

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

JAMES THOMAS MARLEY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D21-2071

December 2, 2022

Appeal from the Circuit Court for Polk County; Michael P. McDaniel, Judge.

Howard L. Dimmig, II, Public Defender and Richard P. Albertine, Jr., Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee; and David Campbell, Assistant Attorney General, Tampa, for Appellee.

LABRIT, Judge.

James Thomas Marley appeals his convictions and sentences for battery of a law enforcement officer, resisting a law enforcement officer with violence, and soliciting while obstructing a street. We affirm the convictions and sentences without comment, but we

reverse and remand the Monetary Obligations Order because it exceeds the fine orally imposed at sentencing.

At sentencing, the trial court imposed a \$200 fine for cost of prosecution. However, in the Monetary Obligations Order that followed, the court ordered Marley to pay \$100 in mandatory prosecution costs and \$200 in additional mandatory costs of prosecution, for a total of \$300. Marley filed a motion under Florida Rule of Criminal Procedure 3.800(b)(2) seeking to conform the Monetary Obligations Order to the trial court's oral pronouncement. The State did not oppose Marley's motion, but the trial court did not rule on it within sixty days. As a result, Marley's motion was deemed denied. *See Fla. R. Crim. P. 3.800(b)(2)(B)* ("[I]f the trial court does not file an order ruling on the [rule 3.800(b)(2)] motion within 60 days, the motion shall be deemed denied.").

The trial court's oral pronouncement at sentencing controls over its written order. *Williams v. State*, 957 So. 2d 600, 603 (Fla. 2007). We therefore reverse the Monetary Obligations Order and remand with instructions to conform the order to the fine imposed at sentencing.

Affirmed in part, reversed in part, and remanded with instructions.

KELLY and ATKINSON, JJ., Concur.

Opinion subject to revision prior to official publication.