

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-825

SHAWN ALLEN MAYHUGH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Santa Rosa County.
J. Scott Duncan, Judge.

March 30, 2022

PER CURIAM.

In this direct appeal from judgment and sentence, Appellant challenges only the trial court's imposition of a \$200.00 discretionary fine under section 775.083, Florida Statutes, and an attendant \$10.00 surcharge under section 938.04, Florida Statutes. We affirm Appellant's two convictions, but reverse his sentence to the extent it imposes the \$200.00 fine and \$10.00 surcharge, since the trial court failed to announce the legal basis for the discretionary fine at sentencing as required under this Court's precedent. *See Oliver v. State*, 75 So. 3d 349, 350 (Fla. 1st DCA 2011) (holding that "[t]he trial court improperly imposed fines and costs by failing to provide the statutory authority for the discretionary fines at sentencing and by failing to provide an

explanation as to what the costs represent”); *see also Williams v. State*, 82 So. 3d 186, 187 (Fla. 1st DCA 2012) (holding that when a trial court imposes a discretionary fine, the court is required to announce the discretionary nature of the fine at sentencing); *Smiley v. State*, 704 So. 2d 191, 194-95 (Fla. 1st DCA 1997) (holding that trial court erred when it “imposed a lump sum of \$1,500.00 in ‘court costs and fines’ without delineating its statutory authority and what specifically this sum comprises”). Because the fine was erroneously imposed, so too was the surcharge. *See Nix v. State*, 84 So. 3d 424, 426 (Fla. 1st DCA 2012). Accordingly, we remand to the trial court for resentencing on the discretionary fines issue, following the proper procedural safeguards.

AFFIRMED in part, REVERSED in part, and REMANDED for further proceedings consistent with this opinion.

MAKAR, BILBREY, and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Maria I. Suber, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Benjamin L. Hoffman, Assistant Attorney General, Tallahassee, for Appellee.