

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

JORDAN ERIC PRUITT,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D11-2272

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Opinion filed October 2, 2012.

An appeal from the Circuit Court for Duval County.  
Charles Cofer, Judge.

Jeffrey E. Lewis, General Counsel, Office of Criminal Conflict, and Sheila Callahan, Assistant Regional Conflict Counsel, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Thomas H. Duffy, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

This is an appeal in which the Office of Criminal Conflict and Civil Regional Counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). We affirm the appellant's conviction and sentence with the exception of certain costs imposed. We also strike the order imposing restitution.

We strike the \$150 indigent legal assistance lien imposed, because the Appellant was not given notice of his right to a hearing to contest the amount of this lien. See Fla. R. Crim. P. 3.720(d)(1) (“Notice of the accused's right to a hearing to contest the amount of the lien shall be given at the time of sentence.”); McCarthan v. State, 2012 WL 2549847 (Fla. 1st DCA July 3, 2012) ([W]e strike the \$100 indigent legal assistance lien imposed, since the appellant was not given notice of his right to a hearing to contest the amount of this lien.”). On remand, if the trial court wishes to impose the public defender fee it must advise the appellant of its intent to do so and his right to a hearing to contest imposition of that fee. See Vaughn v. State, 65 So. 3d 138 (Fla. 1st DCA 2011).

Furthermore, we strike the \$100 “Sheriff’s Investigatory Cost” as it was not requested by the state. See Parker v. State, 44 So. 3d 1190 (Fla. 1st DCA 2010) (“With respect to the investigatory costs, there is no record indication that the State requested or demonstrated these costs as required under the statute. Accordingly, the Sheriff's Investigatory Cost . . . must be stricken.”); Hills v. State, 37 Fla. L. Weekly D1472 (Fla. 1st DCA June 21, 2012) (“Because section 938.27(8) does not pertain to ‘investigative costs’ of law enforcement agencies such as the Sheriff’s Office, the requirement that such costs be requested on the record and subjected to argument regarding the amount remains.”). On remand, the state may not seek to

reimpose these costs because they were not requested. See Vaughn v. State, 65 So. 3d 138 (Fla. 1st DCA 2011).

Additionally, we strike the imposition of the \$20 cost imposed pursuant to section 938.06, Florida Statutes (2010), because no fine was imposed. See Pullam v. State, 55 So. 3d 674 (Fla. 1st DCA 2011). Finally, we strike the order imposing restitution in this case as restitution was never orally pronounced. See Seymore v. State, 667 So. 2d 408 (Fla. 4th DCA 1996). Accordingly, we AFFIRM the appellant's judgment and sentence in part, but we REVERSE AND REMAND in part for proceedings consistent with this opinion.

WOLF, VAN NORTWICK, and LEWIS, JJ., CONCUR.