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2014 IL App (3d) 130293-U

Order filed December 19, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 9th Judicial Circuit, Knox County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-13-0293
RENEE M. MARQUIS,)	Circuit No. 12-CM-396
Defendant-Appellant.)	Honorable Heidi A. Benson, Judge, Presiding.

PRESIDING JUSTICE LYTTON delivered the judgment of the court.
Justices McDade and O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* Cause is remanded for proper judicial entry of written order enumerating financial charges assessed against defendant.
- ¶ 2 Defendant, Renee M. Marquis, was convicted of prostitution (720 ILCS 5/11-14(a) (West 2012)) and ordered by the court to pay certain fines. A cost sheet prepared by the clerk listed numerous monetary charges. Defendant takes issue with the imposition or calculation of a number of these assessments. We remand the matter to the trial court for a proper judicial entry of an order enumerating costs, including citations to the relevant statutory authority.

¶ 3

FACTS

¶ 4

Following a bench trial, defendant was convicted of prostitution (720 ILCS 5/11-14(a) (West 2012)). At sentencing, the parties concurred on a sentence of two years' conditional discharge and 75 hours of community service. The court issued that sentence and ordered defendant to pay court costs. On the signed sentencing order, the court approved the following assessments: "VCVAF, CAC, TC, DC[, and] court fees." On April 17, 2013, defendant filed a motion for new trial. That motion was denied on May 1, 2013.

¶ 5

The record contains a list of 16 assessments applied by the clerk, filed on May 3, 2013. The 16 assessments are: "Clerk Fee," "Bond Proceeds," "Court Automation," "Document Storage Fund," "State's Attorney," "Court Security," "Court Fund-County Fee," "Arrestee's Medical Fee," "Teen Court," "Drug Court Fee," "Knox Cty Child Advocacy Center," "State Police Oper Asst Funds," "Electronic Cit Galesburg," "SA Records Automation Fund," "Probation Additional \$10" and "Victim of Violent Crime."

¶ 6

On appeal, defendant raises a number of issues concerning the charges ultimately assessed. Specifically, defendant contends that the amount of the Violent Crime Victim's Assistance Fund (VCVAF) fine was miscalculated. Defendant also argues that some of the assessments appearing on the cost sheet are fines, not authorized by the trial court, and therefore improperly imposed by the clerk.

¶ 7

ANALYSIS

¶ 8

It is well-settled that the imposition of fines is a judicial act; the imposition of fines by a clerk constitutes an improper delegation of judicial power. *People v. Warren*, 2014 IL App (4th) 120721 (collecting cases). It has been the position of this court that "[a]ny miscalculations with regard to monetary charges are best addressed in the trial court, with both parties present."

People v. Hunter, 2014 IL App (3d) 120552, ¶ 17.

¶ 9 Defendant argues that the VCVAF fine should be in the amount of \$4 for every \$40 in fines imposed, rather than the \$75 applied by the clerk. The State maintains that the \$75 fine was proper. In the present case, unlike *Hunter*, the trial court detailed specific fines to be paid by defendant in a written order bearing the judge's signature. The trial court did not, however, itemize the costs imposed or summarize the total charges due. Because it is unclear based on the record before us exactly what amount the court intended defendant to pay, remand is necessary so that the court may enter a proper order enumerating costs. See *Hunter*, 2014 IL App (3d) 120552, ¶ 12 (remanding where record insufficient to recalculate costs).

¶ 10 Remand will provide the trial court the opportunity to address certain assessments made by the clerk which defendant disputes. While the parties here agree that the clerk improperly imposed the arrestee's medical fee and the State Police Operations Assistance Fund fee, they diverge on whether the clerk may impose the court fund-county fee. The State also now contends that a mandatory community service fee should also be assessed against defendant. Because the cost sheet in this case was filed two days after defendant's motion for a new trial was denied, "neither defendant nor the State had an opportunity to raise any issue with respect to costs as calculated by the circuit clerk." *Hunter*, 2014 IL App (3d) 120552, ¶ 16.

¶ 11 Finally, defendant suggests that the trial court support each of its assessments with the proper statutory authority. See *People v. Higgins*, 2014 IL App (2d) 120888 (requiring trial court to clarify basis of assessment and cite authority). The State does not oppose defendant's request. The State points out that it has "found no interpretation for the 'Electronic Cit Galesburg' \$5.00 fee and cannot determine if the fee was properly assessed by the Circuit Clerk." Citation to proper statutory authority will eliminate any such ambiguity.

¶ 12 We therefore remand the matter to the trial court with directions to review and, if necessary, correct the costs summarized in the clerk's cost sheet, and enter the correct amount of all financial charges in a written order. Each charge should be supported by the relevant statutory authority.

¶ 13 CONCLUSION

¶ 14 The judgment of the circuit court of Knox County is affirmed in part and remanded with instructions.

¶ 15 Affirmed in part and remanded.