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IN THE SUPREME COURT OF FLORIDA

JOURDAN DANIEL PARKS,

Petitioner,

v. Case No. SC23-1355

STATE OF FLORIDA,

Respondent.
_____/

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CERTIFICATE OF SERVICE

I certify that the foregoing was furnished to the following through the Florida Court's e-Filing Portal on December 8, 2023: Kathryn Lane, Esq., at Kathryn.lane@flpd2.com.

CERTIFICATE OF COMPLIANCE

I certify that the foregoing was prepared in Bookman Old Style 14-point font and satisfies the word count limit set forth in rule 9.045, Florida Rules of Appellate Procedure.

Respectfully submitted and certified,

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APPENDIX 1

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-1566

JOURDAN DANIEL PARKS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bay County.
Devin Collier, Judge.

August 2, 2023

OSTERHAUS, C.J.

Jourdan Parks appeals his sentence insofar as the trial court imposed a $100 cost for the state attorney under § 938.27(8), Florida Statutes, without a request from the State. We affirm because the cost for the state attorney is a minimum cost that is mandated by subsection (8) and not an "investigative" cost incurred by an agency, as described in § 938.27(1), which can only be imposed "if requested" by the agency.

I.

Parks entered an open plea and was adjudicated guilty of five charges. He was duly sentenced as a habitual felony offender to 25 years in prison and assessed $1028 in costs and fines, including the minimum $100 state attorney cost of prosecution assessed per

§ 938.27(8). The State did not expressly request that the Court impose this $100 cost and Parks contended that it is therefore prohibited by § 938.27(1). Parks sought to correct this and other alleged sentencing errors below. The trial court partly granted his motion and struck several fees from his sentence, but it found that the $100 cost for the state attorney was properly imposed. Parks then appealed.

II.

"Judicial interpretations of statutes are pure questions of law subject to de novo review." *Williams v. State*, 186 So. 3d 989, 991 (Fla. 2016) (quoting *Johnson v. State,* 78 So. 3d 1305, 1310 (Fla. 2012)). Appellant's "conviction or sentence may not be reversed absent an express finding that a prejudicial error occurred in the trial court." § 924.051(7), Fla. Stat. We find no error here and agree with the State that the $100 minimum cost for the state attorney is mandatory under § 938.27(8) and need not be requested by the State.

Statutory interpretation "begin[s] with the actual language used in the statute." *Williams*, 186 So. 3d at 991 (alteration in original) (quoting *Raymond James Fin. Services, Inc. v. Phillips*, 126 So. 3d 186, 190 (Fla. 2013)). In this case, Appellant begins with § 938.27(1), which provides in part:

> In all criminal and violation-of-probation or community-control cases, convicted persons are liable for payment of the costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. The court shall include these costs in every judgment rendered against the convicted person.

The first sentence of subsection (1) includes "investigative costs incurred by [various agencies]" under the umbrella of "costs of prosecution." It conditions liability for "such agenc[y]" investigative costs on the existence of a request. *Id. See also Richards v. State*, 288 So. 3d 574, 577 (Fla. 2020) (concluding that

§ 938.27(1) requires "that the State's request [for investigative costs] must occur before the judgment is rendered"). This subsection does not state that all costs of prosecution must be requested, for instance, the minimum cost for the state attorney described in § 938.27(8), but only that agency "investigative" costs must be requested. The $100 fee here isn't an agency investigative cost.

Section 938.27(8) establishes a minimum "[c]osts for the state attorney" assessment as a mandatory cost of prosecution. This subsection provides in relevant part:

> 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.

Id. In setting forth the minimum mandatory state attorney cost, subsection (8) does not include a request requirement like the one applicable to agency-investigative costs in subsection (1). And so, the State was not required to request the $100 mandatory state attorney cost before the court assessed it. *See Lippwe v. State*, 152 So. 3d 782, 783 (Fla. 1st DCA 2014) (distinguishing "investigative fees" imposed pursuant to § 938.27(1) that "must be requested on the record by the appropriate agency" from "costs for the state attorney" imposed under subsection (8)); *Hills v. State*, 90 So. 3d 927, 928 (Fla. 1st DCA 2012) (holding that the "costs of the state attorney" referred to in Section 938.27(8) were "mandatory" costs and did not need to be requested by the State).*

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* We recognize that our non-dispositive "Order Striking Anders Brief" issued in *Brown v. State,* 348 So. 3d 31, 33 (Fla. 1st DCA 2022), broadly addressed the request requirement, but under different circumstances. *Brown* involved an undescribed $82 cost assessment, which troubled the court in view of cases requiring specific requests to be made for investigative costs and over-the-minimum prosecution costs. *Id.* (*citing Richards*, 288 So. 3d at 576 (requiring that agency "investigative" costs must be requested); *Jenkins v. State*, 332 So. 3d 1013, 1018 (Fla. 4th DCA 2022) (noting the State's burden to prove costs of prosecution that exceed the statutory minimum); & *Skinkle v. State*, 338 So. 3d 1099, 1100

Finally, we recognize the conflict of district court opinions on this issue. *Compare, e.g., D.L.J. v. State*, 331 So. 3d 227, 228 (Fla. 2d DCA 2021) (requiring $100 state attorney cost to be requested) *with Hills*, 90 So. 3d at 928 (not requiring $100 state attorney cost to be requested), *Wasden v. State*, 342 So. 3d 298, 299 (Fla. 5th DCA 2022) (allowing the trial court to assess a $100 cost of prosecution without a request, but not more than $100), *and Guadagno v. State*, 291 So. 3d 962, 963 (Fla. 4th DCA 2020) (same).

III.

We therefore AFFIRM Appellant's judgment and sentence.

Kelsey and Long, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Kathryn Lane, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Julian E. Markham, Assistant Attorney General, Tallahassee, for Appellee.

(Fla. 5th DCA 2022) (holding that "[t]he trial court erred in assessing investigative costs under section 938.27(1) . . . in the absence of a request from the State")). We therefore struck the Anders brief in *Brown* to allow counsel to seek relief under Florida Rule of Criminal Procedure 3.800(b)(2). Unlike our *Lippwe* and *Hills* cases, the *Brown* order didn't set forth a binding final answer on the issue of whether the $100 mandatory state attorney cost in § 938.27(8) must be specifically requested.