

FIRST PARISH COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA

STATE OF LOUISIANA

VS.

MELVIN J. ZIEGLER, III

NO: F1659207

DIVISION: B

Honorable George W. Giacobbe, Parish  
Judge, Presiding.....

JUDGMENT

The Defendant's Motion To Reconsider Sentence appeared on the Docket, as scheduled, on the 26th day of March, 2009 and duly heard upon the Pleadings, the Memorandum of Counsel for the Defendant, that Attorney General and the Jefferson Parish District Attorney's Office did not file any written opposition to Defendant's Motion, however, the Counsel for Defendant and the Assistant District Attorney for the Parish of Jefferson did present Oral Arguments.

The Court takes Judicial Notice that the Attorney General was duly served and noticed to appear on March 12, 2009; no one from the Attorney General's Office appeared.

**Appearances:**

Samuel S. Dalton and Rémy Voisin Starns Attorney for Defendant Melvin J. Ziegler, III  
Jessica Parker Raines, Ass't District Attorney for the State of Louisiana.

Melvin J. Ziegler, III (hereinafter referred to as Defendant), accused of violations of La. R.S. 14:98(B) relative operating a vehicle while intoxicated and La. R.S. 32:58, relative to Careless Operation of Motor Vehicle.

On June 24, 2008 a trial on the merits was had on the DWI and the COMV offenses.

The Defendant was Acquitted on the DWI accusation (see minute entry of June 24, 2008) and Convicted on the COMV accusation (see minute entry of June 24, 2008. The Defendant waive all delays for sentencing and the Court imposed the following sentence concerning the COMV Conviction with costs, to-wit:

A Fine of \$300.00; and imposed Costs of totaling \$373.50  
The Costs are itemized as set out, in the Fee and Fine Slip, to-wit:

Subsequently, Defendant filed a Motion For Reconsideration Of Sentence under and by virtue of LSA - C.Cr.P. Art. 881.1, with an Incorporated Memorandum. In such Motion the Defendant alleges that the costs which are not related to the Support or Administration of the Courts are unconstitutional and should and ought to be declared so and vacated. **The Motion further alleges that other costs are either unconstitutional or do not apply, by statute, to the offense of LSA-R.S. 32:58, relative to careless operation of a motor vehicle.**

The Defendant alleges in the Motion that the following "fees" are disguised "Taxes", has no relation to support or administration of the Courts and violates the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974:

1. The Spinal Cord Injury Fund assessed under and by virtue of La. R.S. 46:2633 in the amount \$25.00; and,

2. Louisiana Commission on Law enforcement assessed under and by virtue of LSA-C.Cr.P. Art. 887(E); and,

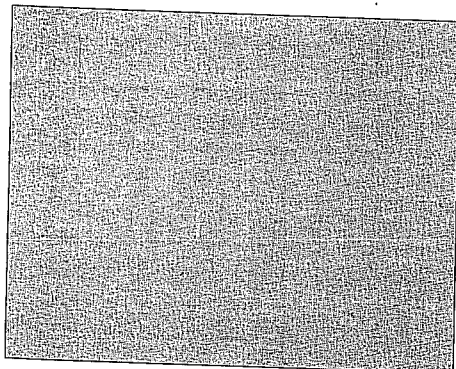
2. Certified Crime Stoppers Organizations assessed under and by virtue of LSA-C.Cr.P. Art. 895.4(I); and,

and thereby makes the Court a "Tax Collector" for the State and violates the separation of powers doctrine of La. Const. Art. II, § 2 as set out in *Safety Net For Abused Persons v. Segura*, et al. 692 So.2d 1038 (La. S.Ct. April 8, 1997) and *State v. Lanclos* No. 2007-OK-0082, No. 2007-KA-0716 (La. S.Ct. April 8, 2008), 980 So.2d 643, to-wit:

STATE V. LANCLOS NO. 2007-OK-0082,  
NO. 2007-KA-0716 (La. S.Ct. April 8.2008)  
980 So.2d 643.

