FOURTH DIVISION
December 22, 2016

No. 1-14-3460

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).

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. 03 CR 8843
	)	
TELVIN SHAW,	)	Honorable
	)	Rosemary Grant Higgins,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court.
Presiding Justice Ellis and Justice Burke concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's judgment summarily dismissing defendant's petition for postconviction relief and ordering assessed filing fees and costs deducted from defendant's prisoner trust fund account is affirmed; defendant's petition, which was supported by an affidavit from an individual who claimed responsibility for the crime for which defendant was convicted, lacks an arguable basis in fact where the affiant was in the custody of the Cook County Department of Corrections at the time of the offense and therefore could not have committed the crime; the trial court properly took judicial notice of court records at the first stage of postconviction proceedings. Court costs, which include filing fees, are statutorily authorized to be deducted from defendant's trust fund account.

¶ 2 In June 2006, defendant, Telvin Shaw, was convicted of first degree murder for the fatal shooting of Joseph Snowden on February 28, 2003. On July 29, 2014, defendant filed a petition for postconviction relief based on a claim of actual innocence. In support of the petition, defendant attached an affidavit by Eric Bernard in which Bernard averred that he shot and killed Joseph Snowden. The circuit court of Cook County summarily dismissed the petition because court records indicated that Bernard was in the custody of the Cook County Department of Corrections on February 28, 2003. The trial court found defendant's petition lacked an arguable basis in fact and, therefore, the petition is frivolous and patently without merit and must be dismissed. For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 We will recount only the pertinent facts developed in the underlying proceedings. Defendant gave a videotaped statement to police following the shooting. Defendant did not testify at his trial. The State played his videotaped statement for the jury.

¶ 5 Defendant stated to police that on the evening of February 28, 2003, he and a friend attended several parties. Defendant brought along a gun for protection. At their final stop of the night defendant saw his friend Marlin arguing with a man defendant did not know. Defendant broke up the argument and left the party. As he was leaving, defendant saw some other friends arguing with a group of men. The group arguing with defendant's friends included the man who had argued with Marlin. Defendant stated that it appeared one of his friends, Cornelius Clinkscales, was about to start fighting with the same man Marlin argued with inside the party. Defendant grabbed Clinkscales and told him to leave because the owner of the house where the party was held had called police to get people to leave the area. Defendant saw the man who had argued with Marlin and almost fought Clinkscales get into a white four-door vehicle with some other people. Defendant started walking to another friend's house. When defendant got to the

corner, he saw the same white four-door vehicle speed up and then slow down near a group of defendant's friends standing in the middle of the street. Defendant saw the back door of the car open as the car continued down the street. Defendant stated that as the car passed him, he pulled out his gun, fired one shot at the car, then put the gun away and continued walking toward his friend's house. The gunshot struck and killed the driver, Joseph Snowden.

¶ 6 The jury found defendant guilty of first degree murder. This court affirmed defendant's conviction for first degree murder on direct appeal from the judgment of conviction. *People v. Shaw*, No. 1-06-2048 (2008) (unpublished order under Supreme Court Rule 23). On March 25, 2009, defendant filed a motion for an extension of time to file a postconviction petition. On April 1, 2009, the trial court denied that motion because defendant failed to give a reason for the delay. On July 29, 2014, defendant filed a petition for postconviction relief based on actual innocence. Defendant labeled the petition as a successive postconviction petition.

¶ 7 Defendant's petition for postconviction relief claimed that defendant is actually innocent of Snowden's murder based on newly discovered evidence in the form of an affidavit by Eric Bernard in which Bernard admitted that he was the actual shooter. Defendant attached Bernard's affidavit to defendant's petition for postconviction relief. Defendant's petition states that defendant "recently obtained" this new evidence. Bernard's affidavit is dated May 2, 2014. In it, Bernard averred that on February 29, 2003,[1] he and his best friend "Marlow"[2] attended a party where defendant was present. "Marlow" started arguing with an unknown male and defendant broke up the argument. Bernard averred that once the party ended the argument between Marlow and the unknown male resumed outside, and defendant once again broke up the

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[1] In 2003, there were only 28 days in February.

