

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Kenneth Wayne Townsend v. State of Florida

Kenneth Wayne Townsend v. State of Florida · No. 5D2024-1379 · Decided July 25, 2025

SUMMARY

The Fifth District Court of Appeal affirmed Kenneth Wayne Townsend’s judgment and sentence in an Anders appeal. It remanded for removal of an unrequested investigation-cost assessment and instructed the trial court to correct the sentencing scoresheet by removing a drug-trafficker enhancement that the court had declined to impose.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Harris, J.; Kilbane, J.; Maciver, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	July 25, 2025
DOCKET	5D2024-1379
DISPOSITION	remanded
PROCEDURAL POSTURE	Anders appeal from a criminal judgment and sentence entered by the Circuit Court for St. Johns County.
PRECEDENTIAL VALUE	published
PARTIES	Kenneth Wayne Townsend v. State of Florida

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- remedies

PRACTICE AREAS

- criminal procedure
- sentencing
- appellate procedure
- criminal costs

QUESTIONS PRESENTED

- Whether the judgment and sentence should be affirmed in an Anders appeal.
- Whether the trial court's final order could include a \$100 cost of investigation that the State did not request and the court did not orally impose.

3. Whether the sentencing scoresheet should include a drug-trafficker sentencing multiplier that the trial court expressly declined to apply.

HOLDINGS

1. A cost of investigation that is not mandated in a minimum amount by statute must be requested and established by the State before it may be assessed; therefore, the final order could not include the unrequested and un orally imposed \$100 cost.
2. The sentencing scoresheet must be corrected to remove a drug-trafficker enhancement when the trial court expressly ruled that it would use the regular sentencing guidelines without that enhancement.

KEY QUOTATIONS

“It is axiomatic that costs not mandated in a minimum amount set by statute will have to be requested—and established—by the State. Because they must be proven, they must be requested.” (at 1)

FACTUAL BACKGROUND

The final order assessed Townsend \$100 as a cost of investigation payable to the St. Johns County Sheriff's Office under section 938.27, Florida Statutes. The State had not requested that cost, and the trial court had not orally imposed it. The sentencing scoresheet also included a drug-trafficker sentencing multiplier even though the trial court stated that it would use the regular guidelines without the enhancement.

PROCEDURAL HISTORY

Townsend appealed his judgment and sentence in an Anders appeal. The Fifth District Court of Appeal affirmed the judgment and sentence but remanded for correction of the charges, costs, and fees order and the sentencing scoresheet.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must enter an amended order/final judgment for charges, costs, and fees omitting the \$100 cost of investigation, and must correct the sentencing scoresheet by removing the drug-trafficker enhancement.

CASES CITED

- Anders v. California, 386 U.S. 738 (1967)
- Parks v. State, 50 Fla. L. Weekly S120, S122 (Fla. June 12, 2025)

OPINION

PER CURIAM.

FIFTH DISTRICT COURT OF APPEAL STATE OF FLORIDA
_____ Case No. 5D2024-1379 L.T. Case No. 2022-CF-001583
_____ KENNETH WAYNE TOWNSEND, Appellant, v. STATE OF
FLORIDA, Appellee. _____ On appeal from the Circuit Court for
St. Johns County. R. Lee Smith, Judge. Jonathan Edwin Mills, Orlando, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Tabitha Mills, Assistant Attorney General, Daytona Beach, for Appellee. July 25, 2025 PER CURIAM. In this Anders 1 appeal, we affirm Kenneth Wayne Townsend’s judgment and sentence.

However, the Order/Final Judgment for Charges, Costs, & Fees includes a \$100.00 “Cost of Investigation to ST JOHNS COUNTY SHERIFF’S OFFICE,” pursuant to section 938.27, Florida Statutes, which the State did not request, and the 1 Anders v. California, 386 U.S. 738 (1967). trial court did not orally impose.

We therefore remand for the trial court to enter an amended order/final judgment for charges, costs and fees that does not include assessment of the cost of investigation. See Parks v. State, 50 Fla. L. Weekly S120, S122 (Fla. June 12, 2025) (“It is axiomatic that costs not mandated in a minimum amount set by statute will have to be requested—and established—by the State.

Because they must be proven, they must be requested.”). As well, Appellant’s scoresheet adds an enhancement (i.e., sentencing multiplier) for drug trafficker, but the trial court orally ruled it was “not going to enhance for the guidelines” and it was “going to utilize the regular guidelines without the enhancement.” We further instruct the trial court to correct the scoresheet by removing the enhancement for drug trafficker.

AFFIRMED and REMANDED with instructions. HARRIS, KILBANE, and MACIVER, JJ., concur. _____ Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331. _____ 2