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SECOND DIVISION
MARCH 15, 2011

1-09-2838

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 08 CR 15183
)	
EUGENE MCGHEE,)	Honorable
)	Rickey Jones,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Karnezis and Harris concurred in the judgment.

ORDER

Held: Where defendant was convicted of a felony under the Controlled Substances Act, he was properly assessed the \$25 court services fee and the \$10 arrestee's medical costs fund fee; but was not properly assessed the \$5 court system fee, or the \$500 cannabis fine.

Following a bench trial, defendant Eugene McGhee was convicted of possession of a controlled substance and sentenced to 18 months' imprisonment. On appeal, defendant raises no issue concerning the validity of his conviction or sentence, but solely challenges the imposition of four fines and fees.

Defendant first contends, and the State correctly agrees, that this court must vacate the \$5 court system fee (55 ILCS 5/5-1101(a) (West 2008)) because he was not convicted of a vehicular violation and the plain language of the statute shows that this fee may be imposed only for violations of provisions which are not at issue here. See *People v. Williams*, 394 Ill. App. 3d 480, 483 (2009)

(finding the court system fee applies only to vehicle offenses and vacating its imposition where the defendant was convicted of being an armed habitual offender).

Second, defendant contends that this court should vacate the \$25 court services assessment (55 ILCS 5/5-1103 (West 2008)) because it applies only to certain types of criminal convictions, and not to a conviction for possession of a controlled substance. The State, however, contends that a plain reading of the statute indicates that the charge applies to *all* criminal cases. We agree with the State.

Section 5-1103 provides, in pertinent part, that:

"In criminal, local ordinance, county ordinance, traffic and conservation cases, such fee shall be assessed against the defendant upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision, or sentence of probation without entry of judgment pursuant to [certain enumerated criminal statutes]." 55 ILCS 5/5-1103 (West 2008).

Contrary to defendant's argument, a plain reading of this statute does in fact indicate that the charge applies to *all* judgments of conviction. See *People v. Williams*, No. 1-09-1667, slip op. at 10-11 (Ill. App. Dec. 2, 2010) (indicating that the court services fee is mandatory upon finding of guilt). Here, that section applies because defendant was convicted of possession of a controlled substance following a bench trial and was subsequently sentenced to 18 months' imprisonment. Therefore, defendant's \$25 court services fee is affirmed.

Third, defendant contends that the \$10 arrestee's medical costs fund fee (730 ILCS 125/17 (West 2006)) was unauthorized because there was no evidence that he suffered any injury during his arrest or that Cook County incurred any expense relating to any medical treatment for him.

We initially note that section 17 of the County Jail Act, which authorizes the arrestee's medical costs fee, was amended effective August 15, 2008. See 730 ILCS 125/17 (West 2008)

(amended by P.A. 95-842, § 5, eff. Aug. 15, 2008). Prior to its amendment, section 17 provided that money in the fund was to be used "for reimbursement of costs for medical expenses relating to the arrestee while he or she is in the custody of the sheriff and administration of the Fund." 730 ILCS 125/17 (West 2006). As amended, section 17 provides that money in the fund is to be used "for reimbursement to the county of costs for medical expenses and administration of the Fund." 730 ILCS 125/17 (West 2008).

Defendant's argument in his opening brief was based on the pre-amended version of the statute. However, when the State alleged that the amended version of the statute applied because defendant was sentenced after it took effect, defendant responded that even under the amended version the fee was improperly imposed against him.

This court has rejected the interpretation of the pre-amended statute that the fee could not be assessed unless the particular defendant incurred medical expenses while he was in custody. See *People v. Unander*, 404 Ill. App. 3d 884, 889-90 (2010); *People v. Coleman*, 404 Ill. App. 3d 750, 754 (2010); *People v. Hubbard*, 404 Ill. App. 3d 100, 105-06 (2010); *People v. Evangelista*, 393 Ill. App. 3d 395, 400 (2009); *People v. Jones*, 397 Ill. App. 3d 651, 663 (2009).

Nevertheless, defendant relies on *People v. Cleveland*, 393 Ill. App. 3d 700, 714 (2009), which held that the fee only applies when the arrestee actually incurred medical expenses. Defendant's reliance is flawed because the author of the *Cleveland* opinion subsequently repealed its holding in the *Hubbard* case. *Hubbard*, 404 Ill. App. 3d at 105-06.

Moreover, we conclude that under the amended statute defendant was properly assessed the \$10 arrestee's medical costs fund fee. The amended version provides that the fund may be spent on fund administration and "costs for medical expenses" (730 ILCS 125/17 (West 2008)). Thus, the amended version eliminated any link between the \$10 fee and the individual arrestee's medical expenses. This change undermines defendant's position that the fee was improper where he did not receive medical treatment as a result of his arrest or while he was in custody. See *Unander*, 404 Ill.

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App. 3d at 890 (finding, in *dicta*, that the amendment shows the legislature's intention that the fee be collected regardless of whether a defendant incurs any injury). After examining the pre-amendment statute, the amended statute and relevant case law, we conclude that the \$10 fee authorized by section 17 of the County Jail Act was properly imposed.

Finally, defendant contends, and the State correctly agrees, that the \$500 fine imposed against defendant pursuant to the Cannabis Control Act (720 ILCS 550/10.3 (West 2008)) should be vacated. This statute provides that "[e]very person convicted of the [Cannabis Control Act] *** shall be assessed for each offense a sum fixed at: \$500 for a Class 3 or 4 felony." 720 ILCS 550/10.3 (West 2008). Here, defendant was convicted of violating the Controlled Substances Act, not the Cannabis Control Act, and thus this charge is vacated.

For the foregoing reasons, we vacate the \$5 court system fee and the \$500 cannabis fine, and affirm the \$25 court services fee and the \$10 arrestee's medical costs fund fee.

Affirmed in part and vacated in part.