

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

OTIS WRIGHT,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
)
)
 _____)

Case No. 2D04-1062

Opinion filed November 1, 2006.

Appeal from the Circuit Court
for Pinellas County;
R. Timothy Peters, Judge.

James Marion Moorman, Public
Defender, and Brad Permar,
Assistant Public Defender, Bartow,
for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Donna S. Koch,
Assistant Attorney General, Tampa,
for Appellee.

KELLY, Judge.

Otis Wright appeals from his judgment and sentence for sexual battery
and kidnapping. We find no merit in his arguments on appeal except for his claim that

the trial court improperly assessed additional court costs in the amount of \$150 pursuant to section 939.18(1)(a), Florida Statutes (2004).¹ Section 939.18(1)(b) permits a court to impose this additional court cost if “it finds that the person has the ability to pay the additional assessment.” Because the trial court failed to make the requisite finding, that cost must be stricken from Wright's sentence. On remand, the trial court may again assess this additional cost provided it finds that Wright has the ability to pay it. Accordingly, we reverse the portion of Wright's sentence assessing \$150 in additional court costs. The trial court shall strike this cost from the sentence. We otherwise affirm the judgment and sentence.

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

NORTHCUTT and SALCINES, JJ., Concur.

¹ Wright preserved this argument by filing a rule 3.800(b) motion to correct sentence. The trial court granted the motion in part, but denied Wright's challenge to the imposition of costs.