



Missouri Court of Appeals
Southern District

In Division

STATE OF MISSOURI,

Respondent,

v.

JULIA M. POE,

Appellant.

No. SD38774

Filed: October 22, 2025

APPEAL FROM THE CIRCUIT COURT OF HICKORY COUNTY

Honorable James A. Hackett, Judge

DISMISSED

Julia Poe attempts to appeal from an order to pay jury costs. We must dismiss her appeal because payment of the jury costs is a stayed, unappealable condition of probation that is not part of her final judgment and sentence for the purpose of appeal.

Background

A jury found Poe guilty of misdemeanor driving while intoxicated. She was orally sentenced to 90 days in jail, of which 60 days were to be served immediately and the remaining 30 days were suspended, with Poe placed on probation for two years subject to

special conditions. Those conditions included the following: Poe was to complete the Substance Abuse Traffic Offender Program (SATOP) within 180 days and pay costs, including the costs of the jury trial, by October 28, 2025, or appear in court on that date. The specific amount of the jury costs and their calculation were not discussed on the record. The defense did not object to the orally pronounced sentence.

After the sentencing hearing, the court entered a check-box document bearing the title “Docket Entry – Infraction or Misdemeanor.” The only completed portions of that document are the appearances, the “Sentence” section, and the judge’s signature line. The check-boxes and handwritten additions reflect the jail time, probation, and SATOP order orally pronounced at the sentencing hearing, as well as the following regarding the payment of costs:

Judgment entered in favor of Crime Victims Compensation Fund (CVCF) in the amount of \$10.

Defendant ordered to pay all **costs** in the amount of \$1002.34[,] cost[s] include jury cost and LERF [(Law Enforcement Restitution Fund)] Judgment and CVCF Judgment.

Defendant granted **stay** on payment of fine and costs totaling \$1002.34 until 10-28-25 at 9:00 a.m.

The court concomitantly entered an “Order of Probation,” in which Poe was directed to “abide by the following conditions of probation,” which included, among other conditions: “You shall pay all fines and costs imposed on this case and any companion case [in] the amount [of] \$1002.34 by 10-28-25 ... or appear in court on that day at 9:00 a.m.”

Poe filed a notice of appeal the next day. She later attempted to file a legal file lacking a judgment that complied with Rule 29.07(c).¹ Poe’s appellate counsel requested and received a written document entered by the trial court and entitled “Amended Judgment,” and thereafter filed it with this court. That judgment reflects the guilty verdict for misdemeanor driving while intoxicated, a 90-day sentence in the Hickory County jail with the execution of 30 of those days suspended, and placement of Poe on probation for two years. It includes only one cost to be paid by Poe: “Judgment entered in favor of Crime Victims Compensation Fund in the amount of \$10.00.”

Discussion

Poe’s sole claim on appeal is that the trial court plainly erred in assessing \$583.34 in jury costs because the court did not explain how it reached that figure, which, on its face, significantly exceeds the statutory compensation due each of the 12 jurors who sat for the one-day trial. Poe requests the assessment of jury costs be reversed and the case be remanded for further proceedings on that issue, consistent with the outcomes in *State v. Mitts*, 687 S.W.3d 216, 219-20 (Mo.App. S.D. 2024), and *State v. Bertrand*, 636 S.W.3d 181, 190-91, 194 (Mo.App. E.D. 2020).²

¹ Rule references are to Missouri Court Rules (2024).

² The State has elected not to file a respondent’s brief on appeal. While we do not penalize this failure, it deprives us of the benefit of the adversarial process and any argument the State may have made. *State v Stewart*, 640 S.W.3d 174, 178 n.3 (Mo.App. E.D. 2022); *State v. Geist*, 556 S.W.3d 117, 121 n.4 (Mo.App. S.D. 2018).

As required, we first consider, *sua sponte*, our authority to hear this appeal. *State v. Waters*, 597 S.W.3d 185, 186 (Mo. banc 2020). “The right to appeal derives solely from statute. If a statute does not give a right to appeal, the appeal must be dismissed.” *In re Cir. Att’y, 22nd Jud. Cir. ex rel. Dunn*, 708 S.W.3d 867, 870 (Mo. banc 2025) (citation modified). “In a criminal case, the right of a defendant to appeal is governed by section 547.070.”³ *Waters*, 597 S.W.3d at 186. Among other things, this statute requires a final judgment. Section 547.070.

“A judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence.” Rule 29.07(c). “Unlike judgments in civil cases, no rule or statute requires a judgment of conviction be signed by [a] judge.” *State v. Vandergrift*, 669 S.W.3d 282, 289 (Mo. banc 2023). Although entry of a judgment of conviction in the record complying with Rule 29.07(c) is a ministerial act, it is an “essential prerequisite for an appellate court to review the record on an appeal from a judgment of conviction. Without entry, an appellate court is left to speculate whether judgment actually was rendered and, if so, its terms and conditions.” *Id.* at 291.