Guided by our decision in *Safety Net*, the question that we must answer in this case is whether the fee imposed by La. R.S. 32:57(G) is sufficiently related to the administration of justice to pass constitutional muster. Once collected the \$5.00 assessment imposed by La. R.S. 32:57(G) is deposited in the state's general treasury. Later, an equal amount is allocated by the Legislature to a special fund to be used by the GNOEC "to supplement the salaries of P.O.S.T. certified officers and for the acquisition or upkeep of police equipment." La. R.S. 32:57(G)(2). Therefore the question before this court is whether the funding of salaries and equipment of the GNOEC is a function of the "judicial system".

....  
Based upon this court's decision in *Safety Net* and the Judicial Council's Guidelines, 13 we find merit in defendant's argument that La. R.S. 32:57, in so far as it imposes an additional 45.00 fee used to supplement police officer salaries and to purchase or maintain police equipment, violates the doctrine of separation of powers.



Accordingly, we affirm the trial court's finding that the \$5.00 assessment provided in La. R.S. 32:57(G) is a "tax" funded through the judiciary in violation of the doctrine of separation of powers. *State v. Lanclos* No. 2007-OK-0082, No. 2007-KA-0716 (La. S.Ct.

SAFETY NET FOR ABUSED PERSONS V. SEQUA, ET AL, 692 So.2d 1038 (La. S.Ct. April 8, 1997).

The charge is thus not a fee assessed to defray the expenses of litigation or to support the court system. Rather, it is a revenue raising measure designed to fund a particular social program. Therefore, the question before us is whether the legislature may impose a tax on litigants that is collected by the judiciary to go directly to a private non-profit corporation to fund a social welfare program for victims of domestic abuse.

....  
... we hold that court filing fees may be imposed only for purposes relating to the administration of justice. This requirement is inherent in our constitutional right of access to the courts and the constitutional separation of powers doctrine. Moreover, our clerks of court should not be made tax collectors for our state, nor should the threshold to our justice system be used as a toll booth to collect money for random programs created by the legislature.

....  
... where there is a statute, such as the one at issue here, imposing a tax on all civil filings to fund a program far removed from the judicial process, it must fall. We find that La. R.S. 13:1906 imposes an unconstitutional filing fee in violation of the right of access to the courts and of the separation of powers doctrine because its purpose—to fund domestic abuse services—is unrelated to the administration of justice.

....  
For the same reasons that La. R.S. 13:1906 is unconstitutional in the civil context, it is also unconstitutional in the criminal context as a violation of the separation of powers doctrine. The additional fee imposed by the statute on all criminal defendants to benefit SNAP is not sufficiently related to the administration of the criminal justice system to warrant its collection in the manner prescribed by La. R.S. 13:1906.

April 8, 2008), 980 So.2d 643.

... Moreover, we also find that the statute's imposition of a fee in each criminal proceeding in which a fine, courts costs, or a forfeiture is ordered violated the separation of powers doctrine (La. Const. Art. II, § 2). *Safety Net For Abused Persons v. Sequra, et al*, 692 so.2d 1038 (La. S.Ct. April 8, 1997).

RE: THE SPINAL CORD INJURY FUND

**The Spinal Cord Injury Fund assessed under and by virtue of La. R.S. 46:2633 in the amount \$25.00 and the Louisiana Commission on Law enforcement assessed under and by virtue of LSA-C.Cr.P. Art. 887(D) in the amount of \$2.00 is a "Fee" disguised as a "Tax" and thereby when imposed as "Court Costs" violates the Louisiana State Constitution, in that:**

RE: The Spinal Cord Injury Fund assessed under and by virtue of La. R.S. 46:2633 in the amount \$25.00:

