

DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

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CHRISTOPHER VANDAWALKER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D18-4977

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December 1, 2021

Appeal from the Circuit Court for Sarasota County; Charles E. Roberts, Judge.

Howard L. Dimmig, II, Public Defender, and Tosha Cohen, Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Lindsay D. Turner, Assistant Attorney General, Tampa, for Appellee.

ON REMAND FROM THE FLORIDA SUPREME COURT

SLEET, Judge.

This case is before us on remand from the Florida Supreme Court, which quashed this court's opinion in *Vandawalker v. State*, 310 So. 3d 483 (Fla. 2020), and remanded it to this court for reconsideration in light of its decision in *State v. J.A.R.*, 318 So. 3d 1256 (Fla. 2021). Although this court originally reversed the imposition of the \$100 statutory minimum public defender fee, the Florida Supreme Court has since held that "[w]hen imposing the statutory minimum, the trial court need not announce the imposition of the public defender's fee or inform the defendant of a right to contest the fee." *J.A.R.*, 318 So. 3d at 1259. Accordingly, we now affirm the imposition of the \$100 public defender fee. On remand, the trial court should reimpose the \$100 public defender fee if it has not already done so. *Vandawalker* need not be present for the reimposition of the fee.

Additionally, as a condition of probation, the trial court ordered *Vandawalker* to pay \$100 for the costs of prosecution. *Vandawalker* preserved this issue in a motion to correct sentencing error pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). As we did in our first opinion, we reverse the imposition of the prosecution costs. The plain language of section 938.27(1), Florida

Statutes (2018), requires that prosecution costs be requested. Since the record contains no such request, we reverse the imposition of the costs of prosecution. *See Davis v. State*, 286 So. 3d 898, 899 (Fla. 2d DCA 2019). The costs may not be reimposed on remand. *See id.*

Affirmed in part, reversed in part, and remanded.

CASANUEVA and SMITH, JJ., Concur.

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Opinion subject to revision prior to official publication.