In this case, a sentence was rendered orally by the court at the sentencing hearing. What should have been the written memorialization of that judgment and sentence, the “Docket Entry – Infraction or Misdemeanor,” set forth a sentence consistent with the oral pronouncement but did not contain the jury’s verdict as required by Rule 29.07(c). The

³ Statutory references are to RSMo. (2016).

first instance of a recorded judgment fully compliant with Rule 29.07(c) was the “Amended Judgment” entered after Poe had filed her notice of appeal.⁴

The final judgment orally rendered and properly memorialized in the record for the purpose of appeal contains only one assessed cost: ten dollars for the Crime Victim Compensation Fund. Poe has not challenged the assessment of that cost in this appeal. All of the post-sentencing documents entered by the trial court reflect that payment of the jury costs, the amount of which Poe challenges in this appeal, is a condition of her probation.

“Probation is not part of the sentence.” *State v. Williams*, 871 S.W.2d 450, 452 (Mo. banc 1994). “Probation reduces the impact of a sentence and operates independently of the criminal sentence.” *Bearden v. State*, 530 S.W.3d 504, 507 (Mo. banc 2017) (citation modified). “[T]here is no right to appeal the terms and conditions of an order of probation.” *Williams*, 871 S.W.2d at 452. The Supreme Court of Missouri elaborated on these principles in *State ex rel. Delf v. Missey*:

The sentence a defendant receives differs from the conditions of probation imposed. The “sentence” that a court imposes consists of punishment that comes within the particular statute designating the permissible penalty for the particular offense, such as confinement for a period of time or a fine. A sentence does not include as part of its definition such conditional orders as the court makes for amelioration of the punishment-probation or parole. Probation lessens the immediate impact of the sentence on the defendant; but probation does not, per se, shorten or lengthen the sentence. Accordingly, probation is not a sentence nor could the conditions of probation be a sentence.

⁴ Because Poe timely filed her notice of appeal after the court orally rendered final judgment and sentence, her appeal was not premature. *State v. Forbes*, 708 S.W.3d 468, 472-74 (Mo. banc 2023).

....

...Probation is a privilege, not a right. A defendant's acceptance of probation subjects him or her to the conditions imposed by the circuit court. Section 559.021.1 grants the circuit court the authority to determine the terms of probation, and the conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law.

518 S.W.3d 206, 210-11 (Mo. banc 2017) (citation modified).

The transcript of the sentencing hearing leaves no doubt the trial court intended to order Poe to pay jury costs.⁵ At the sentencing hearing, the trial court did not announce on the record the exact amount of those costs nor whether they would be payable as a part of Poe's sentence or as a condition of her probation. Post-sentencing documents, which are consistent with the oral pronouncement of judgment and sentencing, reflect the payment of the jury costs at issue are an unappealable condition of Poe's probation, not an appealable component of her final judgment and sentence.

⁵ We remind the trial court and the parties that courts may not use the sentencing process to punish a defendant for exercising her right to stand trial or to create the appearance of such a practice. *State v. Lindsey*, 996 S.W.2d 577, 579-80 (Mo.App. W.D. 1999). "[I]t seems strange that a person convicted of a misdemeanor should be further punished simply for demanding that to which [s]he is entitled as of right—a trial by jury." Op.Att'y.Gen. No. 5, p. 3, Anderson, January 4, 1963. The default, statutory procedures and rates for payment of jurors in § 494.455 include payments both to selected jurors who serve and to the "panel of jurors summoned and attending court," *i.e.* the venire panelists, with the payments to come from the governing body of a county or a city not within a county; *not* from a defendant who was found guilty. Sections 550.280, 550.010, and 494.455 RSMo. collectively and expressly authorize the trial court to assess against a convicted defendant the court costs attributable to the statutory pay and mileage *only* for the persons selected to serve on the jury and the alternate, empaneled jurors. *Bertrand*, 636 S.W.3d at 190-91.

Conclusion

Poe's appeal of the amount of assessed jury costs, which are a condition of her probation, is not cognizable on direct appeal under § 547.070. We cannot review her claim, even for plain error, when an appeal is not statutorily authorized. *State v.*

Johnson, 617 S.W.3d 439, 444-45 (Mo. banc 2021), *superseded by statute in another respect*. The appeal must be and is dismissed.

JACK A. L. GOODMAN, J. – OPINION AUTHOR

JEFFREY W. BATES, J. – CONCURS

DON E. BURRELL, J. – CONCURS