- a) Said Court Cost Scheme set out in La. R.S. 46:2633 insofar as it requires the Court or its Officers to impose a \$25.00 charge violates the separation of powers doctrine as defined in La. Const. 1974, Article II, § 2 is an unconstitutional imposition upon the citizens who are convicted, in this state, of driving under the influence, reckless operation and speeding violations; and,
- b) LSA-R.S. 46:2633(A) reads: "There is hereby established a special fund in the state treasury to be known as the Traumatic Head and Spinal Cord injury Trust Fund which shall consist of monies collected from an addition fee impose on all motor vehicle violations for driving under the influence, reckless operation, and speeding in this state. In addition, the legislature may make annual appropriations to the trust fund for the purpose set forth in this chapter to the extent that state general funds are available"; and,
- c) LSA-R.S. 46:2633 (C) reads in part: "All monies collected under this Chapter shall be forwarded by the officer of the court who collects the same to the state treasurer within thirty days after the penalty or forfeiture is collected. After deposit in the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of the Constitution of Louisiana, an amount equal to that deposited as required by Subsection A of this Section shall be credited to the Traumatic Head and Spinal Cord Injury Trust Fund account under the Department of Social Services, office of rehabilitation services. All monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest eared on the investment of these monies shall be credited to the fund, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund".

The fund created and treated in La. R.S. 46:2633 is the functional equivalent of the fund created by La. R.S. 32:57(G) which imposed a "fee" of \$5.00 to be imposed as a court cost when any person pleads nolo contendere, pleads guilty, or is found guilty of a motor vehicle offense occurring on either of two bridges or their respective approaches when the citation is issued by a police officer employed by the GNOEC. Such "fees" are to be deposited into the state treasury, the credited to a special fund which is used by the GNOEC to supplement the salaries of its police officers and for the acquisition and upkeep of police equipment.

**The Louisiana Supreme Court in *State v. Lanclos*, No. 2007-OK-0082 & 2007-KA-0716 (La. S.Ct. April 8, 2008), 980 So.2d 643 in no uncertain terms found the \$5.00 cost and the scheme to collect it under La. R.S. 32:57(G) has no relationship to the support or administration of the Courts in violation of the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974; and,**  
**So, it must be with La. R.S. 46:2633; therefore, the Court finds the \$25.00 "fee" imposed under La. R.S. 46:2633 is a "fee disguised as a Tax" and has no relation to the support or administration of the Courts, the statute, insofar as it requires such "fee/tax" be collected by the Court or its officers is unconstitutional on its face in that it violates the separation of powers doctrine under La. Const. 1974, Article II, § 2 and therefore is an unconstitutional**

**imposition upon the Defendant, Melvin J. Ziegler, III; said "fee/tax" is vacated.**  
RE: LOUISIANA COMMISSION ON LAW ENFORCEMENT ASSESSED UNDER AND BY  
VIRTUE OF LSA-C.CR.P. ART. 887(E):

So, it must likewise be with LSA-C.Cr.P. Art. 887(E) which reads:

"In addition to the costs provided in Paragraphs A, C, and D, a person convicted of a felony, a misdemeanor, or ordinance of any local government shall be assessed an additional two dollars as special costs. Such special costs shall be imposed by all courts, including mayor's courts and magistrate courts, and shall be used for the purpose of training local law enforcement officers as directed by the council on peace officer standards and training. The proceeds of the special costs shall be paid to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to be used to train local law enforcement officers and to provide assistance to local law enforcement agencies. The court, public office, or local governing body collecting the special costs imposed herein shall retain two percent of such costs to defray the administrative expenses of collecting and remitting the special costs."

**The Court finds that the \$2.00 "special costs" to be imposed, under LSA-C.Cr.P. Art. 887(E), by the Courts is a "Fee disguised as a Tax" and has no relation to the support or administration of the Courts. The Louisiana Commission on Law Enforcement is an agency within the Executive Branch of Government and has no Judicial Functions, whatsoever (see La. R.S. 15:1201, relative to its creation and La. R.S. 15:1204. Relative to its functions). Further, LSA-C.Cr.P. Art. 887(E) insofar as it requires the Courts to impose the \$2.00 as costs is unconstitutional on its face in that it violates the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974. and therefore, is an unconstitutional imposition upon the Defendant Melvin J. Ziegler, III and the assessment of such a charge is vacated. State v. Lanclos, supra. and Safety Net For Abused Persons v. Sequera, et al, supra.**  
RE: CERTIFIED CRIME STOPPERS ORGANIZATIONS ASSESSED UNDER AND BY  
VIRTUE OF LSA-C.CR.P. ART. 895.4(I):

Notwithstanding the language of LSA-C.Cr.P. Art. 895.4(A)(1)(2)(3), to-wit:

LSA - C.Cr.P. Art. 895.4(A)(1)(2)(3):.

