

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.

OPINION

Kenneth Wayne Townsend v. State of Florida

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