

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).

2017 IL App (4th) 160914-U

NO. 4-16-0914

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

July 27, 2017

Carla Bender

4th District Appellate Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff-Appellee,)

v.)

MICHAEL L. HUFFMAN,)

Defendant-Appellant.)

) Appeal from

) Circuit Court of

) Champaign County

) No. 14CF647

) Honorable

) Thomas J. Difanis,

) Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The \$50 "Court Finance Fee" was vacated as a fine improperly imposed by the circuit clerk.

¶ 2 In August 2014, defendant, Michael L. Huffman, pleaded guilty to theft with a prior burglary conviction, and the trial court sentenced defendant to six years in prison and ordered him to pay various fines. Defendant appeals, alleging the \$50 "Court Finance Fee" is a fine improperly imposed by the circuit court clerk. The State argues the court finance fee is a fee the circuit clerk could properly impose. We vacate the \$50 court finance fee and otherwise affirm.

¶ 3 I. BACKGROUND

¶ 4 In May 2014, defendant was charged with theft with a prior burglary conviction, a Class 4 felony (720 ILCS 5/16-1(a)(1)(A) (West 2014)). In August 2014, defendant pleaded

guilty, and the trial court sentenced him to six years in prison and ordered him to pay the following fines: "Arrestee's Medical Assessments" (730 ILCS 125/17 (West 2014)), "State Police Operations Assessment" (705 ILCS 105/27.3a(1.5) (West 2014)), "Traffic/Criminal Surcharge" (730 ILCS 5/5-9-1(c) (West 2014)), "Juvenile Expungement Fund Assessment" (730 ILCS 5/5-9-1.17 (West 2014)), "Drug Court Assessment" (55 ILCS 5/5-1101(f) (West 2014)), and "Violent Crime Victims Assistance Act Assessment" (725 ILCS 240/10(b) (West 2014)). A printout from the circuit clerk lists all of these assessments, as well as a \$50 "Court Finance Fee."

¶ 5 In January 2015, defendant filed a motion to reconsider his sentence. In February 2015, the trial court denied defendant's motion, and he filed a notice of appeal. In June 2016, this court remanded defendant's cause to the circuit court for the filing of a certificate in compliance with Illinois Supreme Court Rule 604(d) (eff. Mar. 8, 2016). *People v. Huffman*, No. 4-15-0110 (June 9, 2016). In July 2016, the trial court held proceedings to correct the Rule 604(d) certificate. In August 2016, defendant filed another notice of appeal. In September 2016, this court again remanded defendant's cause for the filing of a Rule 604(d) certificate. *People v. Huffman*, No. 4-16-0562 (Aug. 30, 2016). In December 2016, a Rule 604(d) certificate was filed and defendant filed a motion to withdraw his guilty plea, which the trial court denied. This appeal followed.

¶ 6 II. ANALYSIS

¶ 7 The \$50 court finance fee is authorized by section 5-1101(c) of the Counties Code, which states it is "[a] fee to be paid by the defendant on a judgment of guilty or a grant of supervision." 55 ILCS 5/5-1101(c) (West 2014). Circuit clerks may impose statutorily authorized fees and collect on specific fines imposed by court order. *People v. Smith*, 2014 IL App (4th)

121118, ¶¶ 18, 63, 18 N.E.3d 912. The imposition of fines is an exclusively judicial act and outside the authority of circuit clerks. *Id.* ¶ 18 (citing *People v. Larue*, 2014 IL App (4th) 120595, ¶ 56, 10 N.E.3d 959). Fines imposed by circuit clerks are void and within the jurisdiction of the appellate court to review. *People v. Gutierrez*, 2012 IL 111590, ¶ 14, 962 N.E.2d 437. The abolition of the "void sentence rule" does not preclude appellate jurisdiction over fines imposed by circuit clerks. *People v. Daily*, 2016 IL App (4th) 150588, ¶ 29, 74 N.E.3d 15. Whether an assessment is a fine or a fee presents a question of statutory construction, which we review *de novo*. *Smith*, 2014 IL App (4th) 121118, ¶ 21, 18 N.E.3d 912 (citing *People v. Gutman*, 2011 IL 110338, ¶ 12, 959 N.E.2d 621).

¶ 8 Defendant cites this court's prior finding of the court finance fee as a fine in *Smith*. *Id.* ¶ 54. The State argues it is a fee, citing this court's more recent finding in *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 109, 55 N.E.3d 117. We agree with defendant.

¶ 9 After deciding *Warren*, we held the court finance fee is a fine in *Daily*, 2016 IL App (4th) 150588, ¶ 30, 74 N.E.3d 15. In *Warren*, we cited *Larue* to refer to it as a fee. *Warren*, 2016 IL App (4th) 120721-B, ¶ 109, 55 N.E.3d 117 (citing *Larue*, 2014 IL App (4th) 120595, ¶ 70, 10 N.E.3d 959). However, *Warren* and *Larue* do not concern the propriety of a circuit clerk imposing the court finance fee as much as whether the assessment applies to each judgment of guilty or grant of supervision. See *id.*

¶ 10 Our more recent decision in *Daily* cites *Smith*, which conducted a thorough analysis of whether the court finance fee is a fine or a fee. *Daily*, 2016 IL App (4th) 150588, ¶ 30, 74 N.E.3d 15 (citing *Smith*, 2014 IL App (4th) 121118, ¶ 54, 18 N.E.3d 912). In *Smith*, we concluded "the assessment does not seek to compensate the State for any costs incurred as the result of prosecuting the defendant." *Smith*, 2014 IL App (4th) 121118, ¶ 52, 18 N.E.3d 912. In

fact, " [a] defendant is charged a flat amount depending on the classification of the severity of his offense.' " *Id.* (quoting *People v. Smith*, 2013 IL App (2d) 120691, ¶ 21, 1 N.E.3d 648).

Therefore, we observed, "the amount of the assessment is correlated directly with the severity of the offense, demonstrating the punitive nature of the assessment." *Id.*

¶ 11 In accordance with the reasoning in *Smith*, we find the court finance fee is a fine, which the circuit clerk lacked the authority to impose in this case. We vacate the \$50 court finance fee.

¶ 12 III. CONCLUSION

¶ 13 For the reasons stated, we vacate the \$50 court finance fee and otherwise affirm.

¶ 14 Affirmed in part and vacated in part.