

**NO. 12-16-00172-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***BARRY JEROME GREEN,  
APPELLANT***

§ ***APPEAL FROM THE 7TH***

***V.***

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,  
APPELLEE***

§ ***SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION***

Barry Jerome Green appeals his conviction of engaging in organized criminal activity. In one issue, Appellant argues that the trial court improperly assessed court costs in its judgment. We affirm.

**BACKGROUND**

Appellant was charged by indictment with engaging in organized criminal activity. The indictment further alleged that Appellant previously had been convicted of aggravated sexual assault of a child. Appellant pleaded “guilty” as charged and pleaded “true” to the enhancement allegation. The matter proceeded to a trial on punishment, following which the trial court found Appellant “guilty” as charged, found the enhancement allegation to be “true,” and sentenced him to imprisonment for ten years. This appeal followed.

**COURT COSTS**

In his sole issue, Appellant argues that the trial court erred in withdrawing funds from Appellant’s inmate trust account based on costs assessed in the trial court’s judgment because those costs are not supported by a statutorily required bill of costs. Since the filing of Appellant’s brief, the record has been supplemented with a bill of costs. *See Johnson v. State*,

405 S.W.3d 350, 353 (Tex. App.–Tyler 2013, no pet.) (permitting supplementation of record with bill of costs). Accordingly, we review Appellant’s issue as a challenge to the sufficiency of the evidence supporting court costs.

**Standard of Review and Applicable Law**

A challenge to the sufficiency of the evidence supporting court costs is reviewable on direct appeal in a criminal case. See *Armstrong v. State*, 340 S.W.3d 759, 767 (Tex. Crim. App. 2011). We measure sufficiency by reviewing the record in the light most favorable to the award. *Mayer v. State*, 309 S.W.3d 552, 557 (Tex. Crim. App. 2010); *Cardenas v. State*, 403 S.W.3d 377, 382 (Tex. App.–Houston [1st Dist.] 2013, no pet.). Requiring a convicted defendant to pay court costs does not alter the range of punishment, is authorized by statute, and is generally not conditioned on a defendant’s ability to pay. See TEX. CODE CRIM. PROC. ANN. art. 42.16 (West 2006); *Armstrong*, 340 S.W.3d at 767; see also *Johnson*, 405 S.W.3d at 354.

**Evidence Supporting Assessment of Costs**

The judgment of conviction reflects that the trial court assessed \$304.00 in court costs and \$3,055.64 in restitution. The judgment includes a document identified as “Attachment A Order to Withdraw Funds,” which states that Appellant has incurred “[c]ourt costs, fees and/or fines and/or restitution” in the amount of \$3,359.64. The certified bill of costs itemizes the court costs imposed, which total \$304.00. We have reviewed each of the fees listed in the bill of costs. All of the costs and fees are authorized by statute. See, e.g., *Ireland v. State*, No. 03-14-00616-CR, 2015 WL 4914982, at \*3 n.3 (Tex. App.–Austin Aug. 12, 2015, no pet.) (mem. op., not designated for publication). Therefore, we hold that the costs imposed in the trial court’s judgment are supported by legally sufficient evidence. Appellant’s sole issue is overruled.

**DISPOSITION**

Having overruled Appellant’s sole issue, we *affirm* the trial court’s judgment.

**JAMES T. WORTHEN**  
Chief Justice

Opinion delivered March 22, 2017.  
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**

**MARCH 22, 2017**

**NO. 12-16-00172-CR**

**BARRY JEROME GREEN,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the 7th District Court  
of Smith County, Texas (Tr.Ct.No. 007-0153-16)

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THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

James T. Worthen, Chief Justice.  
*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*