A. Legislative intent

(1) The legislature hereby declares that the intention of the legislature in enacting the provisions of this Article is to establish a procedure for raising revenue for the funding of certain operations of certified crime stoppers organizations and to ensure that the procedure established in this Article complies with the requirements of the Louisiana Constitution, and the pronouncements of the Louisiana Supreme Court concerning those requirements, which govern the collection and expenditure of statutory assessments, including fees and costs of court, which are imposed in criminal cases.

(2) The legislature hereby recognizes the pronouncements of the Louisiana Supreme Court which hold that in order to comply with the requirements of the Louisiana Constitution, revenues which are raised through statutory assessments, including fees and costs of court, which are imposed in criminal cases must reasonably be related to the costs of administering the criminal justice system. The legislature hereby declares that the crime stoppers activities of paying rewards, of operating hotlines, and of obtaining information on criminal activities are directly related to the administration of the criminal justice system and that the revenues which are raised under the provisions of this Article and which are used for those purposes are directly related to the costs of administering the criminal justice system.

(3) The legislature hereby declares that the intention of the legislature in enacting the provisions of this Article which require certified crime stoppers organizations which apply for these funds to be certified to the local courts by the local sheriff or chief of police, and the provisions of this Article which exclude statewide officials from certifying statewide organizations under the provisions of this Article; is to provide that local revenues which are raised through local courts

will be subject to local control in order to ensure that those revenues will be expended for purposes which are directly related to the costs of administering the local criminal justice system.

The court does not find that the foregoing language trumps or overrides the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974 nor the Jurisprudence established by *State v. Lanclos*, No. 2007-OK-0082 & 2007-KA-0716 (La. S.Ct. April 8, 2008), 980 So.2d 643 and *Safety Net For Abused Persons v. Sequra, et al*, 692 so.2d 1038 (La. S.Ct. April 8, 1997). The "fee/tax" imposed by LSA-C.Cr.P. Art. 895.4(I) has no relation with the support or administration of the Courts. If the legislature desires to make the "Crime Stoppers Organizations" a part of the Criminal Justice System, it may, but like the Local or State Police Department is part of the Criminal Justice System it does not contribute to the support or the administration of the Courts and is far removed from any function of the court that may justify such imposition of costs.

LSA-C.Cr.P. Art. 894.4(I) reads:

"(I). When a defendant in a criminal or traffic matter is convicted of any criminal offense or of any traffic offense in any court for which the appropriate certifying officer has certified one or more organizations as certified crime stoppers organizations, the court shall assess an additional cost of court for each offense for which the defendant is convicted. This cost of court shall be in the amount of two dollars and shall be in addition to all other fines, penalties, and costs imposed by the court. The court shall not suspend the payment of this cost of court."

The Court finds that the \$2.00 costs to be imposed by the Courts, under LSA-C.Cr.P. Art. 894(I) is a "Fee disguised as a Tax" and has no relation to the support or administration of the Courts. The Court finds that LSA-C.Cr.P. Art. 887(I) insofar as it requires the Courts to impose the \$2.00 as costs, for the benefit of a private non-profit organization, is unconstitutional on its face, in that it violates the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974 and therefore, is an unconstitutional imposition upon the Defendant *Melvin J. Ziegler, III* and is vacated. *State v. Lanclos, supra*, and *Safety Net For Abused Persons v. Sequra, et al*, 692 so.2d 1038 (La. S.Ct. April 8, 1997).

