

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

JOSEPH ALEXIS,
Appellant,

v.

STATE OF FLORIDA & FORT PIERCE POLICE DEPARTMENT,
Appellees.

No. 4D08-3623

[July 22, 2009]

PER CURIAM.

Appellant, Joseph Alexis appeals from an order denying his motion for return of certain property that was confiscated from him at the time of his arrest. The trial court granted his motion except for that portion concerning the return of confiscated currency. The trial court denied the motion as to the currency and ordered the Fort Pierce Police Department to remit to the clerk of the circuit court the sum of \$575 representing mandatory court costs (“mandatory costs”) and \$500 representing an appellate filing fee and transcript costs for an appeal previously filed by the appellant (“appellate costs”).

At the sentencing hearing, at which time the trial court initially imposed the mandatory costs, the appellant failed to object when the mandatory costs were announced in open court and he filed no motion pursuant to Florida Rule of Criminal Procedure 3.800(b) in that regard. Accordingly, this issue is not preserved for appellate review. *See Sanders v. State*, 710 So. 2d 1052 (Fla. 1st DCA 1998).

With respect to the appellate costs, we agree with appellant’s argument because such items are discretionary in nature and as a result, the court should have given the defendant notice and an opportunity to be heard which it did not do. As such, this matter is remanded to the trial court with instructions to enter an order requiring the return of the appellant’s appellate costs totaling \$500. Alternatively, the trial court may reimpose the appellate costs if the requirements of documentation, notice and opportunity for the appellant to be heard are met. *See Gilchrist v. State*, 938 So. 2d 654 (Fla. 4th DCA 2006).

Reversed in part and remanded.

GROSS, C.J., WARNER and CIKLIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Cynthia L. Cox, Judge; L.T. Case No. 562005CF002180A.

Joseph Alexis, Zephyrhills, pro se.

Bill McCollum, Attorney General, Tallahassee, and Joseph A. Tringali, Assistant Attorney General, West Palm Beach, for appellee State of Florida.

Not final until disposition of timely filed motion for rehearing.