[2] Both Bernard and defendant hand-wrote their affidavits, but Bernard appears to have written "Marlow" throughout his affidavit. We note this apparent discrepancy had no bearing on the disposition of this appeal.

argument. Bernard averred that he saw the unknown male get into a white four-door car with some other males. Bernard then retrieved his gun, which he had hidden nearby. Bernard averred he then began to walk toward the corner where several people were "hanging out," including defendant. When Bernard arrived at the corner, he saw the same white four-door car speeding toward the corner, the car started to slow down, and the rear driver's side door began to open. Bernard stated "with no hesitation I pulled out my black .45-caliber handgun and fired a shot at the driver's side of the car." Bernard averred that he walked to the crashed car where he learned he had shot and killed the driver.

¶ 8 Bernard further averred that on the night defendant turned himself in to police, Bernard and Marlow had been in defendant's basement with defendant's family, including a seven-year-old boy. Bernard stated that he and Marlow told defendant that defendant's family would die from torture if defendant failed to comply with their demand that defendant tell police that defendant shot and killed the driver of the white four-door car. Bernard averred he directly threatened an act of violence against the child. Bernard stated he is responsible for the death of the person who died in the white four-door car and he fired the shot. He also stated he is responsible for forcing defendant to confess to a murder defendant did not commit.

¶ 9 Defendant also attached his own affidavit to the petition for postconviction relief. Defendant averred that he "saw fire out the corner of my eye" and he heard the gunshot. Defendant ducked and "looked over to where the gunshot came from" and he saw Bernard (who defendant also referred to by the nickname "Evil") standing next to him with a gun pointing in the direction of the car. Defendant averred he was harassed by police for a few days so he took a trip out of state. When defendant returned, Bernard and Marlon confronted defendant at his home him with guns. Defendant averred he "was terrified for my life [and] the life of my family who was also in the house, so I complied with whatever they told me to do." Bernard and

Marlon asked defendant if defendant had told police that Bernard was the shooter and defendant told them no. Defendant averred that Bernard and Marlon "told me that if I didn't turn myself in [and] confess to the crime [they] would kill me [and] my family." Defendant averred that out of fear he turned himself in to police and confessed to the shooting, but that he did not shoot at the car and he did not have a gun. Defendant concluded his affidavit stating "I did see [Bernard] shoot inside of that car."

¶ 10 The trial court treated the petition as an initial petition for postconviction relief. The court issued a written order summarily dismissing defendant's postconviction petition. The court wrote, in pertinent part, as follows:

> "The court's records show that Eric 'Evil' Bernard has a long criminal history. *** In fact, the court's records show that on the night of the crime, February 28, 2003, Bernard was in the custody of the Cook County Department of Corrections while aggravated battery charges were pending against him in case number 03-CR-03357. Although the defendant in 03-CR-03357 went by the name 'Terrell King,' his internal records (fingerprint) number matches that of the man known in later cases *** as Eric 'Evil' Bernard.
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> Of course, if Bernard was incarcerated in Cook County Jail on the night of February 28, 2003, he could not have been the person who shot Snowden that night. The newly discovered 'evidence' of actual innocence that [defendant] here proffers, far from being 'of such a conclusive character that it would probably change the result on retrial,' could not conceivably change the result on retrial.
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> There is not even an arguable basis in fact for [defendant's] claim of actual innocence. [Defendant's] claim is without merit and must fail."

¶ 11 The trial court assessed filing fees and court costs against defendant, consisting of $90 for filing fees and $15 in mailing costs, and ordered the Illinois Department of Corrections (IDOC) to collect the fees and costs from defendant's prisoner trust fund account pursuant to section 22-105 of the Code of Civil Procedure (Code) (735 ILCS 5/22-105 (West 2014)).

¶ 12 This appeal followed.

