

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2025-0188

TYRONE O'NEILL ADDERLEY, JR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
Stephen S. Everett, Judge.

September 23, 2026

WINOKUR, J.

Tyrone O'Neill Adderley, Jr. appeals his judgment and sentence for trafficking in 200 grams or more of methamphetamine and conspiracy to traffic in methamphetamine. We reject Adderley's claims that the court committed reversible error at trial and affirm the judgment of guilt.

Adderley also claims that the written sentencing order improperly deviates from oral pronouncement at sentencing. The written sentencing order imposed \$25,105 "as the 5% surcharge required by § 938.04, F.S." Adderley filed a motion under Florida Rule of Criminal Procedure 3.800(b)(2), noting that the court had orally pronounced at sentencing \$105 as the five percent surcharge required by section 938.04, Florida Statutes, and referring to the

\$25,105 surcharge indicated in the written sentence as a “scrivener’s error.” The court failed to rule on the motion within sixty days, so it was deemed denied. Fla. R. Crim. P. 3.800(b)(2)(B). On appeal, the State concedes error. We disagree that Adderley has shown reversible error.

Section 938.04 imposes, “[i]n addition to any fine for any criminal offense prescribed by law,” an “additional 5-percent surcharge thereon[,]” as a court cost. The funds collected under section 938.04 are deposited in the Crimes Compensation Trust Fund.

When pronouncing Adderley’s sentence, the court ordered \$2,100 “as a fine pursuant to § 775.083,” and “\$105 as to the 5% surcharge required by section 938.04.” One hundred and five is five percent of 2,100. The written sentencing order indicated the same \$2,100 fine, but indicated \$25,105 as the amount due as a result of the surcharge pursuant to section 938.04, instead of \$105.

We disagree that the \$25,105 cost was a “scrivener’s error.” While Adderley acknowledges the \$2,100 fine, he ignores the \$500,000 fine that the court orally pronounced and was indicated on the sentencing order. This fine was imposed pursuant to section 893.135(1)(f)1.c., Florida Statutes (two counts calling for \$250,000 fine each). \$25,105 equals five percent of \$500,000 plus \$2,100. Accordingly, \$25,105 was the proper surcharge imposed pursuant to section 938.04.*

The surcharge imposed under section 938.04 is based on “any fine” and amounts to an additional five percent “thereon[.]” By its terms the surcharge applies to fines imposed under section 893.135(1). *See Altman v. State*, 36 So. 3d 894, 895 (Fla. 4th DCA 2010) (acknowledging the propriety of the section 938.04 surcharge

* At the sentencing hearing, the judge had the clerk read off the costs to be imposed, which included the \$2,100 fine and the \$105 surcharge. The \$500,000 was separately imposed by the judge and not part of the clerk’s list of costs. This discrepancy probably accounts for the announcement of \$105 as the surcharge, rather than \$25,105, which takes the \$500,000 fine into account.

to a fine imposed pursuant to section 893.135, Florida Statutes); *Davis v. State*, 418 So. 3d 863, 864 n.1 (Fla. 6th DCA 2025) (describing the “mandatory” five percent surcharge under section 938.04 on a fine under section 893.135(1)(f)); *Gordon v. State*, 139 So. 3d 958 (Fla. 2d DCA 2014) (noting that a \$500,000 fine required by section 893.135(1) requires a \$25,000 surcharge under section 938.04).

While the \$25,000 surcharge on the \$500,000 fine is legal, Adderley’s specific claim is that it cannot be imposed in the written sentence because it was not orally pronounced. We disagree. We first note that the Fourth District in *Altman* specifically approved the imposition of the surcharge on a section 893.135(1) fine even though it was not orally pronounced, because the surcharge was “mandatory.” *Altman*, 36 So. 3d at 895. This is correct. “Statutorily-mandated costs may be imposed without notice and, thus, need not be specifically pronounced at the sentencing hearing.” *Nix v. State*, 84 So. 3d 424, 426 (Fla. 1st DCA 2012). Section 938.04 is classified in Chapter 938 of the Florida Statutes under “Part I – Mandatory Costs in All Cases[.]” Accordingly, the court did not err in imposing the mandatory \$25,000 surcharge to the mandatory \$500,000 fine, in spite of the failure to pronounce it at sentencing. We affirm the imposition of the \$25,105 surcharge.

AFFIRMED.

ROWE and M.K. THOMAS, 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 Ross S. Haine II, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and David Welch, Assistant Attorney General, Tallahassee, for Appellee.