

FILED

SID J. WHITE

JAN 23 1999

FLORIDA SUPREME COURT

Chief Deputy Clerk

IN THE
SUPREME COURT OF FLORIDA

MICHAEL W. LOCKE,

Petitioner,

Case No. 94,396

vs.

STATE OF FLORIDA,

Respondent.

REPLY BRIEF OF PETITIONER

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

CAROL ANN TURNER
ASSISTANT PUBLIC DEFENDER
FLORIDA BAR NO. 243663

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ATTORNEY FOR PETITIONER

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REPLY

ISSUE: WHETHER THE FAILURE OF THE TRIAL
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STATUTORILY AUTHORIZED COST
INDIVIDUALLY AT THE TIME OF
SENTENCING CONSTITUTES
FUNDAMENTAL ERROR

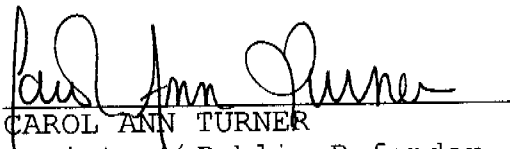
The answer brief filed by Respondent herein comprises two parts: a duplication of the district court's opinion herein (Answer Brief, pps. 6-12); and an argument against the right to appeal fundamental sentencing errors (Answer Brief, pps. 12-15). In response, Petitioner argues that, particularly with respect to *discretionary costs and fees*, the failure to give a criminal defendant notice and an opportunity to be heard violates state and federal constitutional principles of due process, and is thus fundamental error, addressable for the first time on direct appeal.

CONCLUSION

Based on the facts of this case, the rules and statutes cited, the constitutional principles, case law and legal argument presented, petitioner respectfully requests that this Court answer the certified question in the affirmative, disapprove of the decision of the First District Court of Appeal, and remand this case to that court for further consideration.

Respectfully submitted,

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT


A handwritten signature in cursive script, appearing to read "Carol Ann Turner", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to James W. Rogers, Assistant Attorney General, by delivery to The Capitol, Plaza Level, Tallahassee, Florida; and a copy has been mailed to appellant on this 25th day of January, 1999.



CAROL ANN TURNER