

No. 1-10-0252

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23 (e) (1).

SIXTH DIVISION  
APRIL 29, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 98 CR 3842
	)	
CHRISTOPHER PARKER,	)	The Honorable
	)	Dennis J. Porter,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE ROBERT GORDON delivered the judgment of the court.  
Justices Cahill and McBride concurred in the judgment.

**O R D E R**

*HELD:* Where supreme court rejected due process and equal protection claims regarding the imposition of fees and costs for frivolous post-conviction filings, defendant's challenge to those charges was rejected; the circuit court's order was affirmed.

Defendant Christopher Parker appeals the circuit court's order denying him leave to file a successive post-conviction petition and ordering him to pay \$105 in fees and costs pursuant

to section 22-105 of the Code of Civil Procedure (the Code) (735 ILCS 5/22-106 (West 2006)) for filing a frivolous petition. On appeal, defendant contends that monetary assessment violated his rights to due process and equal protection. We affirm.

Following a jury trial in 2002, defendant was convicted of the first degree murder and aggravated battery of a child in the death of his two-year-old son. Defendant was sentenced to 55 years in prison. On direct appeal, this court affirmed. *People v. Parker*, No. 1-03-1000 (2005) (unpublished order under Supreme Court Rule 23). In 2006, defendant filed a petition for relief pursuant to the Post-Conviction Hearing Act (725 ILCS 5/122-1 et seq. (West 2004)), which was summarily dismissed. The circuit court also assessed defendant \$105 in costs and fees under section 22-105 for filing a frivolous pleading.

On July 23, 2009, defendant sought leave to file a successive post-conviction petition. The circuit court denied defendant leave to file his successive petition and again assessed \$105 in fees and costs against defendant pursuant to section 22-105.

On appeal, defendant contends the imposition of fees and costs under section 22-105 violated his due process and equal protection rights. At the time defendant filed his post-conviction petitions, section 22-105 provided that a prisoner "is responsible for the full payment of filing fees and actual court

costs" if he files a pleading, motion or other filing in post-conviction or other cases and the court "makes a specific finding that the pleading, motion or other filing \*\*\* is frivolous." 735 ILCS 5/22-105 (West 2006).

Defendant argues that provision violates due process by imposing a monetary sanction against indigent prisoners who attempt to fashion a meritorious claim, thus denying them the fundamental right of meaningful access to the courts. He also contends the statute unfairly deters incarcerated prisoners from filing claims but does not similarly penalize those on probation or mandatory supervised release who also might seek post-conviction relief.

Our supreme court recently addressed and rejected these contentions in *People v. Alcozer*, No. 108109 (Ill. March 24, 2011). As to the due process claim, the court concluded the statute did not restrict prisoners' rights to access the court system because the fees were assessed only after a filing was found to be frivolous. *Alcozer*, slip op. at 11. The court applied rational basis review to the defendant's equal protection argument and held the statute met that test because imposing fees and costs for frivolous filings "is rationally related to the legislature's goal of stemming the tide of frivolous filings by prisoners." *Alcozer*, slip op. at 14.

Although *Alcozer* involved an initial post-conviction

petition and the instant case is an appeal from defendant's successive post-conviction petition, the supreme court in *People v. Conick*, 232 Ill. 2d 132, 139 (2008), upheld the application of this statute to a successive post-conviction filing. The court stated that "[f]or the purposes of section 22-105, the status of the petition as either original or successive is not significant." *Conick*, 232 Ill. 2d at 141-42.

Accordingly, the circuit court's order denying defendant leave to file a successive petition and imposing \$105 in fees and costs under section 22-105 is affirmed.

Affirmed.