ORIGINAL

No. 123052

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, No. 3-15-0524.
Plaintiff-Appellee,	)	There on appeal from the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, No. 10-CF-2114.
-vs-	)	
AARON RIOS-SALAZAR	)	Honorable Carla Alessio-Policandriotes, Judge Presiding.
Defendant-Appellant	)	

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

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POINT AND AUTHORITIES

Trial counsel deprived defendant of the effective assistance of counsel by failing to challenge as *ex post facto* violations defendant's $100 Violent Crime Victim Assistance fine and $25 judicial facilities fine.

A. Defendant's $100 VCVA fine and $25 judicial facilities fine are *ex post facto* violations.

4. The circuit court's failure to impose other mandatory fines does not extinguish the prejudice to defendant.

NATURE OF THE CASE

Aaron Rios-Salazar pleaded guilty to the offense of predatory criminal sexual assault of a child. The circuit court sentenced him to 24 years' imprisonment and, *inter alia*, numerous fines, costs, and fees.

This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUE PRESENTED FOR REVIEW

Whether trial counsel deprived defendant of the effective assistance of counsel by failing to challenge as *ex post facto* violations defendant's $100 Violent Crime Victim Assistance fine and $25 judicial facilities fine.

JURISDICTION

Jurisdiction lies with this Court under Supreme Court Rules 315 and 612(b). This Court allowed defendant's timely petition for leave to appeal on March 21, 2018. *People v. Rios-Salazar*, No. 123052 (Mar. 21, 2018).

STATEMENT OF FACTS

On March 19, 2015, Aaron Rios-Salazar ("defendant") pleaded guilty to predatory criminal sexual assault for conduct occurring on or between February 1, 2010, and August 30, 2010 (C11; R72–92).

On June 16, 2015, the circuit court sentenced defendant to 24 years' imprisonment and, *inter alia*, "costs of prosecution" (C66; R145–48).

Defense counsel filed motions to reconsider sentence and to withdraw defendant's plea on June 23, 2015, and July 9, 2015, respectively (C71–74).

At a hearing on July 22, 2015, the circuit court denied both motions (R170–82). Defense counsel requested that a notice of appeal be filed and that the Office of the State Appellate Defender be appointed (R183). The next day, the court amended the judgment order, modifying the number of days of presentence custody (C121).

On July 24, 2015, the court imposed the following assessments against defendant, totaling $1,587, which it itemized in a criminal cost sheet with citation to authority:

$30 Children's Advocacy Center Fee [55 ILCS 5/5-1101(f-5)]

$125 Clerk's Filing Fee [705 ILCS 105/27 2]

$15 Court Automation Fee [705 ILCS 105/27 3a]

$25 Court Security Fee [55 ILCS 5/5-1103]

$10 Court Services Operations Fee [705 ILCS 105/27 3a]

$50 Court Systems Fee [55 ILCS 5/5-1101]

$15 Document Storage Fee [705 ILCS 105/27 3c]

$5 Drug Court Fee [55 ILCS 5/5-1101(f)]

$10 Specialized Court Fee [55 ILCS 5/5-1101(d-5)]

$25 House Fee [no citation to authority provided]

$250 DNA Database Analysis Fee [730 ILCS 5/5-4-3]

$100 Violent Crime Victim Assistance (VCVA) Fee [725 ILCS 240/10]

$200 Sexual Assault Fine [730 ILCS 5/5-9-1 7 & 725 ILCS 5/100-14]

$500 Sex Offender Fine [730 ILCS 5/5-9-1 15]

$30 State's Attorney Conviction Fee [55 ILCS 5/4-2002]

$2 State's Attorney Automation Fee [no citation to authority provided]

$195 Sheriff's Green Sheet Fees [55 ILCS 5/4-501 & 725 ILCS 5/124(a-5)] (C122–25; A15–18).

The same day, the clerk filed a notice of appeal, and the court appointed the Office of the State Appellate Defender to represent defendant on appeal (C129, 131).

The record contains a stylistically different, second cost sheet dated September 10, 2015. It is not signed by the circuit judge. It itemizes various monetary assessments totaling $1,587. The itemized assessments correspond, for the most part, with the assessments itemized in the criminal cost sheet signed by the circuit judge. However, the additional cost sheet does not list a $25 "house fee"; instead, it lists a $25 "JUDICIAL FACILITIE" assessment (C132; A19–21).

On appeal, defendant argued that trial counsel deprived him of the effective assistance of counsel by failing to challenge as *ex post facto* violations the $100 VCVA assessment and $25 judicial facilities assessment. *People v. Rios-Salazar*, 2017 IL App (3d) 150524, ¶¶ 1, 6. A divided panel of the Illinois Appellate Court, Third Judicial District, affirmed defendant's conviction and sentence. *Id.* at ¶¶ 1–12. The majority held that trial counsel was not ineffective for failing to raise

ex post facto challenges to the two assessments. *Id.* at ¶¶ 6–12. Justice Schmidt opined that the amount at issue, $57, was *de minimis*, so counsel had no duty to object. *Id.* at ¶¶ 8–9. Justice Wright opined that defendant had not established prejudice because a mandatory fine the trial court neglected to impose exceeded the amount of improper fines. *Id.* at ¶¶ 13–17 (Wright, J., specially concurring). Justice Lytton dissented, opining that counsel was ineffective. *Id.* at ¶¶ 18–25 (Lytton, J., dissenting).

