

**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).

**FILED**  
January 9, 2018  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2018 IL App (4th) 150643-U

NOS. 4-15-0643, 4-15-0704 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v. (No. 4-15-0643)	)	Douglas County
ERIC J. TURNER,	)	No. 10DT23
Defendant-Appellant.	)	
	)	Honorable
	)	Richard Lee Broch Jr.,
	)	Judge Presiding.

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v. (No. 4-15-0643)	)	Coles County
ERIC J. TURNER,	)	No. 10TR2617
Defendant-Appellant.	)	
	)	Honorable
	)	Mark E. Bovard,
	)	Judge Presiding.

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

**ORDER**

¶ 1 *Held:* The appellate court vacated the fines improperly imposed against defendant in Douglas County case No. 10-DT-23 and Coles County case No. 10-TR-2617.

¶ 2 Defendant, Eric J. Turner, appeals from the trial courts’ orders denying his petitions for relief from judgment under section 2-1401 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-1401 (West 2014)) in Douglas County case No. 10-DT-23 and in Coles

County case No. 10-TR-2617. In this consolidated appeal, defendant argues the Douglas County circuit clerk and the Coles County circuit clerk improperly imposed numerous fines against him. We agree and vacate the clerk-imposed fines.

¶ 3

## I. BACKGROUND

¶ 4

### A. Douglas County Case No. 10-DT-23

¶ 5

In July 2011, a jury convicted defendant of driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(2) (West 2010)) and driving with a blood-alcohol concentration of .08 or greater (625 ILCS 5/11-501(a)(1) (West 2010)). In August 2011, the trial court sentenced defendant to 120 days in the county jail and ordered him to pay the following assessments: (1) a \$1250 mandatory minimum fine; (2) a \$1000 DUI equipment fine; and (3) a \$50 same day trial fee. The court later issued a payment order, which provided the total amount in fines and fees owed by defendant. A circuit clerk's payment information printout indicates defendant was assessed, in part, the following: (1) a \$5 State Police ops assessment; (2) a \$15 clerk op add-ons assessment; (3) a \$70 State's Atty assessment; (4) a \$570 lump-sum surcharge assessment; (5) a \$228 driver ed assessment; (6) a \$228 violent crime assessment; (7) a \$105 trauma center assessment; (8) a \$10 medical costs assessment; (9) a \$5 spinal cord trust assessment; (10) a \$8 nonstandard assessment; (11) a \$7.50 fire prevention assessment; (12) a \$7.50 firetruck In fund assessment; (13) a \$50 roadside memorial assessment; and (14) a \$10 State Police svcs assessment.

¶ 6

### B. Coles County Case No. 10-TR-2617

¶ 7

In July 2011, the trial court entered an *ex parte* judgment of guilt against defendant for driving while license suspended (625 ILCS 5/6-303 (West 2010)). The court

ordered: “*Ex parte* judgment entered in the amount of \$150.” A circuit clerk’s payment information printout indicates defendant was assessed, in part, the following: (1) a \$23 fine assessment; (2) a \$10 State’s Atty assessment; (3) a \$4 driver ed assessment; (4) a \$4 violent crime assessment; (5) a \$10 medical costs assessment; (6) a \$10 lump-sum surcharge assessment; (7) a \$.25 clerk op deduction assessment; (8) a \$4.75 drug court assessment; and (9) a \$8 State Police ops assessment.

¶ 8 C. Prior Consolidated Appeal

¶ 9 Defendant appealed from the judgments rendered in Douglas County case No. 10-DT-23 and in Coles County case No. 10-TR-2617. In January 2013, this court affirmed the trial courts’ judgments. *People v. Turner*, Nos. 4-11-0743, 4-11-1055 cons. (Jan. 25, 2013) (unpublished summary order under Supreme Court Rule 23(c)(6)).

¶ 10 D. Section 2-1401 Petitions

¶ 11 In June 2015, defendant filed a petition for relief from judgment under section 2-1401 of the Civil Code (735 ILCS 5/2-1401 (West 2014)) in Douglas County case No. 10-DT-23 and in Coles County case No. 10-TR-2617. In August 2015, the trial courts denied defendant’s section 2-1401 petitions.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 In this consolidated appeal from the trial courts’ orders denying his section 2-1401 petitions, defendant argues the Douglas County circuit clerk and the Coles County circuit clerk improperly imposed numerous fines against him.