The Defendant's Motion For Reconsideration of Sentence also alleges that the following costs are fees disguised as taxes and therefore unconstitutional as a violation of the separation of powers doctrine under Article II, § 2 of the Louisiana Constitution of 1974 or in the alternative were imposed, by the Court without authority, to-wit:

a) LSA- C.Cr.P. ART. 887( C) -DWI & BREATH ANALYSIS: Imposes a cost of \$75.00, upon persons convicted of a violation of R.S. 14:98, R.S. 14:98.1 or any municipal or parochial ordinance defining the offense of operating a motor vehicle, aircraft, water craft, vessel, or other motorized means of conveyance under the influence of alcohol or drugs, who was subjected to a blood, breath, or urine analysis for alcohol or any controlled dangerous substance listed in R.S. 40:964, Schedule I, II, III, IV or V. This costs consists of \$25.00 to the governing authority owning the instrument used to perform the analysis and \$50.00 to the governing authority whose agency performed the analysis ; and,

b) La. R.S. 46:1816 (D) -CRIME VICTIMS REPARATIONS FUND; CREATION; SOURCES OF FUNDS; USES : Cost of not less than \$50.00 for felonies and \$7.50 for misdemeanors and violations of municipal and parish ordinances is hereby levied in each criminal action, except traffic violations other than those driving offenses defined in Title 14 of the Louisiana Revised Statutes of 1950.

c) La. R.S. 33:1572 -CORONER'S OPERATIONAL FUND ESTABLISHED: Cost of \$10.00 requires the imposition of \$10.00 cost on every defendant who is convicted after trial or plea of guilty, except for traffic violations, which fee shall be dedicated solely to defraying the operational costs of the office of the coroner of the parish in which the conviction occurred. The sheriff or clerk of court collecting criminal court costs shall place all sums collected or received under this Section into the treasury of the parish in which the coroner holds office, for deposit in a "Coroner's Operations Fund" account which upon the request of the coroner, shall be used or paid out in defraying the operational expenses of the coroner's office.

d) La. R.S. 16:16 imposes a cost of \$10.00 against every defendant, on all criminal cases over which the district attorney's office has jurisdiction, except the Parish of Orleans.

COURT'S ANALYSIS:

RE: LSA- C.Cr.P. ART. 887( C) -DWI & BREATH ANALYSIS: Imposes a cost of \$75.00, upon persons convicted of a violation of R.S. 14:98, R.S. 14:98.1 or any municipal or parochial ordinance defining the offense of operating a motor vehicle, aircraft, water craft, vessel, or other motorized means of conveyance under the influence of alcohol or drugs, who was subjected to a blood, breath, or urine analysis for alcohol or any controlled dangerous substance listed in R.S. 40:964, Schedule I, II, III, IV or V. This costs consists of \$25.00 to the governing authority owning the instrument used to perform the analysis and \$50.00 to the governing authority whose agency performed the analysis

**The court takes Judicial Notice that the Defendant, Melvin J. Ziegler, III was not a person convicted of a violation of R.S. 14:98, R.S. 14:98.1 or any municipal or parochial ordinance defining the offense of operating a motor vehicle, aircraft, water craft, vessel, or other motorized means of conveyance under the influence of alcohol or drugs, consequently the \$50.00 cost for "Special DWI" and the \$25.00 "Cost for "DWI equip." listed on the Fine and Fee Slip was improperly assessed against the Defendant is vacated.**

The court does not treat the constitutional issues involved in this assessment in view of the fact that this assessment of costs is vacated on non-constitutional grounds, to-wit:

