

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

GREGORY D. MOORE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Case No. 2D05-2520

Opinion filed May 12, 2006.

Appeal from the Circuit  
Court for Pinellas County;  
Richard A. Luce, Judge.

James Marion Moorman, Public  
Defender, and John C. Fisher,  
Assistant Public Defender, Bartow,  
for Appellant.

Charles J. Crist, Jr., Attorney  
General, Tallahassee, and  
Marilyn Muir Beccue, Assistant  
Attorney General, Tampa, for  
Appellee.

WHATLEY, Judge.

Gregory D. Moore appeals his conviction and sentence for burglary of a dwelling. We affirm his conviction; however, we reverse and remand his sentence for the circuit court to correct two imposed costs.

While his appeal was pending, Moore filed a motion to correct sentencing error pursuant to Florida Rule of Criminal Procedure 3.800(b)(2) on September 19, 2005. In his motion, Moore challenged his sentence and the imposition of two costs. He argued that the circuit court erred in imposing \$650 in court costs, because the court pronounced court costs of only \$450. Moore also argued that the circuit court erred in imposing \$950 in attorney fees without offering him an opportunity to object to those fees.

The circuit court granted Moore's motion on November 28, 2005. This order was untimely, because it was not entered within sixty days as required by rule 3.800(b)(2). Therefore, the circuit court's order is a nullity and Moore's motion is deemed denied. See Whitmore v. State, 910 So. 2d 308 (Fla. 2d DCA 2005).

On appeal, the State correctly concedes that the court costs should be reduced to \$450 and that the \$950 attorney fee assessment should be stricken. We therefore reverse and remand Moore's sentence for the trial court to correct the assessment of these costs. His sentence is otherwise affirmed.

Accordingly, we affirm Moore's conviction and reverse and remand his sentence for the trial court to reduce court costs to \$450 and strike the attorney fee assessment.

Affirmed in part; reversed for the correction of court costs.

SILBERMAN and WALLACE, JJ., Concur.