

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2023-3757
Lower Tribunal No. 2023-MM-005588-A-O

MARCELLUS MATRO BOWLES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the County Court for Orange County.
Steve Jewett, Judge.

August 28, 2026

GANNAM, J.

Marcellus Bowles appeals the final order of judgment and sentence on a jury verdict finding him guilty of misdemeanor trespass and resisting without violence. Bowles argues the trial court erred in denying his motion for judgment of acquittal, based on a two-day difference between the offense date alleged in the information and the offense date proved at trial, and in denying his Florida Rule of Criminal

Procedure 3.800(b)(2) motion to strike or amend the imposition of \$273 in costs, based on insufficient identification.¹

We affirm the denial of Bowles’s motion for judgment of acquittal. *See Tingley v. State*, 549 So. 2d 649, 651 (Fla. 1989) (“[T]ime is not ordinarily a substantive part of an indictment or information and there may be a variance between the dates proved at trial and those alleged in the indictment or information as long as: (1) the crime was committed before the return date of the indictment; (2) the crime was committed within the applicable statute of limitations; and (3) the defendant has been neither surprised nor hampered in preparing his defense.”); *Sanchez v. State*, 956 So. 2d 1261, 1262 (Fla. 4th DCA 2007) (“Here, appellant did not request a statement of particulars, nor did he object to evidence of the erroneous date. Further, it was clear at trial that the state was alleging only a single incident.”).

We reverse, however, the imposition of costs. “While no statute or procedural rule requires a trial court to explain the basis for an imposed cost, due process requires that it at least be evident from the record” to enable appellate review. *Culbertson v. State*, 424 So. 3d 1045, 1045 (Fla. 6th DCA 2025). The trial court’s order identifies \$50 of the challenged costs only as “State,” but the court’s oral sentence pronouncement identified it as “costs of prosecution,” making the basis for

¹ The motion is deemed denied because the trial court did not rule on it within sixty days. *See* Fla. R. Crim. P. 3.800(b)(2)(B).

these costs evident from the record. *See* § 938.27(8), Fla. Stat. (2023) (“Costs for the state attorney must be set in all cases at no less than \$50 per case when a misdemeanor . . . offense is charged . . .”). But the remaining \$223 cost amount, identified in the written order only as “Court Costs,” was likewise only identified in the court’s oral pronouncement as unspecified “court costs.” Thus, the basis for this \$223 amount is not evident from the record, and we remand for the trial court to enter a corrected order identifying the bases for all costs imposed.² Bowles’s presence is not required for this ministerial correction. *See Irizarry v. State*, 425 So. 3d 1190, 1190 (Fla. 6th DCA 2026).

AFFIRMED in part; REVERSED in part; REMANDED with instructions.

NARDELLA and MIZE, JJ., concur.

Blair Allen, Public Defender, and Caroline Joan S. Picart, Assistant Public Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Tabitha Mills, Assistant Attorney General, Daytona Beach, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED

² The State concedes error on this point.