

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-3813

BETTIE JO GRIMES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the County Court for Bay County.
Shane R. Vann, Judge.

August 31, 2022

PER CURIAM.

Appellant's counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and this Court has conducted its required review. See Fla. R. App. P. 9.140(g)(2)(A); *Anders*, 386 U.S. at 738; *State v. Causey*, 503 So. 2d 321 (Fla. 1987). Our review reveals that sentencing errors may exist.

First, the court orally stated Appellant's probation would terminate when Appellant completed probation conditions. The written judgment and sentence, however, does not contain that language. A sentencing order that does not match the oral pronouncement is a "sentencing error" that can be raised by a

3.800(b) motion. *See Jackson v. State*, 983 So. 2d 562, 572 (Fla. 2008).

Second, the record appears to show \$502 of costs, fees, and surcharges that we can determine represent mandatory costs—which can be imposed without being specifically orally pronounced. *See Nix v. State*, 84 So. 3d 424, 426 (Fla. 1st DCA 2012). The remaining \$398, however, was not delineated at all, and is only described (in the Bay County Clerk’s payment transcript) as “ct cost and fine—statute.” That does not appear to provide this Court a meaningful way to determine what that \$398 represents. *See Smiley v. State*, 704 So. 2d 191, 194–95 (Fla. 1st DCA 1997) (explaining criminal costs and fines “must be specifically authorized by statute, and it is error to impose costs without reference to statutory authority or an explanation in the record as to what the costs represent”).

Accordingly, on the Court’s own motion and pursuant to Florida Rule of Appellate Procedure 9.140(g)(2)(B), the initial brief filed April 8, 2022, is stricken in order to permit counsel for Appellant to file a motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). Counsel shall file the motion with the lower tribunal within twenty days of the date of this order, and the lower tribunal shall resolve the motion in accordance with rule 3.800(b)(2)(B). The clerk of the lower tribunal shall then transmit a supplemental record on appeal pursuant to Florida Rule of Appellate Procedure 9.140(f)(6). Counsel shall file an amended initial brief within twenty days following transmittal of the supplemental record. *See Clark v. State*, 223 So. 3d 1126, 1126–27 (Fla. 1st DCA 2017).

KELSEY, WINOKUR, and M.K. THOMAS, 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 Lori A. Willner, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, Tallahassee, for Appellee.