

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Kelvin Berrios v. State of Florida

Berrios · No. 5D2024-2361 · Decided July 25, 2025

SUMMARY

The Fifth District Court of Appeal of Florida affirmed Kelvin Berrios’s judgments and sentences in an Anders appeal. It remanded the cases for the trial court to reduce prosecution costs from \$150 to the statutory minimum of \$100 per felony case because the State did not establish that higher costs were incurred.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Chief Judge Jay; Judge Kilbane; Judge Pratt
JURISDICTION	Fifth District Court of Appeal of Florida
DECIDED	July 25, 2025
DOCKET	5D2024-2361
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anders appeal from judgments and sentences entered by the Circuit Court for Sumter County.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Kelvin Berrios v. State of Florida

TOPICS

- appellate procedure
- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal appellate procedure
- criminal costs

QUESTIONS PRESENTED

- Whether the trial court properly imposed \$150 in prosecution costs in each felony case without proof establishing higher costs than the statutory minimum.
- Whether Berrios's judgments and sentences should otherwise be affirmed in the Anders appeal.

HOLDINGS

1. Under section 938.27(8), Florida Statutes, prosecution costs in a felony case must be set at no less than \$100, and a higher amount may be imposed only upon a showing of sufficient proof of higher costs incurred. Because the State presented no such proof, the \$150 awards were improper and had to be reduced to \$100 in each case.
2. The court affirmed Berrios's judgments and sentences, subject only to the remand for correction of prosecution costs.

KEY QUOTATIONS

“Costs for the state attorney must be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged The court may set a higher amount upon a showing of sufficient proof of higher costs incurred.” (at 2)

FACTUAL BACKGROUND

The trial court imposed \$150 in prosecution costs in each of Berrios's two felony cases after the State requested that amount. The record contained no evidence establishing that prosecution costs higher than the statutory minimum had been incurred.

PROCEDURAL HISTORY

Berrios appealed his judgments and sentences in an Anders appeal. The Fifth District Court of Appeal affirmed the judgments and sentences but remanded for correction of the prosecution costs imposed in each case.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand to the trial court to reduce the prosecution costs imposed in each case to \$100, the standard minimum amount for felony charges under section 938.27(8), Florida Statutes.

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. 5D2024-2361 LT Case Nos. 2023-CF-001470 2023-
CF-001472 _____ KELVIN BERRIOS, Appellant, v. STATE OF

FLORIDA, Appellee. _____ On appeal from the Circuit Court for Sumter County. David B. Eddy, Judge. Matthew J. Metz, Public Defender, and Andrew Mich, Assistant Public Defender, Daytona Beach, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Kristen Davenport, Assistant Attorney General, Daytona Beach, for Appellee. July 25, 2025 PER CURIAM. In this Anders 1 appeal, we affirm Kelvin Berrios's judgments and sentences but remand for the trial court to reduce the 1 Anders v. California, 386 U.S. 738 (1967). prosecution costs to the minimum amount authorized under section 938.27(8), Florida Statutes (2024).

Section 938.27(8) requires a trial court to set prosecution costs at standardized amounts unless increased costs are established: Costs for the state attorney must be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged....

The court may set a higher amount upon a showing of sufficient proof of higher costs incurred. § 938.27(8), Fla. Stat. The minimum costs must be imposed even absent a request by the State. See Parks v. State, 50 Fla. L. Weekly S120, S122 (Fla. June 12, 2025).

Here, the State requested, and the trial court awarded, \$150 in prosecution costs in each case, but nothing was presented to demonstrate higher costs were incurred in either case. See id. at S122 (noting higher prosecution costs must be requested and established by the State).

Thus, we remand for the trial court to reduce the imposed prosecution costs in each case to the standard minimum amount for felony charges: \$100. § 938.27(8), Fla. Stat. AFFIRMED; REMANDED with instructions. JAY, C.J., and KILBANE and PRATT, JJ., concur. 2 _____ Not final until disposition of any timely and authorized motion under Fla. R. App.

P. 9.330 or 9.331. _____ 3