

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-2360

JOSEPH JARROD PORTER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bay County.
Brantley S. Clark, Jr., Judge.

December 17, 2019

KELSEY, J.

On appeal from his judgment and sentence for fleeing or eluding and for resisting a law enforcement officer without violence, Appellant argues first that the trial court abused its discretion in excluding his alibi witness. Appellant did not disclose this witness in response to the State's demand for notice of alibi, and did not request to call the witness until after the State rested and the court had denied Appellant's motion for judgment of acquittal. On these facts, we find no abuse of discretion. *See Fla. R. Crim. P. 3.200* (requiring disclosure of alibi witnesses within 10 days after State's demand, failing which the trial court may exclude the witness); *McIntyre v. State*, 199 So. 3d 984, 985–87

(Fla. 4th DCA 2016) (finding no abuse of discretion in excluding alibi witness first requested mid-trial). Having considered all of Appellant’s other arguments for reversal of his convictions, we find none that merits reversal, and affirm.

On Appellant’s second argument, however, we find that the trial court erred in imposing a \$300 public-defender lien without any evidence specifically supporting that amount. Instead, the trial court merely made generic comments about the nature of the case and the work involved in it, which is an insufficient evidentiary basis. *See Alexis v. State*, 211 So. 3d 81, 83 (Fla. 4th DCA 2017) (requiring lower tribunal to make findings of fact based on evidence supporting increased costs, such as hours invested in the case and a reasonable hourly rate). The State properly concedes error on this issue. We therefore vacate that lien and remand for the lower tribunal to reduce the public-defender lien to the minimum statutory amount or to hold a duly-noticed evidentiary hearing on the question of any higher amount. *See Odom v. State*, 187 So. 3d 324, 325–26 (Fla. 1st DCA 2016) (remanding for further proceedings on materially analogous facts).

AFFIRMED in part and VACATED in part.

LEWIS and OSTERHAUS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Greg Caracci, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Sharon Traxler, Assistant Attorney General, Tallahassee, for Appellee.