

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-633

JUSTIN DEMARTRE YOUNG,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
W. Joel Boles, Judge.

October 19, 2022

PER CURIAM.

Appellant, Justin Demartre Young, appeals his conviction for two counts of attempted first-degree premeditated murder with a weapon, raising several issues. We affirm the convictions without further comment. However, we agree with Appellant that the trial court erred by imposing \$1,845 in costs for transportation, to be paid to the Escambia County Sheriff's Office, because the State did not present any evidence of the costs actually incurred and Appellant did not affirmatively agree to pay the requested amount of \$1,845. See § 938.27(7), Fla. Stat. (2019) (providing that investigative costs include "actual expenses incurred in conducting the investigation and prosecution of the criminal case"); *Mills v. State*, 177 So. 3d 984, 988 (Fla. 1st DCA 2015) (explaining that assessing a sheriff's investigative cost is discretionary and, thus,

cannot be imposed without notice or hearing); *Icon v. State*, 322 So. 3d 117, 119 (Fla. 4th DCA 2021) (finding that the trial court erred in imposing an investigative cost of \$50 because the defendant did not agree to pay it and it was not supported by competent, substantial evidence and instructing that the trial court on remand may reimpose the cost either upon the defendant's agreement to pay it or upon the requesting party's submission of competent, substantial evidence to support it); *Terry v. State*, 791 So. 2d 1162, 1163 (Fla. 1st DCA 2001) (reversing the cost of investigation and prosecution because the State failed to provide documentation of the requested amount). Accordingly, we reverse the \$1,845 cost of transportation and remand for the trial court to either strike the cost and enter a corrected judgment and sentence or reimpose the cost upon the State's submission of competent, substantial evidence to support it or Appellant's affirmative agreement to pay it.

AFFIRMED in part, REVERSED in part, and REMANDED with directions.

LEWIS, MAKAR, and BILBREY, JJ., concur.

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

Jessica J. Yeary, Public Defender, and Pamela D. Presnell, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and David Welch, Assistant Attorney General, Tallahassee, for Appellee.