

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

TYLER MOOK,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D16-2179

[November 22, 2017]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Lawrence Michael Mirman, Judge; L.T. Case No. 14-001493CF10A.

Carey Haughwout, Public Defender, and Gary Lee Caldwell, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Kimberly T. Acuña, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

We affirm appellant's conviction for attempted second degree murder. We reverse the award of costs to the state for bringing two witnesses from Tennessee to testify at appellant's sentencing. The circuit court determined that the witnesses' proposed testimony was inadmissible and did not permit them to testify. The award of costs was an abuse of discretion because the costs were not "reasonably and necessarily related to the prosecution of the crime for which appellant was convicted." *Diodato v. State*, 150 So. 3d 867, 868 (Fla. 4th DCA 2014) (quoting *Leyritz v. State*, 93 So. 3d 1156, 1158 (Fla. 5th DCA 2012)); *see also* § 938.27(1), Fla. Stat. (2015).

Affirmed in part, reversed in part.

WARNER, GROSS and TAYLOR, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.