This Court allowed defendant's petition for leave to appeal on March 21, 2018 (A22).

Trial counsel deprived defendant of the effective assistance of counsel by failing to challenge as *ex post facto* violations defendant's $100 Violent Crime Victim Assistance fine and $25 judicial facilities fine.

STANDARD OF REVIEW

Claims of ineffective assistance of counsel generally present a mixed question of law and fact. *Strickland v. Washington*, 466 U.S. 668, 698 (1984). But, the ultimate legal question of whether a defendant was deprived of the effective assistance of counsel is reviewed *de novo*. *People v. Hale*, 2013 IL 113140, ¶ 15.

ARGUMENT

The circuit court imposed two fines in violation of the *ex post facto* clauses of the United States and Illinois Constitutions: a $100 Violent Crime Victim Assistance (VCVA) fine and a $25 judicial facilities fine. In light of *ex post facto* principles, Illinois law at the time of defendant's offense, and the remaining fines that the court properly imposed, the court should not have imposed a judicial facilities fine, and defendant's VCVA fine should have been $68. Defense counsel's failure to challenge the *ex post facto* violations in the circuit court was deficient and prejudicial under *Strickland v. Washington*, 466 U.S. 668 (1984). The *ex post facto* violations were not *de minimis* such that counsel performed reasonably notwithstanding his failure to raise the issue. And the trial court's failure to impose other mandatory fines did not extinguish the prejudice to defendant. Therefore, the Illinois Appellate Court erred when it held that defendant received the effective assistance of counsel. This Court should reverse the Appellate Court's judgment, vacate defendant's $25 judicial facilities fine, and reduce his $100 VCVA fine to $68.

A. Defendant's $100 VCVA fine and $25 judicial facilities fine are *ex post facto* violations.

Both the United States and Illinois Constitutions prohibit *ex post facto* laws. See U.S. Const., art. I, § 9; Ill. Const.1970, art. I, § 16. This Court interprets the *ex post facto* clause of the Illinois Constitution in step with its federal counterpart; thus, "the Illinois *ex post facto* clause does not provide any greater protection than that offered by the United States Constitution." *People v. Cornelius*, 213 Ill.2d 178, 207 (2004).

"A law is *ex post facto* if it is both retroactive and disadvantageous to the defendant." *People v. Malchow*, 193 Ill.2d 413, 418 (2000). A law is disadvantageous if it increases the punishment for a previously committed offense because people are entitled to fair warning of the punishment that the State may impose for violations of its laws. *Id.*; *People v. Coleman*, 111 Ill.2d 87, 93–94 (1986). A fine is a pecuniary punishment. *People v. Johnson*, 2011 IL 111817, ¶ 16.

The VCVA assessment is a fine. *People v. Jamison*, 229 Ill.2d 184, 188–93 (2008).

The assessment for judicial facilities under section 5-1101.3 of the Counties Code is also a fine. *People v. Johnson*, 2015 IL App (3d) 140364 (appendix to opinion). To be sure, section 5-1101.3 provides that the assessment be "used for the sole purpose of funding in whole or in part the costs associated with building new judicial facilities within the county[.]" 55 ILCS 5/5-1101.3(b) (2015). Under the statute's plain language, the assessment is not intended to reimburse the State for any expense of prosecuting defendant. "A charge is a fee if and only if it is intended to reimburse the state for some cost incurred in defendant's prosecution." *People v. Graves*, 235 Ill.2d 244, 250 (2009).

The offenses in this case occurred in 2010 (C11–18).

The judicial facilities fine did not exist in 2010. Section 5-1101.3 of the Counties Code first went into effect on January 1, 2015. See Public Act 98–1085 (eff. Jan. 1, 2015). Thus, defendant's $25 judicial facilities fine is an *ex post facto* violation (C122, 132). *Malchow*, 193 Ill.2d at 418.

In 2010, the VCVA Act imposed a "penalty of $4 for each $40, or fraction thereof, of [other] fine[s] imposed." 725 ILCS 240/10(b) (2010). In 2012, section 10 was amended by Public Act 97–816, which increased the penalty to $100 for any felony conviction. See 725 ILCS 240/10(b)(1) (2012). As the updated version of section 10(b) was not yet in effect in 2010, the circuit court violated *ex post facto* principles by assessing a $100 VCVA fine upon defendant (C123, 132). *Malchow*, 193 Ill.2d at 418.

