

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

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

DUANE MICHAEL COTTIER,

Appellant,

v.

Case No. 5D18-3213

STATE OF FLORIDA,

Appellee.

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Opinion filed October 25, 2019

Appeal from the Circuit Court  
for Citrus County,  
Richard A. Howard, Judge.

James S. Purdy, Public Defender, and  
Sean Kevin Gravel, Assistant Public  
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,  
Tallahassee, and Andrea K. Totten,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Duane Michael Cottier appeals his judgment and sentence for one count of grand theft of \$100,000 or more, a first-degree felony, and twelve counts of misapplication of funds. We affirm his judgment without further discussion, but we must reverse the cost portion of his sentence because neither the State Attorney's Office, nor his court-

appointed attorneys, requested more than the statutory amounts set forth in sections 938.27(8), 938.29(1)(a), Florida Statutes (2018).<sup>1</sup> Accordingly, we reverse those portions of his sentence and remand with directions to the trial court to reduce the cost of prosecution and the Public Defender fee to the statutory amount of \$100. See Mills v. State, 177 So. 3d 984, 988 (Fla. 1st DCA 2015) (holding that trial court could not reimpose sheriff's investigative cost on remand because there was no record evidence that state requested the cost (citing DeSalvo v. State, 107 So. 3d 1185, 1187 (Fla. 1st DCA 2013))).

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

LAMBERT, J., and HIGBEE, H.L., Associate Judge, concur.  
JACOBUS, B.W., Senior Judge, concurs and concurs specially with opinion.

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<sup>1</sup> Appellant preserved his claim by filing a timely motion to correct sentence pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). Although Cottier's motion was granted in part, and denied in part, the trial court declined to strike and reduce the cost of prosecution and the Public Defender's fees. The State concedes this error.

I concur with the affirmance of the convictions in this case. However, in my opinion, a 45-year sentence for a non-violent monetary crime is extraordinarily harsh. The defendant scored a minimum sentence of 55.425 months of incarceration on his Criminal Punishment Code scoresheet. To sentence him to what is essentially a life sentence is a manifest injustice. I would hope that if the defendant files a Florida Rule of Criminal Procedure 3.800(c) motion for mitigation of his sentence, the trial judge would give it great consideration.