this Court has the independent authority to reform the judgment, and appellate courts frequently reform judgments to correct improper

recitations relating to punishment. *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas, 1991, pet. ref’d). Therefore, we modify the judgment in trial court cause no. F-18-34537 to correctly state punishment as “15 YEARS.”

We affirm the judgments in trial court cause numbers F-19-51263-X and F-19-51265-X. We modify the trial court’s judgment in cause number F-18-34537-X and affirm as modified.

/Erin A. Nowell/
ERIN A. NOWELL
JUSTICE

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TEX. R. APP. P. 47.2(b)
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIK ISRAEL MORENO, Appellant

No. 05-19-01008-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
Court No. 6, Dallas County, Texas
Trial Court Cause No. F-19-51263-X.
Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 16th day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIK ISRAEL MORENO, Appellant

No. 05-19-01009-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
Court No. 6, Dallas County, Texas
Trial Court Cause No. F-19-51265-X.
Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 16th day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIK ISRAEL MORENO, Appellant

No. 05-19-01010-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
Court No. 6, Dallas County, Texas
Trial Court Cause No. F-18-34537-X.
Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to state punishment as "15 YEARS." As **REFORMED**, the judgment is **AFFIRMED**.

Judgment entered this 16th day of June, 2020.