

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2023-2829
LT Case No. 2018-CF-003171-B

BRIAN PIERRE CONSTANT, III,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Marion County.
Anthony M. Tatti, Judge.

Matthew J. Metz, Public Defender, and Teresa D. Sutton,
Assistant Public Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Robin A.
Compton, Assistant Attorney General, Daytona Beach, for
Appellee.

January 17, 2025

PER CURIAM.

In this *Anders*¹ appeal, we affirm Appellant’s convictions and sentences. However, we reverse the trial court’s imposition of a \$500 fine and surcharge on count three of the indictment.

Appellant was convicted of first-degree murder in count three of the indictment, which is classified as a capital offense under Florida law. Section 775.083(1), Florida Statutes (2018), does not authorize the imposition of a fine on this count. *See* § 775.083(1), Fla. Stat. (“A person who has been convicted of an offense *other than a capital felony* may be sentenced to pay a fine in addition to any punishment” (emphasis added)); *see also Hare v. State*, 687 So. 2d 1371 (Fla. 5th DCA 1997); *Carroll v. State*, 392 So. 3d 1109 (Fla. 5th DCA 2024).

Accordingly, while we affirm the convictions and sentences imposed on each count, we reverse the imposition of the \$500 fine and related surcharge on count three of the indictment, and we remand to the trial court for entry of an amended judgment and sentence consistent with this opinion.

AFFIRMED IN PART; REVERSED IN PART; REMANDED with instructions.

BOATWRIGHT, KILBANE, and PRATT, JJ., concur.

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

¹ *Anders v. California*, 386 U.S. 738 (1967).