¶ 13 ANALYSIS

¶ 14 We begin with the standards applicable to initial postconviction petitions. "The Post-Conviction Hearing Act [(Act)] provides a criminal defendant the means to redress substantial violations of his constitutional rights in his original trial or sentencing. [Citation.]" *People v. Allen*, 2015 IL 113135, ¶ 20. "The [Act] contains a three-stage procedure for relief. [Citation.] Within the first 90 days after the petition is filed and docketed, a circuit court shall dismiss a petition summarily if the court determines it is 'frivolous or is patently without merit.' [Citation.] If the petition is not dismissed as being frivolous or patently without merit, the court then orders the petition to be docketed for further consideration. [Citation.]" *Id.* ¶ 21. "[T]he threshold for a petition to survive the first stage of review is low. [Citation.]" *Id.* ¶ 24. "This low threshold does not excuse the *pro se* petitioner from providing factual support for his claims; he must supply sufficient factual basis to show the allegations in the petition are capable of objective or independent corroboration. [Citation.]" *Id.*

> "Where a petition presents legal points arguable on their merits, it is not frivolous. [Citations.] A petition may be dismissed as frivolous or patently without merit only if the petition has no arguable basis either in law or in fact—relying on an indisputably meritless legal theory or a fanciful factual allegation. [Citation.] Meritless legal theories include ones completely contradicted by the

> record, while fanciful factual allegations may be fantastic or delusional. [Citation.]" *Id.* ¶ 25.

We review a trial court's summary dismissal of a postconviction petition *de novo*. *Id.* ¶ 19.

¶ 15 A. Summary Dismissal of Postconviction Petition

¶ 16 Defendant argues the trial court erred when it dismissed his petition because (1) the petition stated an arguable claim of actual innocence, (2) the factual allegations are not fantastic or delusional, and (3) the supporting evidence is arguably new, material, noncumulative, and likely to change the outcome on retrial. Defendant argues the trial court erred when, at the first stage of postconviction proceedings, it relied on court records which were not contained in the record of proceedings in defendant's case to determine that the petition lacked an arguable basis in fact. The State responds the rule that the trial court may take judicial notice of public documents which are included in the records of other courts "holds true in post-conviction proceedings." Defendant does not argue that Bernard's criminal records are not matters of which the court could take judicial notice under proper circumstances. Defendant argues that here, the court improperly acted in an adversarial capacity and conducted its own investigation, and ultimately relied on information outside the record in this case, "to refute an otherwise arguable clam of actual innocence."

¶ 17 In support of its argument the trial court could take judicial notice of court records in the first stage of postconviction proceedings, the State cited, *inter alia*, this court's decision in *People v. Steward*, 406 Ill. App. 3d 82, 93 (2010). In *Steward*, the day before the defendant was scheduled to be released from prison and to begin a two-year period of mandatory supervised release (MSR), the State filed a petition to have him committed pursuant to the Sexually Violent Persons Commitment Act (Commitment Act), and the court ordered him detained pending the disposition of the petition. *Steward*, 406 Ill. App. 3d at 85. On February 9, 2009, the defendant

filed a petition for postconviction relief. *Id.* at 87. State records showed that the defendant had been discharged from MSR on March 1, 2008, approximately 11 months before he filed his postconviction petition. *Id.* The trial court summarily dismissed the petition in part because, having been discharged from MSR, the defendant did "not have standing to bring his petition because he is not a person imprisoned in a penitentiary within the meaning of the Post-Conviction Hearing Act [citation]." *Id.* at 87. On appeal, the defendant argued that standing is not a permissible ground for summary dismissal of a postconviction petition under section 122-2.1 of the Act (725 ILCS 5/122-2.1 (West 2008)). *Id.* at 88.

¶ 18 In *Steward* this court began with our supreme court's standard for reviewing the summary dismissal of a postconviction petition. *Id.* at 89. Under that standard, the question is whether the defendant's petition had no arguable basis either in law or in fact, *i.e.*, whether it was based on an indisputably meritless legal theory or a fanciful factual allegation. *Id.* (quoting *People v. Hodges*, 234 Ill. 2d 1, 17 (2009)). The defendant in *Steward* argued that the legislature did not intend to encompass standing within the scope of the "frivolous or patently without merit" language. *Id.* The defendant analogized his case to *People v. Boclair*, 202 Ill. 2d 89 (2002), in which out supreme court held that the timeliness of the filing of a postconviction petition is not an element of the "frivolous and patently without merit" language in the Act. *Id.* (citing *Boclair*, 202 Ill. 2d at 100-01). The *Steward* court distinguished standing from timeliness. This court found that, whereas our supreme court found that timeliness "is not an inherent element of the right to bring a postconviction petition" (*id.* at 90 (citing *Boclair*, 202 Ill. 2d at 101), here "the legislature intended that the phrase 'frivolous or *** patently without merit'

