

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ALFRED M. HOWARD,)	
)	
Appellant,)	
)	
v.)	Case No. 2D04-4151
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed February 10, 2006.

Appeal from the Circuit Court
for Lee County;
James R. Thompson, Judge.

James Marion Moorman,
Public Defender, and
Maureen E. Surber,
Assistant Public Defender,
Bartow, for Appellant.

Charles J. Crist, Jr., Attorney
General, Tallahassee, and
Tonja Rene Vickers,
Assistant Attorney General,
Tampa, for Appellee.

CANADY, Judge.

Alfred M. Howard appeals his conviction and sentence for failure to

register as a sexual offender. We affirm Howard's conviction without comment. However, the State concedes that the trial court erred in imposing \$25 in costs of prosecution because the State failed to document its request for costs. See Hill v. State, 845 So. 2d 310, 310 (Fla. 2d DCA 2003); Tucker v. State, 832 So. 2d 840, 840 (Fla. 2d DCA 2002).

Although Howard did not object at sentencing to the imposition of these costs, he did raise the issue in his motion filed pursuant to Florida Rule of Criminal Procedure 3.800(b). Because the trial court did not rule on the motion within sixty days, it is deemed denied. See Fla. R. Crim. P. 3.800(b)(2)(B); Lopez v. State, 905 So. 2d 1045, 1047 (Fla. 2d DCA 2005).

The State filed a "cost motion" prior to sentencing, but the record contains no evidence supporting the request for costs. Thus, the State failed to meet its burden of demonstrating the amount of costs incurred, as required by section 938.27(4), Florida Statutes (2004).

Accordingly, we strike the \$25 costs of prosecution and remand to the trial court with directions that such costs may be reimposed following the State's production of the required documentation. See Hill, 845 So. 2d at 311; Tucker, 832 So. 2d at 841.

Conviction affirmed; costs award stricken; remanded with instructions.

ALTENBERND and SALCINES, JJ., Concur.