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2015 IL App (3d) 130627-U

Order filed April 13, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 10th Judicial Circuit, Peoria County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-13-0627
BRANDON M. COOPER,)	Circuit No. 12-CF-893
Defendant-Appellant.)	Honorable Stephen A. Kouri, Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justices Lytton and O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* Cause is remanded for proper judicial entry of a written order enumerating financial charges assessed against defendant.
- ¶ 2 Defendant, Brandon M. Cooper, was convicted of reckless conduct (720 ILCS 5/12-5(a)(2) (West 2012)). The court's sentencing order indicated that judgment was entered against defendant for costs, but the order did not state a sum certain. A case payments sheet filed months after sentencing showed assessments against defendant in the sum of \$1,200.50. Defendant appeals, arguing that his assessments were improperly imposed by the circuit clerk.

We remand for the proper judicial entry of a written order enumerating financial charges assessed against defendant.

¶ 3

FACTS

¶ 4

Defendant was convicted of reckless conduct (720 ILCS 5/12-5(a)(2) (West 2012)) and sentenced to a term of 5½ years' imprisonment. On the written sentencing order, signed by the trial court, a box is checked indicating that "a judgment be entered against the defendant for costs[.]" The sentencing order also indicates that defendant receive credit for time actually served in custody from August 8 through November 21, 2012, and from June 13, 2013, through the date of his transport to the Department of Corrections (DOC).

¶ 5

Defendant filed a motion to reconsider sentence on August 5, 2013, which was denied that same day. Notice of appeal was filed on August 22, 2013. A case payments sheet was filed on October 23, 2013, itemizing defendant's total costs. The sheet lists each assessment, accompanied by a four-letter code. A key accompanying the sheet clarifies the meaning of some of the four-letter codes. The assessments total \$1,200.50. The case payments sheet is not signed by the trial court and contains no reference to defendant's presentence credit.

¶ 6

ANALYSIS

¶ 7

On appeal, defendant contends that his costs were improperly imposed by the circuit clerk and that he did not receive the \$5-per-day presentence incarceration credit to offset his fines. Defendant also maintains that many of the assessments found on the case payments sheet were miscalculated. The State concedes that defendant's costs were improperly imposed by the circuit clerk and that defendant is entitled to credit against his fines. Accordingly, we remand the matter for proper judicial entry of a written order enumerating financial charges assessed against defendant.

¶ 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). " ' "The clerk of the court is a nonjudicial member of the court and, as such, has no power to impose sentences or levy fines." ' " *People v. Shaw*, 386 Ill. App. 3d 704, 710 (2008) (quoting *People v. Swank*, 344 Ill. App. 3d 738, 747-48 (2003), quoting *People v. Scott*, 152 Ill. App. 3d 868, 873 (1987)). Where a circuit clerk acts beyond his or her authority by imposing a fine, that order is void. See *People v. Gutierrez*, 2012 IL 111590, ¶ 14. A void order may be attacked at any time and in any court, either directly or collaterally. *People v. Thompson*, 209 Ill. 2d 19, 25 (2004).

¶ 9 When assessments are imposed by a circuit clerk, rather than the trial court, the cause should be remanded for proper judicial entry of fines and fees. *E.g.*, *People v. Hunter*, 2014 IL App (3d) 120552, ¶ 17; *People v. Williams*, 2014 IL App (3d) 120240, ¶ 19. This court has consistently found remand to be appropriate because "[a]ny miscalculations with regard to monetary charges are best addressed in the trial court, with both parties present." *Hunter*, 2014 IL App (3d) 120552, ¶ 17.

¶ 10 In the case at hand, the trial court's only reference to defendant's assessments was the checking of a box on the sentencing order. As in *Hunter*, the trial court never entered a written judgment order enumerating a sum certain. *Hunter*, 2014 IL App (3d) 120552, ¶ 17. The calculation of defendant's assessments was apparently completed by the clerk, and reflected in a case payments sheet that does not bear a judicial signature. Indeed, the State concedes that the costs in this case—including a number of fines—were entered by the circuit clerk. Furthermore, because the case payments sheet was issued well after the parties' final appearance before the court, "neither defendant nor the State had an opportunity to raise any issue with respect to costs

as calculated by the circuit clerk." *Id.* ¶ 16.

¶ 11 Certain complexities in the present case further illustrate the need for judicial calculation and entry of fines and fees. Although the parties agree that defendant is entitled to the \$5-per-day presentence incarceration credit (725 ILCS 5/110-14 (West 2012)), the trial court must determine the date of defendant's transport to the DOC in order to calculate the proper amount of credit to which defendant is entitled. Further, defendant points out that the case payments sheet lacks any citation to the statutory authorization for each assessment, and the accompanying key does not contain every code listed on the case payments sheet.

¶ 12 Because we find remand to be the appropriate remedy here, this court need not decide the propriety of each individual assessment. Instead, we remand the matter to the trial court with directions to review and, if necessary, correct the costs summarized in the clerk's case payments 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 case is remanded with instructions.

¶ 15 Remanded with instructions.