encompass the issue of standing." *Id.* at 90.[3] This court concluded that, therefore, the trial court "properly considered the [defendant's] standing at the first stage of the petition because a [defendant's] status as an imprisoned person is inherent to the right to relief under the Act." *Id.* This court relied on IDOC records which showed that the defendant had been discharged from MSR "months before [he] filed his postconviction petition." *Id.* at 93. This court expressly held that it "may take judicial notice of [IDOC] records because they are public documents." *Id.* Because the defendant was not on MSR when he filed the petition, the trial court properly found that the defendant lacked standing under the Act. *Id.* at 94.

¶ 19 In this case, defendant argues *Steward* is distinguishable and does not support the State's argument. Defendant argues that in *Steward*, the court could take judicial notice of the defendant's IDOC records to determine that the defendant did not have standing to seek postconviction relief "because [the defendant's] status as an imprisoned person was inherent to his right to relief;" whereas, in this case, defendant's standing to file a postconviction petition is not at issue. A necessary implication of defendant's argument is that presenting a claim with an arguable factual basis is not "inherent to the right to relief under the Act." Regardless, the basis of the court's decision in *Steward* confirms that for purposes of determining whether the court may take judicial notice of public records, the difference between having standing to file the petition and ensuring the petition has an arguable factual basis is a distinction without a difference. In *Steward*, this court expressly found that standing was encompassed in the "frivolous or patently without merit" language of the Act. *Id.* at 90. There can be no genuine

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[3] The court found that under *Boclair*, merit means legal significance and standing. *Steward*, 406 Ill. App. 3d at 90 (citing *Boclair*, 202 Ill. 2d at 101 (" '[M]erit' means 'legal significance, standing, or importance.' Webster's Third New International Dictionary 1414 (1993); Black's Law Dictionary 1003 (7th ed.1999))."). Thus, "[a] petition filed pursuant to the Act has no merit if filed by an individual who is not imprisoned [(*i.e.* lacks standing)]." *Id.*

dispute that the issue of whether the petition has an arguable basis in fact is encompassed in the frivolous or patently without merit language. *Id.* at 89 (citing *Hodges*, 234 Ill. 2d at 17). Thus, the holding in *Steward* applies in this case. Where the court could look to public records to determine the issue of standing, which is inherent to the right to relief under the Act, so to can the court look to public records to determine the issue of whether the petition has an arguable basis in fact, which is also inherent to the right to relief under the Act. See *Hodges*, 234 Ill. 2d at 11-12 ("we hold today that a *pro se* petition seeking postconviction relief under the Act for a denial of constitutional rights may be summarily dismissed as frivolous or patently without merit only if the petition has no arguable basis either in law or in fact").

¶ 20 We find further support for this holding in this court's decision in *People v. Jones*, 2016 IL App (1st) 123371. In *Jones*, one of the questions addressed was whether the trial court is permitted to consider the underlying record when determining whether leave to file a successive postconviction petition should be granted. *Id.* ¶ 79. Our supreme court had held that leave to file a successive postconviction petition should be denied "when it is clear, from review of the successive petition and the documentation submitted by the petitioner, that the claims alleged by the petitioner fail as a matter of law or where the successive petition with supporting documentation is insufficient to justify further proceedings." (Emphases omitted.) *Id.* ¶ 78 (quoting *People v. Smith*, 2014 IL 115946, ¶ 35). While it was clear the court must consider the *pro se* petition itself and any supporting documentation the defendant provided, the *Smith* court "left open the question of whether we and the trial court may consider the underlying record." *Id.* ¶ 79.

