

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

STEPHEN JOSEPH SKIRDULIS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D21-2380

[October 12, 2022]

Appeal from the County Court for the Nineteenth Judicial Circuit, St. Lucie County; Kathryn M. Nelson, Judge; L.T. Case No. 562021CT000903A.

Carey Haughwout, Public Defender, and Alan T. Lipson, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Lindsay A. Warner, Assistant Attorney General, West Palm Beach, for appellee.

ON MOTION FOR CLARIFICATION

PER CURIAM.

Stephen Skirdulis filed a motion for clarification of our August 3, 2022 opinion in order to correct a scrivener's error in the first paragraph of the opinion. We grant the motion, withdraw our opinion, and issue this opinion in its place.

Skirdulis appeals the county court's costs judgment arising from his conviction for driving under the influence. Skirdulis argues the court erred when it assessed a \$100 prosecution cost above the statutory minimum without making factual findings to support the assessment. He also argues the court incorrectly imposed a \$35 investigation cost not requested by the State. The State concedes the court erred and agrees the costs judgment must be reversed. But the State also argues the court may reimpose the prosecution cost on remand if it makes the required factual findings.

We agree with the State. First, section 938.27(8), Florida Statutes (2021), provides: “Costs for the state attorney must be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged The court may set a higher amount upon a showing of sufficient proof of higher costs incurred.” § 938.27(8), Fla. Stat. (2021). Second, “[t]rial courts may impose investigatory costs, but only when requested by the State or agency involved.” *Desrosiers v. State*, 286 So. 3d 297, 300 (Fla. 4th DCA 2019) (citing *Chambers v. State*, 217 So. 3d 210, 214 (Fla. 4th DCA 2017)).

Thus, we reverse the court’s imposition of the \$35 investigation cost and \$100 prosecution cost. On remand, the court shall impose a prosecution cost that does not exceed the statutory minimum unless the court makes factual findings supporting a higher amount.

Reversed and remanded.

DAMOORGIAN, GERBER and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.