

FEB 12 2004

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

DONDRE COLUMBUS JOHNSON,)
)
 Appellant,)
)
 -vs-)
)
 STATE OF OKLAHOMA,)
)
 Appellee.)

Case No. M-2003-495

SUMMARY OPINION

Appellant was found guilty by jury in Pittsburgh County District Court, Case No. CM-2002-1144, of Assault and Battery. Following the jury's recommendation, the Honorable James D. Bland, Special Judge, assessed punishment of ninety (90) days incarceration in the county jail and assessed court costs in the amount of \$952.50. It is from this Judgment and Sentence that Appellant appeals.

In his first assignment of error, Appellant claims the trial court's assessment of court costs was excessive because of a mistake in the way it was calculated. Appellant requests this Court to modify the costs assessed against him. Appellee agrees an error was made by the trial court regarding the amount of costs owed by Appellant. **IT IS THEREFORE THE ORDER OF THIS COURT** that this matter is **REMANDED** to the District Court for the purpose of order nunc pro tunc to correctly reflect the amount of court costs owed by Appellant.

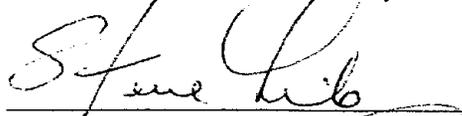
In his final proposition of error, Appellant contends prosecutorial misconduct deprived him of a fair trial. Specifically, Appellant argues the prosecutor engaged in improper cross-examination, improperly gave his personal opinion of Appellant's guilt and argued facts outside the record in closing argument. A review of the record reveals no objection was entered by Appellant at trial, thereby waiving all but fundamental error. *Hammon v. State*, 2000 OK CR 7, 999 P.2d 1082, 1097. We have reviewed the record and find no fundamental error requiring modification or reversal. As such, Appellant Judgment and Sentence is in Pittsburgh County District Court Case No. CM-2002-1144 is **AFFIRMED**.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 12th day of February, 2004.



CHARLES A. JOHNSON, Presiding Judge



STEVE LILE, Vice Presiding Judge



GARY L. LUMPKIN, Judge



CHARLES S. CHAPEL, Judge



RETA M. STRUBHAR, Judge

ATTEST:


Clerk