¶ 21 This court held that "[u]ntil our supreme court resolves this issue, we will rely primarily on the petition and its supporting documentation ***." *Id.* ¶ 84. This court added that it would also "take judicial notice of our prior opinions and orders." *Id.* In support, this court cited, *inter*

alia, *BG Limited Partnership*, 276 Ill. App. 3d 720, 724 (1995), for the proposition that a court may properly take judicial notice of publicly available records "where such notice will aid in the efficient disposition of a case" (cited with approval by *Wackrow v. Niemi*, 231 Ill. 2d 418, 421 n. 1 (2008); and *In re McDonald*, 144 Ill. App. 3d 1082, 1084 (1986), for the proposition that a court may take judicial notice of matters of record in other cases in the same court. Thus, even where there was doubt as to the scope of the statutorily authorized inquiry into whether leave to file a successive postconviction petition should be granted, this court held that it may take judicial notice of public records to make that threshold determination. *Jones*, 2016 IL App (1st) 123371, ¶ 84.

¶ 22 We hold that the trial court properly took judicial notice of public records when assessing whether defendant's *pro se* postconviction petition has an arguable basis in fact at the first stage of postconviction proceedings. Defendant does not dispute that Bernard was in the custody of the Cook County Department of Corrections on the night of the offense. Defendant has not directed this court to anything in the record to contradict the trial court's finding. "An appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with the law and had a sufficient factual basis. Any doubts that may arise from the incompleteness of the record will be resolved against the appellant." *Steward*, 406 Ill. App. 3d at 87 (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)). We therefore presume the trial court's order had a sufficient factual basis. The sole claim in defendant's postconviction petition is one of actual innocence based on Bernard being the real shooter. Bernard could not have shot Snowden because Bernard was in jail at the time of the offense. We hold the trial court properly found defendant's *pro se* postconviction petition lacks an arguable basis in fact and, therefore, correctly summarily dismissed the petition. See

Allen, 2015 IL 113135, ¶ 25. Accordingly, the trial court's judgment summarily dismissing defendant's postconviction petition is affirmed.

¶ 23 B. Assessment of Court Costs and Fees

¶ 24 Defendant also argues the trial court lacked the statutory authority to order IDOC to deduct filing fees from his prisoner trust fund account because section 22-105 of the Code only permits IDOC to deduct court costs, and the statute differentiates between filing fees and court costs. Section 22-105 of the Code reads, in pertinent part, as follows:

> "If a prisoner confined in an Illinois Department of Corrections facility files a pleading, motion, or other filing which purports to be a legal document in a case seeking post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963 *** and the Court makes a specific finding that the pleading, motion, or other filing which purports to be a legal document filed by the prisoner is frivolous, the prisoner is responsible for the full payment of filing fees and actual court costs.
>
> On filing the action or proceeding the court shall assess and, when funds exist, collect as a partial payment of any court costs required by law a first time payment of 50% of the average monthly balance of the prisoner's trust fund account for the past 6 months. Thereafter 50% of all deposits into the prisoner's individual account under Sections 3-4-3 and 3-12-5 of the Unified Code of Corrections administered by the Illinois Department of Corrections shall be withheld until the actual court costs are collected in full. The Department of Corrections shall forward any moneys withheld to the court of jurisdiction." 735 ILCS 5/22-105(a) (West 2014).

"This is a matter of statutory interpretation. The construction of a statute is a question of law, which is reviewed *de novo*." *People v. Jones*, 223 Ill. 2d 569, 580 (2006).

¶ 25 Defendant concedes this court rejected this argument in *People v. Smith*, 383 Ill. App. 3d 1078 (2008), and in a line of cases that have followed *Smith*. See *People v. Dixon*, 409 Ill. App. 3d 915 (2011); *People v. Coleman*, 2011 IL App (1st) 091005. In *Smith*, the defendant argued "that because the legislature referred to 'filing fees and actual court costs' when it made the prisoner responsible for payment but did not specifically refer to filing fees when it allowed for the collection of 'any court costs' from the prisoner's trust account, this demonstrates legislative intent to limit the collection to only court costs." *Smith*, 383 Ill. App. 3d at 1094. This court held that "the supreme court has agreed with the characterization by Illinois courts that ' "[a] 'cost' is a charge or fee taxed by a court such as a filing fee, jury fee, courthouse fee, or reporter fee." ' [Citations.]" *Id.* (citing *Jones*, 223 Ill. 2d at 581-82, quoting *People v. White*, 333 Ill. App. 3d 777, 781 (2002)). This court held that "the legislature's use of the broad phrase 'any court costs' in delineating a means of collection was meant to include the assessed 'filing fees and actual court costs.' " *Id.* In *Dixon*, the defendant raised the same argument and argued, as does defendant in this case, that *Smith* was wrongly decided. *Dixon*, 409 Ill. App. 3d at 925. The *Dixon* court did not state what defendant's reasons were for thinking *Smith* was wrongly decided, but it was unpersuaded by them. *Id.* The *Dixon* court agreed "with *Smith* that 'court costs' is merely a shorthand expression for all expenditures connected with the filing of pleadings in court, including filing fees." *Id.* Finally, in *Coleman*, this court relied on *Dixon* to hold that the payment of costs, including filing fees, from a prisoner trust account "is an allowable means of collecting those fees." *Coleman*, 2011 IL App (1st) 091005, ¶ 48.

