

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2011*

**ARTHUR L. SIMS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D09-3274

[March 23, 2011]

PER CURIAM.

Appellant, Arthur Sims, argues that his trial counsel was ineffective in two respects and that the trial court erred in imposing a public defender fee without advising Sims of his right to contest the amount. We affirm Sims's conviction in this direct appeal because his arguments that his counsel was ineffective are not apparent on the face of the record. See *Aversano v. State*, 966 So. 2d 493, 494-95 (Fla. 4th DCA 2007). We do, however, strike the public defender fee and remand for a hearing for Sims to contest the amount of the public defender fee. See *Johnson v. State*, 944 So. 2d 474, 477 (Fla. 4th DCA 2006) (holding that failure to advise defendant of his right to contest a public defender fee pursuant to Florida Rule of Criminal Procedure 3.720 requires that fee "must be stricken, without prejudice to being reimposed on remand after the proper procedure is followed"). The state concedes the error.

*Affirmed in part; remanded in part.*

POLEN, HAZOURI and CIKLIN, JJ., concur.

\* \* \*

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Indian River County; Robert A. Hawley, Judge; L.T. Case No. 312008CF001298A.

Carey Haughwout, Public Defender, and Gary Lee Caldwell, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Diane F. Medley, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***