

No. 1-09-0132

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).

FIRST DIVISION
March 14, 2011

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. 07 CR 26002
	)	
JOSEPH TURNER,	)	Honorable
	)	John J. Fleming,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Hall and Justice Rochford concurred in the judgment.

ORDER

Held: The court services fee (55 ILCS 5/5-1103 (West 2008)) applies to all criminal convictions.

Following a bench trial, defendant Joseph Turner was found guilty of theft by deception and sentenced to 18 months' probation. Defendant's only contention on appeal is that the trial court improperly assessed a \$15 court services fee against him (see 55 ILCS 5/5-1103 (West 2008)). Defendant contends that

the fee applies only to certain enumerated offenses, which exclude his conviction of theft.

The State responds that under the plain language of the statute, the fee applies to all criminal convictions. We agree with the State.

Section 5-1103 of the Counties Code (Code) (55 ILCS 5/5-1103 (West 2008)) provides that a county board may impose a court services fee to defray court security expenses incurred by the sheriff. In civil cases, each party must pay the fee when filing the first pleading, paper or appearance. In criminal cases, the statute provides that the 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 Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the

Alcoholism and Other Drug Abuse and
Dependency Act, or Section 10 of the Steroid
Control Act." 55 ILCS 5/5-1103 (West 2008).

The cardinal rule of statutory construction is to ascertain and give effect to the intent of the legislature, which is best determined from the language of the statute itself, read as a whole and given its plain and ordinary meaning. *People v. Santiago*, 236 Ill. 2d 417, 428 (2010).

The plain language of section 5-1103 demonstrates that the legislature intended to apply the fee to all criminal convictions and limit its application only with respect to certain cases where a defendant receives probation without entry of judgment. See *People v. Adair*, No. 1-09-2849, slip op. at 21 (Dec. 10, 2010). The legislature's placement of the comma after "supervision" clearly was intended to offset the phrase "probation without entry of judgment." We find that the phrase beginning "pursuant to," therefore modifies only the phrase, "probation without entry of judgment."

Defendant nevertheless seizes upon the one exception, a citation to aggravated battery of a child (720 ILCS 5/12-4.3 (West 2008)), and notes the offense does not result in a sentence of probation without entry of judgment, but a classified conviction. Based on that, he reasons that the fee applies only to the enumerated criminal offenses. We disagree. It is clear

that the legislature has not updated section 5-1103 to comport with the current version of the aggravated battery statute. That statute previously provided for a special penalty provision, a possible term of probation without entry of a judgment of guilt when the aggravated battery was committed by a person engaged in the actual care of the victim child or institutionalized severely or profoundly mentally retarded person. See 720 ILCS 5/12-4.3(b) (West 1994); Pub. Act 89-313, eff. Jan. 1, 1996 (deleting subsection (b)).

Regardless, it would make little sense for the legislature to limit application of the fee to only certain enumerated criminal offenses, yet not do so in civil cases. Defendant's argument therefore has no merit, and we conclude the fee was properly assessed here.

Based on the foregoing, we affirm the judgment of the circuit court of Cook County.

Affirmed.