"We have repeatedly and consistently held that courts should refrain from reaching or determining the constitutionality of legislation unless, in the context of a particular case, the resolution of the constitutional issue is essential to the decision of the case or controversy. State v. Fleming, 2001-2799 (La.6/21/02), 820 So.2d 467, 470; Cat's Meow, Inc. v. City of New Orleans Through Dept. of Finance, 98-0601 (La.10/20/98), 720 So.2d 1186, 1199; Louisiana Associated Gen. Contractors, Inc. v. New Orleans Aviation Bd., 97-0752 (La.10/31/97), 701 So.2d 130, 132; Cameron Parish Sch. Bd. v. Acands, Inc., 96-0895 (La.1/14/97), 687 So.2d 84, 87; White v. West Carroll Hosp., Inc., 613 So.2d 150, 157 (La.1992). Further, our jurisprudence counsels that the practice of courts is "never to anticipate a question of constitutional law in advance of the necessity of deciding it." Matherne v. Gray Ins. Co., 95-0975 (La.10/16/95), 661 So.2d 432, 434; Communist Party of U.S. v. Subversive Activities Control Bd., 367 U.S. 1, 81 S.Ct. 1357, 6 L.Ed.2d 625 (1961) (citing Liverpool, New York & Philadelphia S.S. Co. v. Commissioners, 113 U.S. 33, 5 S.Ct. 352, 28 L.Ed. 899 (1885)); Arizona v. California, 283 U.S. 423, 51 S.Ct. 522, 75 L.Ed. 1154 (1931). Courts should avoid constitutional rulings when the case can be disposed of on non-constitutional grounds. Blanchard v. State Through Parks and Recreation Commission, 96-0053 (La.5/21/96), 673 So.2d 1000, 1002." State v. Lanclos No. 2007-OK - 0082 & No. 2007-KA- 0716 (La. S.Ct. April 8, 2008) 980 So.2d 643 at pages 647 & 648.

RE: La. R.S. 46:1816 (D) -CRIME VICTIMS REPARATIONS FUND; CREATION; SOURCES OF FUNDS; USES : Cost of not less than \$50.00 for felonies and \$7.50 for misdemeanors and violations of municipal and parish ordinances is hereby levied in each criminal action, except traffic violations other than those driving offenses defined in Title 14 of the Louisiana Revised Statutes of 1950.

**The Court takes Judicial Notice that Defendant Melvin J. Ziegler, III was convicted only of a traffic violation under La. R.S. 32:58 and therefore, by the terms of said statute is exempt from the \$7.50 assessment shown on the Fine and Fees Slip under "Victim Fund (RS 14)" and such assessment is hereby vacated.**

**The court does not treat the constitutional issues involved in this assessment in view of the fact that this assessment of costs is vacated on non-constitutional grounds** (see State v. Lanclos No. 2007-OK - 0082 & No. 2007-KA- 0716 (La. S.Ct. April 8, 2008) 980 So.2d 643 at pages 647 & 648, supra.)

RE :La. R.S. 33:1572 -CORONER'S OPERATIONAL FUND ESTABLISHED: Cost of \$10.00 requires the imposition of \$10.00 cost on every defendant who is convicted after trial or plea of guilty, except for traffic violations, which fee shall be dedicated solely to defraying the operational costs of the office of the coroner of the parish in which the conviction occurred. The

sheriff or clerk of court collecting criminal court costs shall place all sums collected or received under this Section into the treasury of the parish in which the coroner holds office, for deposit in a "Coroner's Operations Fund" account which upon the request of the coroner, shall be used or paid out in defraying the operational expenses of the coroner's office.

**The Court takes Judicial Notice that Defendant Melvin J. Ziegler, III was convicted only of a traffic violation under La. R.S. 32:58 and therefore, by the terms of said statute is exempt from the \$10.00 assessment shown on the Fine and Fees Slip under "Coroner Office" and such assessment is hereby vacated.**

The court does not treat the constitutional issues involved in this assessment in view of the fact that this assessment of costs is vacated on non-constitutional grounds (see State v. Lanclos No. 2007-OK - 0082 & No. 2007-KA- 0716 (La. S.Ct. April 8, 2008) 980 So.2d 643 at pages 647 & 648, supra.)

RE: La. R.S. 16:16 imposes a cost of \$10.00 against every defendant, on all criminal cases over which the district attorney's office has jurisdiction, except the Parish of Orleans.

The fine and fees slip under "District Attorney" shows an assessment of \$20.00 which is in compliance with the following statutes, to-wit:

La. R.S. 16:16 - Additional court costs to defray expenses

A. Except in the parish of Orleans, in all criminal cases over which the district attorney's office has jurisdiction, there shall be taxed as costs against every defendant who is convicted after trial or after he pleads guilty or who forfeits his bond a nonrefundable sum of ten dollars, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed.

