OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

STATE OF MISSOURI,	)	No. ED108007
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Francois County
vs.	)	17SF-CR01570-01
	)	
RENEE N. BERTRAND,	)	Honorable Wendy Wexler Horn
	)	
Appellant.	)	Filed: October 27, 2020

Renee N. Bertrand ("Defendant") appeals the judgment, following a jury trial, (1) convicting her of one count of fourth-degree assault of a law enforcement officer (Count I) and one count of first-degree trespass (Count III);[1] and (2) imposing a total of $981.50 in court costs upon Defendant, including $760.48 in "Jury Fees."[2] The trial court sentenced Defendant to one year in the St. Francois County Jail on Count I and to six months in the St. Francois County Jail on Count III, with the sentences to run consecutively; however, the court suspended execution of the sentences and placed Defendant on probation for two years.

On appeal, Defendant argues, (1) there was insufficient evidence to support her conviction for first-degree trespass; (2) the trial court's imposition of $760.48 in "Jury Fees" upon Defendant as court costs is erroneous because there is no statutory authority permitting such fees to be taxed as court costs; and (3) the trial court's imposition of the entire amount of court costs on Defendant ($981.50) is erroneous under section 550.030 RSMo 2016 because Defendant is unable to pay the costs in that she is an indigent person represented by a public defender.

AFFIRMED IN PART AND REVERSED AND REMANDED WITH INSTRUCTIONS IN PART.

Division One holds:

(1) There was sufficient evidence from which a reasonable juror could have found Defendant guilty of her first-degree trespass conviction (Count III) she challenges on appeal. Because Defendant does not challenge her conviction for fourth-degree assault of a law enforcement officer (Count I), we affirm the portion of the judgment convicting Defendant of Counts I and III. Additionally, because Defendant does not

[1] Defendant was acquitted on Count II, which was a charge for resisting arrest.

[2] *See State v. Savage*, 592 S.W.3d 42, 43-47 (Mo. App. W.D. 2019) (finding a trial court's decision to impose court costs against a defendant in a criminal case was part of the final judgment of conviction under circumstances similar to those here, where, *inter alia*, the court taxed costs against the defendant during sentencing).

challenge her sentences for Counts I and III, we affirm the portion of the judgment sentencing Defendant on those counts.

(2) The record on appeal does not specifically indicate what the $760.48 in "Jury Fees" imposed upon Defendant as court costs encompasses, and the trial court only had express statutory authority to impose "all fees due" persons selected to serve on the jury panel (including alternate empaneled jurors) for daily pay (at the rate of six dollars per day) and mileage (at the rate of seven cents per mile) as taxable court costs. Therefore, we reverse and remand the trial court's decision to impose $760.48 in "Jury Fees" upon Defendant as court costs. On remand, we instruct the trial court to, (a) determine how much of the $760.48 in "Jury Fees" consist of statutorily-authorized costs, i.e., "all fees due" persons selected to serve on the jury panel (including alternate empaneled jurors) for daily pay (at the rate of six dollars per day) and mileage (at the rate of seven cents per mile); and (b) impose only such statutorily-authorized costs upon Defendant unless the court finds that Defendant is unable to pay such costs pursuant to a motion filed by Defendant and after a hearing at which evidence regarding Defendant's inability to pay is adduced.

(3) The issue of whether Defendant is unable to pay court costs was never adjudicated by the trial court, and therefore, the issue is not ripe for appellate review; however, this issue may be addressed on remand pursuant to a motion filed by Defendant and after a hearing at which evidence regarding Defendant's inability to pay is adduced.

Opinion by: Robert M. Clayton III, J.
Colleen Dolan, P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Renee A. Murphy, James C. Egan

Attorney for Respondent: Courtney G. Goodwin

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.