¶ 15 A. Douglas County Case No. 10-DT-23

¶ 16 Defendant asserts the Douglas County circuit clerk improperly imposed the following fines against him: (1) a \$5 State Police ops fine; (2) a \$570 lump-sum surcharge fine; (3) a \$228 driver ed fine; (4) a \$228 violent crime fine; (5) a \$105 trauma center fine; (6) a \$10 medical costs fine; (7) a \$5 spinal cord trust fine; (8) a \$8 nonstandard fine; (9) a \$7.50 fire prevention fine; (10) a \$7.50 firetruck In fund fine; and (11) a \$50 roadside memorial fine. Defendant also contends the circuit clerk improperly imposed a \$35 juvenile expungement fine, listed in component parts on the clerk's printout as follows: (1) a \$10 State's Atty assessment (included in the \$70 charge listed for the State's Atty assessment); (2) a \$15 clerk op add-ons assessment; and (3) a \$10 State Police svcs assessment. He also notes \$5 of the \$15 clerk op add-ons assessment is unauthorized by statute.

¶ 17 The State does not dispute the challenged assessments are fines, except for suggesting the \$15 clerk op add-ons assessment does not necessarily encompass only the \$10 circuit clerk operation and administrative fund portion of the juvenile expungement fine. See 730 ILCS 5/5-9-1.17 (West 2014). The State does not, however, offer any alternative explanation as to why the extra \$5 was assessed. Without any alternative explanation, we find the extra \$5 most reasonably was assessed as a fine.

¶ 18 The State does not dispute the trial court did not explicitly impose the challenged fines. Instead, the State argues the record shows the trial court "judicially approved" the challenged fines listed on the clerk's printout. In support, the State cites to the fact the court entered a payment order directing the total balance of fines and fees owed be paid by defendant.

¶ 19 This court has previously held, "[a]bsent a court order imposing a specific fine, it is well established the clerk of a court, as a nonjudicial member of the court, has no power to

levy fines.” *People v. Smith*, 2014 IL App (4th) 121118, ¶ 63, 18 N.E.3d 912; see also *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 89, 55 N.E.3d 117 (finding, when the trial court “ordered [the] defendant to ‘pay all fines, fees, and costs as authorized by statute,’ it improperly delegated its power to impose a sentence to the circuit clerk.”). Because the payment order does not set forth the specific fines challenged by defendant, we need not entertain the State’s argument further. We find the challenged fines were imposed by the circuit clerk. Because the circuit clerk lacks authority to impose fines, we vacate them. See *Smith*, 2014 IL App (4th) 121118, ¶ 18 (“Although circuit clerks can have statutory authority to impose a fee, they lack authority to impose a fine, because the imposition of a fine is exclusively a judicial act.” (Emphases omitted.)); *People v. Larue*, 2014 IL App (4th) 120595, ¶ 56, 10 N.E.3d 959 (“[A]ny fines imposed by the circuit clerk are void from their inception.”).

¶ 20 B. Coles County Case No. 10-TR-2617

¶ 21 Defendant asserts the Coles County circuit clerk improperly imposed the following fines against him: (1) a \$23 fine; (2) a \$10 State’s Atty fine; (3) a \$4 driver ed fine; (4) a \$4 violent crime fine; (5) a \$10 medical costs fine; (6) a \$10 lump-sum surcharge fine; (7) a \$.25 clerk op deduction fine; (8) a \$4.75 drug court fine; and (9) a \$8 State Police ops fine.

¶ 22 The State does not dispute the challenged assessments are fines. The State further does not dispute the trial court did not explicitly impose the challenged fines. Instead, the State contends the court’s \$150 *ex parte* judgment encompassed all of the fines listed on the clerk’s printout. Again, however, nothing in the record indicates the court imposed the specific fines challenged by defendant. See *Smith*, 2014 IL App (4th) 121118, ¶ 63; *Warren*, 2016 IL App (4th) 120721-B, ¶ 89. We find the challenged fines were imposed by the circuit clerk. Because

the circuit clerk lacks authority to impose fines, we vacate them. See *Smith*, 2014 IL App (4th) 121118, ¶ 18; *Larue*, 2014 IL App (4th) 120595, ¶ 56.

¶ 23

### III. CONCLUSION

¶ 24 We vacate the fines improperly imposed against defendant in Douglas County case No. 10-DT-23 and in Coles County case No. 10-TR-2617. We otherwise affirm the trial courts' orders denying defendant's section 2-1401 petitions.

¶ 25 No. 4-15-0643, affirmed in part and vacated in part.

¶ 26 No. 4-150704, affirmed in part and vacated in part.