

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

LACRECIA AMANDA WHITE,)
)
Appellant,)
)
v.) Case No. 2D08-3608
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Opinion filed December 2, 2009.

Appeal from the Circuit Court for Hillsborough County; Debra K. Behnke, Judge.

James Marion Moorman, Public Defender,
and Robert F. Moeller, Assistant Public
Defender, Bartow, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Helene S. Parnes,
Assistant Attorney General, Tampa, for
Appellee.

LaROSE, Judge.

Lacrezia Amanda White seeks review of an order withholding adjudication, placing her on probation, and imposing certain costs. We affirm except for two imposed costs.

The trial court assessed costs of \$3 under section 938.01 and \$2 under section 938.15, Florida Statutes (2007). These provisions apply only to "convicted persons," with the inapplicable exception of withheld adjudications for certain traffic violations.

Here, the trial court withheld adjudication. Accordingly, these two cost items cannot stand. See Reyes v. State, 655 So. 2d 111, 118 (Fla. 2d DCA 1995) (striking costs imposed upon withhold of adjudication under statute that authorized imposition only upon conviction), superseded by statute, § 938.15, Fla. Stat. (1997), on other grounds as recognized in Waller v. State, 911 So. 2d 226, 227 (Fla. 2d DCA 2005); Knaus v. State, 608 So. 2d 557, 558 (Fla. 2d DCA 1992) (same); see also J.S. v. State, 34 Fla. L. Weekly D1094, at *1 (Fla. 2d DCA May 29, 2009) (striking costs imposed upon withhold of adjudication in juvenile context where statute authorized imposition only upon adjudication).

Judgment and sentence affirmed; specified costs stricken.

WHATLEY and MORRIS, JJ., Concur.