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2011 IL App (3d) 100010-U

Order filed December 22, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

KAMBALE W. BASOLENE,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 14th Judicial Circuit,
) Rock Island County, Illinois,
)
) Appeal No. 3-10-0010
) Circuit No. 09-CF-344
)
) Honorable
) Raymond J. Conklin,
) Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Wright and Lytton concurred in the judgment.

ORDER

¶ 1 *Held:* This court vacates \$350 of the \$500 penalty assessed against defendant pursuant to section 5-9-1.15 of the Unified Code of Corrections. The judgment is otherwise affirmed.

¶ 2 Defendant, Kambale W. Basolene, was charged with criminal sexual assault (720 ILCS 5/12-13(a)(1) (West 2006)) relating from an incident that occurred on November 24, 2007.

Following a jury trial, defendant was found guilty of the offense. The trial court sentenced defendant to four years' imprisonment, and assessed a mandatory fine of \$500 pursuant to section

5-9-1.15¹ of the Unified Code of Corrections. 730 ILCS 5/5-9-1.15 (West 2008). Defendant appeals, arguing only that the sentencing order should be modified to vacate \$400 of the \$500 sex offender penalty. We vacate \$350 of the \$500 penalty and otherwise affirm the judgment.

¶ 3 Pursuant to section 5-9-1.15(a), an additional penalty of \$500 shall be added to every penalty imposed in sentencing for a sex offense. 730 ILCS 5/5-9-1.15(a) (West 2008). Out of that penalty, the circuit clerk shall retain 10% for deposit into the Circuit Court Clerk Operation and Administrative Fund to cover the costs incurred in administration and enforcement. 730 ILCS 5/5-9-1.15(b) (West 2008). Another \$100 of the penalty shall be remitted to the State's Attorney of the county that prosecuted the case. 730 ILCS 5/5-9-1.15(c) (West 2008). Section 5-9-1.15 went into effect on June 1, 2008.

¶ 4 Initially we note that defendant is correct in stating that the penalty, as a whole, cannot be applied against him because section 5-9-1.15 came into effect after the commission of his crime. See *Collins v. Youngblood*, 497 U.S. 37 (1990). However, the prohibition against *ex post facto* laws applies only to laws that are punitive, not to fees that are compensatory. *People v. Dalton*, 406 Ill. App. 3d 158 (2010). Therefore, we believe that defendant is still responsible for the portion of the penalty that is retained by the circuit clerk and the portion that is remitted to the State's Attorney. See *Dalton*, 406 Ill. App. 3d 158. Thus, \$350 of the \$500 penalty is vacated. The 10% that is retained by the circuit clerk and the \$100 that is remitted to the State's Attorney are affirmed.

¶ 5 CONCLUSION

¹The trial court erroneously cited 5-9-1.14 in its sentence; however, it is clear that the trial court was in fact applying section 5-9-1.15.

¶ 6 The judgment of the circuit court of Rock Island County is affirmed in part and vacated in part.

¶ 7 Affirmed in part and vacated in part.