¶ 26 Defendant argues the *Smith* line of cases was wrongly decided because they flow from a misreading of *Jones*. Defendant argues the *Smith* court concluded that section 22-105 authorizes

IDOC to deduct filing fees from a prisoner's trust fund account because our supreme court found that a filing fee is a court cost in *Jones*. However, defendant argues, "*Jones* never held that all fees are costs," and *Jones* is distinguishable because the statute at issue in that case was ambiguous while section 22-105 is not ambiguous. Therefore, defendant argues, *Smith* was wrongly decided. We disagree. First, the issue is not whether "all fees are costs," but is whether a filing fee is a "cost" within the meaning of section 22-105. Defendant relies on a footnote in *Jones* where our supreme court stated "[b]ecause this case does not require us to differentiate between a 'fee' and a 'cost,' we will hereinafter simply refer to them both as 'fees,' as opposed to a 'fine.' " *Id.* at 582 n. 1. From this statement, defendant argues the *Jones* court "disavowed any attempt to distinguish between a 'fee' and a 'cost.' " Defendant takes this statement in a footnote in *Jones* out of context.

¶ 27 The issue in *Jones* was whether a charge was a fine or a fee so as to be offset by the defendant's presentencing incarceration credit. *Id.* at 580 ("the credit *** operates to offset only fines, not fees. [Citation.] Accordingly, whether [the] defendant was entitled to the credit against any charge imposed on him turns solely on whether that charge constituted a 'fine' or a 'fee.' "). The *Jones* court was not called upon to identify which charges imposed on the defendant were "fees" and which were "costs," so it referred to them collectively as "fees" as distinguished from "fines." This does not mean, however, that the *Jones* court made no finding as to whether a filing fee is a court cost. The contrary is true. To distinguish the characteristics of a fee and a fine, our supreme court began by noting that the appellate court has had cause to consider the subject and has written as follows:

> "A 'fine' is a pecuniary punishment imposed as part of a sentence on a person convicted of a criminal offense. [Citation.] A 'cost' is a charge or fee taxed by a court *such as a filing fee*, jury fee, courthouse fee, or reporter fee. [Citation.] ***

> A 'fee' is a charge for labor or services, especially professional services. [Citation.]" (Emphasis added and internal quotation marks omitted.) *Id.* at 581 (quoting *White*, 333 Ill. App. 3d at 781).

¶ 28 Our supreme court expressly agreed with this characterization of a fine, a cost, and a fee. *Id.* at 582. The court made this finding prior to making the statement on which defendant in this case relies to argue *Smith* is wrongly decided. *Id.* The *Smith* court was correct when it found that in *Jones*, our supreme court agreed with the characterization by Illinois courts that "court costs" include "filing fees." See *Smith*, 383 Ill. App. 3d at 1094. Defendant's attempt to discredit this holding in *Smith* and its progeny fails. "We are unpersuaded *** that *Smith* was wrongly decided. We agree with *Smith* that 'court costs' is merely a shorthand expression for all expenditures connected with the filing of pleadings in court, including filing fees." *Dixon*, 409 Ill. App. 3d at 925. The trial court's judgment directing IDOC to deduct the $105 assessment ($90 for filing the petition and $15 in mailing fees) from defendant's prisoner trust fund account is affirmed.

¶ 29 CONCLUSION

¶ 30 For the foregoing reasons, the circuit court of Cook County is affirmed.

¶ 31 Affirmed.