

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH  
DISTRICT

Jude Moise v. State of Florida

Moise · No. 4D2024-2571 · Decided July 9, 2025

SUMMARY

The Florida Fourth District Court of Appeal reversed an order denying the defendant’s Florida Rule of Criminal Procedure 3.800(b)(2) motion to correct sentencing errors. The court directed the circuit court to strike investigative costs that were neither requested nor orally imposed and to reduce prosecution costs to \$100 unless the State seeks and proves a greater amount.

CASE DETAILS

|                       |                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | District Court of Appeal of the State of Florida, Fourth District                                                                                                       |
| WRITING FOR THE COURT | Gerber, J.; Damoorgian, J.; Levine, J.                                                                                                                                  |
| JURISDICTION          | Florida District Court of Appeal, Fourth District                                                                                                                       |
| DECIDED               | July 9, 2025                                                                                                                                                            |
| DOCKET                | 4D2024-2571                                                                                                                                                             |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                   |
| PROCEDURAL POSTURE    | Defendant appealed the circuit court's order denying his Florida Rule of Criminal Procedure 3.800(b)(2) motion to correct sentencing errors. The State confessed error. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                               |
| PARTIES               | Jude Moise v. State of Florida                                                                                                                                          |

TOPICS

- sentencing criminal procedure appellate procedure remedies

PRACTICE AREAS

- criminal procedure sentencing appellate procedure remedies

QUESTIONS PRESENTED

1. Whether investigative costs may be imposed when the State did not request them before judgment.

2. Whether the written prosecution-cost assessment could exceed the \$100 amount orally pronounced by the circuit court without a proper request and supporting findings.

## HOLDINGS

1. Investigative costs cannot be imposed when the State fails to request them before judgment, and the State is not entitled to a second opportunity to request them on remand.
2. The written prosecution-cost assessment must be reduced to the orally pronounced \$100 unless the State seeks and proves a greater amount and sufficient findings support the additional costs.

## KEY QUOTATIONS

*“We remand for the circuit court to enter an amended written costs order imposing zero for investigative costs and \$100 for prosecution costs, unless the state seeks and proves a greater amount for prosecution costs only.”*

## FACTUAL BACKGROUND

The circuit court's written costs order assessed \$50 in investigative costs even though the State had not requested those costs before judgment and the court had not orally imposed them. The written order also imposed \$200 in prosecution costs although the court had orally pronounced \$100. Moise challenged both sentencing-related costs in a Rule 3.800(b)(2) motion, and the State conceded error on both grounds.

## PROCEDURAL HISTORY

The Circuit Court for the Nineteenth Judicial Circuit in St. Lucie County denied Moise's Rule 3.800(b)(2) motion challenging written investigative and prosecution costs. On appeal, the State conceded that the written costs order improperly imposed \$50 in investigative costs without a State request and imposed \$200 in prosecution costs after the court orally pronounced \$100. The Fourth District agreed and reversed and remanded with directions.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The circuit court must enter an amended written costs order imposing zero investigative costs and \$100 in prosecution costs, unless the State seeks and proves a greater amount for prosecution costs only.

## CASES CITED

- McNaughton v. State, 369 So. 3d 304 (Fla. 4th DCA 2023)
- Richards v. State, 288 So. 3d 574, 576-577 (Fla. 2020)
- Desrosiers v. State, 286 So. 3d 297, 300 (Fla. 4th DCA 2019)
- Bartolone v. State, 327 So. 3d 331, 336 (Fla. 4th DCA 2021)

## OPINION

Jude Moise v. State of Florida

PER CURIAM.

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FOURTH DISTRICT

JUDE MOISE,

Appellant, v.

STATE OF FLORIDA,

Appellee. No. 4D2024-2571 [July 9, 2025] Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Michael J. Linn, Judge; L.T. Case No. 2023CF000102A. Daniel Eisinger, Public Defender, and Ian Seldin, Assistant Public Defender, West Palm Beach, for appellant. James Uthmeier, Attorney General, Tallahassee, and Lindsay A. Warner, Senior Assistant Attorney General, West Palm Beach, for appellee.

### ON CONFESSION OF ERROR

GERBER, J. The defendant appeals from the circuit court's order denying the defendant's Florida Rule of Criminal Procedure 3.800(b)(2) motion to correct sentencing errors. In the motion and in this appeal, the defendant has argued the circuit court's written costs order is erroneous in two respects: (1) by assessing \$50 for investigative costs when the state did not request such costs and the circuit court did not orally impose such costs; and (2) by imposing \$200 for prosecution costs when the circuit court had orally pronounced \$100 for prosecution costs. The state concedes error on both grounds, with which we agree. As we held in *McNaughton v. State*, 369 So. 3d 304 (Fla. 4th DCA 2023): As to investigative costs, our supreme court has held that investigative costs cannot be imposed where the State fails to request such costs before the judgment. See *Richards v. State*, 288 So. 3d 574, 577 (Fla. 2020). In that instance, the State is not entitled to a second opportunity to request investigative costs on remand because section 938.27(1), Florida Statutes (2022), requires that the request be made before judgment is entered. *Richards*, 288 So. 3d at 576–77; see also *Desrosiers v. State*, 286 So. 3d 297, 300 (Fla. 4th DCA 2019). Here, the State did not request investigative costs prior to judgment. We therefore reverse and remand with instructions to strike the investigative costs. Under *Richards*, the State cannot request investigative costs on remand. Turning to prosecution costs, we have explained that reversal of prosecution costs above the statutory minimum ... is warranted when the State fails to request a higher amount. *Bartolone v. State*, 327 So. 3d 331, 336 (Fla. 4th DCA 2021). However, even post-*Richards*, when courts have imposed additional prosecution costs without request, we have remanded with instructions to either impose the statutory minimum “or to impose additional costs if sufficient findings are made.” *Id.*

369 So. 3d at 306 (other internal citations omitted).

Consistent with *McNaughton*, we reverse the circuit court's order denying the defendant's rule 3.800(b)(2) motion and the circuit court's written costs order to the extent argued herein. We

remand for the circuit court to enter an amended written costs order imposing zero for investigative costs and \$100 for prosecution costs, unless the state seeks and proves a greater amount for prosecution costs only. Reversed and remanded with directions. DAMOORGIAN and LEVINE, JJ., concur. \* \* \* Not final until disposition of timely filed motion for rehearing.

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