

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2-78.1

IN RE: COSTS, ASSESSMENTS, SURCHARGES AND FINES

WHEREAS, pursuant to §28.246(3), Florida Statutes, “[c]ourt costs, fines, and other dispositional assessments shall be enforced by order of the courts . . .”.

WHEREAS, mandatory costs are not required to be orally announced by the trial court. See Reyes v. State, 655 So. 2d 111, 116 (Fla. 2d DCA 1995); see also Angel v. State, 769 So. 2d 494, 496 (Fla. 4th DCA 2000).

WHEREAS, defendants are inherently on notice regarding statutorily mandated fines and costs. See Long v. State, 540 So. 2d 903, 904 (Fla. 2d DCA 1989). Therefore, the trial court has no discretion regarding imposition of mandatory fines and costs and is not to consider the defendant's circumstances and/or his or her ability to pay when imposing such fines and costs. See Reyes, 655 So. 2d at 116.

WHEREAS, in certain drug trafficking cases, mandatory fines may be reduced or waived if “[t]he state attorney . . . move[s] the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of . . . [§893.135] and who provides substantial assistance in the identification, arrest, or conviction of any of that person’s accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances.” Fla. Stat. §893.135(4).

WHEREAS, it is necessary for the efficient and proper administration of justice to ensure that all statutorily mandated costs, assessments, surcharges and fines are imposed and are reflected in the written judgments and sentences.

It is, therefore,

ORDERED and ADJUDGED that:

1. Imposition of Mandatory Costs, Assessments and Surcharges:

Except as otherwise provided by law, all statutorily mandated costs, assessments and surcharges are to be included in all written judgments and sentences regardless of whether the mandated costs, assessments and surcharges are orally pronounced or waived by the trial judge at sentencing.

2. Imposition of Mandatory Fines:

Except as otherwise provided by law, all statutorily mandated fines shall be included in all written judgments and sentences. If there is a range in the amount of a mandatory fine to be imposed, unless the trial judge imposes a higher fine or reduces or suspends a defendant's fine

pursuant to the state's motion under section 893.135(4), Florida Statutes, or other applicable statute, the statutory minimum mandatory amount of the fine shall be imposed.

3. Imposition of Discretionary Costs and Fines:

Discretionary costs and fines must be orally pronounced at sentencing unless a defendant waives itemization of said costs and fines. See Reyes v. State, 655 So. 2d 111 (Fla. 2d DCA 1995).

4. Conversion of Financial Obligations:

Any financial obligation in any criminal case may be converted "into a court-ordered obligation to perform community service, subject to the provisions of s. 318.18(8), after examining a person under oath and determining the person's inability to pay." Fla. Stat. §938.30.

5. Collection and Distribution of Financial Obligations:

Pursuant to §28.246, Florida Statutes, each clerk is responsible for setting up a system for the collection and distribution of payments of court-related costs, assessments, surcharges, fines, and other monetary penalties.

6. Report to the Chief Judge:

Each judge will ensure that mandatory costs, assessments, surcharges, and fines are not waived unless specifically authorized by law. The clerk will provide a monthly report to the chief judge indicating, by criminal justice division, any case in which any mandatory costs, assessments, surcharges, or fines are waived by the presiding judge. The report will include the name of the defendant, the case number, and the reason for waiver. If all mandatory costs, assessments, surcharges, and fines are assessed in all applicable cases in a criminal justice division, the report should include a statement to this effect.

7. Effective Date:

This administrative order is effective immediately.

DONE and ORDERED on the 3rd day of February, 2016.


DONALD G. JACOBSEN, Chief Judge

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