

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

J.W.,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D18-2897
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed May 6, 2020.

Appeal from the Circuit Court for Polk  
County; Mark H. Hofstad, Judge.

Howard L. Dimmig, II, Public Defender, and  
Matthew D. Bernstein, Assistant Public  
Defender, Bartow, for Appellant.

Ashley Moody, Attorney General,  
Tallahassee, and Johnny T. Salgado,  
Assistant Attorney General, Tampa, for  
Appellee.

KELLY, Judge.

J.W. appeals from the disposition order that finds he committed the delinquent acts of burglary of a dwelling and petit theft, withholds an adjudication of delinquency, and places him on probation. We affirm the disposition order without

elaboration, but we reverse the order, in part, which imposes \$100 for the services of the public defender under sections 985.033 and 939.29, Florida Statutes (2018).

J.W. filed a motion to correct disposition order under Florida Rule of Juvenile Procedure 8.135(b)(2) challenging the public defender fee. The motion was deemed denied upon the expiration of time for judicial action. We strike the \$100 fee because the trial court failed to give J.W. notice of his right to a hearing to contest the fee when it was imposed at sentencing. See § 939.29(5); Davis v. State, 286 So. 3d 898, 899 (Fla. 2d DCA 2019); Newton v. State, 262 So. 3d 849, 849-50 (Fla. 2d DCA 2018). The court may reimpose the \$100 public defender fee after proper notice and the opportunity for J.W. to be heard on that issue. See Gedehomme v. State, 160 So. 3d 533, 534 (Fla. 2d DCA 2015); Neal v. State, 62 So. 3d 1277, 1277-78 (Fla. 2d DCA 2011).

In his motion, J.W. also challenged the imposition of \$150 for the cost of prosecution. However, because J.W. did not object when the cost was announced at sentencing, the matter was waived for appellate review. See Rivera v. State, 34 So. 3d 207, 209 (Fla. 2d DCA 2010) (holding that a motion to correct sentencing error will not preserve the imposition of prosecution costs for appellate review where the trial court orally pronounces the cost and no objection was raised).

Accordingly, we affirm the disposition order but strike the \$100 public defender fee and remand for further proceedings.

Affirmed in part, reversed in part, and remanded.

BADALAMENTI and ROTHSTEIN-YOUAKIM, JJ., Concur.