B. The sums collected under Subsection A of this Section shall be remitted monthly by the clerk's office to the office of the district attorney of the judicial district to be used at his discretion in defraying expenses of his office. Acts 1986, No. 293, §1; Acts 2003, No. 706, §1.

AND

La. - RS 16:16.1- Costs for prosecution expenses

Except in the parish of Orleans, in all criminal cases, over which the district attorney's office has jurisdiction, there shall be taxed as costs against every defendant who is convicted after trial or who pleads guilty or nolo contendere or against whom a judgment of bond forfeiture has been rendered, a nonrefundable sum of ten dollars in each case, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed. The sums collected under this Section shall be remitted monthly by the clerk's office to the office of the district attorney of the judicial district to be used in defraying expenses of his office. Acts 1997, No. 1443, §2; Acts 2003, No. 706, §1.

The Court notices that the statutes appear to a duplicate of each other however when read closely La. R.S. 16:16 applies to the office expenses of the District Attorney's Office and La. 16.16.1 applies to costs of prosecution expenses a significant difference, consequently to assess a \$10.00 cost against Defendants in any criminal case is appropriate.

**The Court finds that this assessment, as shown on the Fine and Fees Slip, under "District Attorney Office", is Lawful.**

#### **RE: THE FINE**

**The Court takes Judicial Notice that the fine called of in La. R.S. 32:58 relative to careless operation of a motor vehicle is \$175.00 (see La. R.S. 32:57) and a fine of \$300.00 was actually imposed upon Defendant Melvin J. Ziegler, III consequently the Court vacates the fine of \$300.00 and imposes a fine of \$175.00.**

ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED:  
Defendant Melvin J. Ziegler, III's Motion To Reconsider Sentence is GRANTED in the following particulars; the following costs are vacated as being unconstitutionally imposed upon the Defendant, Melvin J. Ziegler, III:

1. **The assessment under La. R.S. 46:2633 relative to the Traumatic Head and Spinal Cord Injury in the amount of \$25.00; and,**
2. **The assessment under LSA-C.Cr.P. Art. 887(E) relative to the Louisiana Commission on Law Enforcement in the amount of \$2.00; and,**
3. **The assessment under LSA-C.Cr.P. Art. 895.4 relative to Crime Stoppers Organization in the amount of \$2.00.**

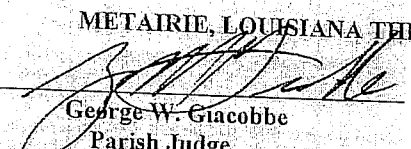
The following costs are vacated as being improperly imposed upon the Defendant, Melvin J. Ziegler, III:

4. The assessment under LSA-C.Cr.P. Art. 887( C) relative to the DWI Equipment in the amount of \$25.00; and,
5. The assessment under LSA-C.Cr.P. Art 887 ( C) relative to the DWI special costs in the amount of \$50.00; and,
6. The assessment under La. R.S. 46:1816(D) relative to Victim's Fund in the amount of \$7.50; and,
7. The assessment under La. R.S. 33:1572 relative to Coroner Office in the amount of \$10.00; and,

FURTHER, the original fine of \$300.00 imposed upon Defendant Melvin J. Ziegler, III is vacated and a fine of \$175.00 is imposed under La. R.S. 32:57; and,  
The Defendant Melvin J. Ziegler, III's Motion To Reconsider Sentence is DENIED in the following particular:

**The assessment of \$20.00 relative to the District Attorney Office is a proper assessment under La. R.S. 16:16 and La. R.S. 16:16.1 and therefore will not be changed.**

IT SO ORDERED.

METAIRIE, LOUISIANA THIS 15<sup>th</sup> DAY OF April, 2009.  
  
George W. Giacobbe  
Parish Judge  
First Parish Court  
Parish of Jefferson - State of Louisiana