

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2024-2944

ALEXANDER ESTRADA,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Hamilton County.
Melissa G. Olin, Judge.

October 21, 2026

RAY, J.

Alexander Estrada appeals two aspects of the sentence imposed after his conviction for unlawful sexual activity with a minor. He challenges his designation as a habitual felony offender and the requirement that he pay for electronic monitoring while on sex offender probation. We affirm.

I. Habitual Felony Offender Designation

Relying on *Erlinger v. United States*, 602 U.S. 821 (2024), Estrada argues that a jury—not the trial court—was required to find beyond a reasonable doubt the facts supporting his habitual felony offender designation. He contends that the trial court’s findings violated his federal and state constitutional rights to due process and a jury trial.

Estrada did not ask the jury to determine his habitual offender status. Nor did he object when the State presented its evidence or the trial court made the required findings. Defense counsel instead asked the court not to impose the enhanced statutory maximum. While this appeal was pending, Estrada first asserted in a motion under Florida Rule of Criminal Procedure 3.800(b)(2) that the jury had to make those findings.

That motion did not preserve the issue. A claim that a jury, rather than a judge, had to make the findings supporting an enhanced sentence challenges the sentencing process, not the resulting sentencing order. It therefore may not be raised for the first time under rule 3.800(b) and must instead be preserved by a contemporaneous objection. *Shinault v. State*, 51 Fla. L. Weekly D1390, D1391, 2026 WL 1968382, at *2 (Fla. 1st DCA July 8, 2026); *see also Jackson v. State*, 983 So. 2d 562, 572–74 (Fla. 2008).

Even if the claim were preserved, it would not warrant relief. Errors under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and its progeny are subject to harmless error review. *Galindez v. State*, 955 So. 2d 517, 521 (Fla. 2007). Under that standard, we ask “whether the record demonstrates beyond a reasonable doubt that a rational jury would have found” the facts necessary to designate Estrada a habitual felony offender. *Id.* at 523. We consider the weight of the evidence, including any conflicting evidence or credibility concerns. *State v. Manago*, 375 So. 3d 190, 199 (Fla. 2023).

At sentencing, the State introduced certified judgments and sentences establishing multiple prior felony convictions and fingerprint evidence identifying Estrada as the person convicted. Department of Corrections records showed that he was released from prison on February 19, 2020, and clemency records showed that none of the convictions had been set aside. The present offense was committed between May 31, 2021, and May 2, 2022—well within the statutory five-year period. *See* § 775.084(1)(a)1.–5., (5), Fla. Stat. Defense counsel conceded that he could not dispute the facts the State had established, and Estrada identifies no conflicting evidence or credibility concern.

On this record, a rational jury would have made the required findings beyond a reasonable doubt. Any error in failing to submit

those facts to the jury was therefore harmless. We affirm Estrada’s habitual felony offender sentence without deciding whether *Erlinger* requires a jury to make the supporting findings.

II. Electronic Monitoring Costs

Estrada also challenges the portions of special conditions 10 and 38 of his written probation order requiring him to pay for electronic monitoring. The trial court orally imposed electronic monitoring as a special condition of probation but did not state that Estrada would be responsible for its cost.

Estrada asks us to strike the payment requirement because the trial court did not pronounce it at sentencing. But a condition of probation authorized or mandated by statute may be included in a written order even if it was not orally pronounced. *See State v. Hart*, 668 So. 2d 589, 592 (Fla. 1996). The statute itself supplies constructive notice of the condition and an opportunity to object to its imposition. *Id.*; *see also Frank v. State*, 391 So. 3d 918, 920 (Fla. 4th DCA 2024) (holding that the statutory obligation to pay supervision costs need not be orally pronounced).

The payment obligation here is statutory. Section 948.11(5) provides that a person electronically monitored by the Department of Corrections as a result of being placed on supervision “shall pay the department for the electronic monitoring services as provided in s. 948.09(2).” § 948.11(5), Fla. Stat. (2024). Section 948.09(2), in turn, caps the payment rate at the full cost of monitoring and authorizes the Department to exempt a person from all or part of that payment if a factor listed in subsection (3) exists. Subsection (3) further provides that failure to make a required payment may constitute a ground for revocation of supervision. § 948.09(2)–(3), Fla. Stat. (2024).

Together, these provisions make payment a statutory consequence of electronic monitoring by the Department. Once the trial court imposed electronic monitoring, the payment obligation followed by operation of law, subject to the Department’s exemption authority. The trial court was not required to pronounce that obligation separately.

That leaves Estrada’s reliance on *Lavender v. State*, 203 So. 3d 969 (Fla. 2d DCA 2016). There, the Second District concluded that the cost of electronic monitoring should have been orally pronounced because there was “no statutory authority for requiring a probationer to pay for such monitoring.” *Id.* at 971. But *Lavender* ultimately affirmed on an independent ground and did not address sections 948.09(2) or 948.11(5), both of which were then in effect and expressly addressed payment for electronic monitoring. *Lavender* therefore does not answer the statutory question before us.

AFFIRMED.

LEWIS 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 Kathryn Lane, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Amanda Bosman, Assistant Attorney General, Tallahassee, for Appellee.