In this case, the trial court assessed defendant $645 in other fines (C122–25). Those fines, which are not assessments intended to reimburse the State for any expense of prosecuting or investigating defendant, are as follows: a $50 court system fine under 55 ILCS 5/5-1101(c) (2010) (*People v. Ackerman*, 2015 IL App (3d) 120585, ¶ 30 (holding that the assessment is a fine)); $350 of the $500 sex offender assessment under 730 ILCS 5/5-9-1.15(a) (2010) (*People v. Dalton*, 406 Ill. App. 3d 158, 162–64 (2d Dist. 2010) (holding that $350 of the $500 sex offender assessment is a fine)); a $200 sexual assault fine under 730 ILCS 5/5-9-1.7(b)(1) (2010) (*People v. Anderson*, 402 Ill. App. 3d 186, 193–94 (3d Dist. 2010) (stating that the assessment is a fine)); a $30 Children's Advocacy Center assessment under 55 ILCS 5/5-1101(f-5) (2010) (*People v. Jones*, 397 Ill. App. 3d 651, 660 (1st Dist. 2009) (holding that the assessment is a fine)); a $5 drug court fine under 55 ILCS

5/5-1101(f) (2010) (*People v. Rexroad*, 2013 IL App (4th) 110981, ¶ 53 (stating that the assessment is a fine where the defendant did not participate in drug court)); and a $10 specialized court fee under 55 ILCS 5/5-1101(d-5) (2010) (*People v. Folks*, 406 Ill. App. 3d 300, 305–07 (4th Dist. 2010) (holding that the assessment is a fine)).

Consequently, the VCVA fine applicable to defendant was $68 ($645 divided by $40 equals 16 plus a "fraction thereof" multiplied by $4 equals $68), not $100. See 725 ILCS 240/10(b) (2010) (VCVA fine is $4 for every $40, or fraction thereof, of other fines imposed); *People v. Vlahon*, 2012 IL App (4th) 110229, ¶ 38 (conducting VCVA fine calculation).

In sum, the trial court overcharged defendant $57 because of the two *ex post facto* violations. He should not have been assessed a judicial facilities fine. And his VCVA fine should have been $68 in light of the other fines imposed.

B. Defendant's trial counsel performed deficiently and prejudiced defendant by failing challenge the $100 VCVA fine and $25 judicial facilities fine as *ex post facto* violations.

Every defendant has a constitutional right to counsel under the Sixth Amendment to the United States Constitution and the Constitution of Illinois. *People v. Domagala*, 2013 IL 113688, ¶ 36; U.S. Const., amends. VI & XIV; Ill. Const. 1970, art. I, § 8. The right to counsel applies at sentencing. *Gagnon v. Scarpelli*, 411 U.S. 778, 781 (1973); *Mempa v. Rhay*, 389 U.S. 128, 134 (1967); *People v. Baker*, 92 Ill.2d 85, 90 (1982). And it guarantees the effective assistance of counsel. *Strickland*, 466 U.S. at 686; *Domagala*, 2013 IL 113688, ¶ 36.

To prevail on a claim of ineffective assistance of counsel, a defendant must meet the standard set forth in *Strickland v. Washington*. *Domagala*, 2013 IL 113688,

¶ 36; see also generally *People v. Deleon*, 227 Ill.2d 322, 324, 337 (2008) (applying *Strickland* to a claim that counsel was ineffective with respect to a defendant's sentence); *People v. Jackson*, 149 Ill.2d 540, 553–54 (1992) (same). Defendant has done so in this case.

1. Counsel's failure to challenge the two fines was unreasonable under prevailing professional norms, satisfying *Strickland*'s deficiency standard.

Under the first prong of the *Strickland* test, a "defendant must show that counsel's performance was deficient." *Strickland*, 466 U.S. at 687. In other words, "the defendant must show that counsel's representation fell below an objective standard of reasonableness." *Id.* at 687–88. The proper measure of reasonableness is "reasonableness under prevailing professional norms." *Id.* at 688. "Prevailing norms of practice as reflected in American Bar Association standards and the like . . . are guides to determining what is reasonable . . . ." *Id.* When evaluating whether counsel's performance was reasonable, courts of review "must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." *Id.* at 690.

Under prevailing professional norms, defense counsel had an obligation to consider what fines could be imposed and to challenge unauthorized fines. To start, the *Strickland* Court itself emphasized that defense counsel's "overarching duty [is] to advocate the defendant's cause." *Id.* at 688. American Bar Association (ABA) standards provide that defense counsel should act zealously on behalf of clients and, early in the representation and throughout the case, consider potential issues that may affect sentencing and become familiar with applicable sentencing laws and what consequences might arise if the client is convicted. ABA Criminal

Justice Standards for the Defense Function (4th ed.), Standards 4-1.2 & 4-8.3. The National Legal Aid and Defender Association (NLADA) performance guidelines provide that defense counsel has an obligation to become familiar with applicable fines and protect the client's interests at sentencing in pursuit of the least burdensome sentencing alternative. NLADA Performance Guidelines for Criminal Defense Representation, Guidelines 8.1–8.2 & 8.7. Additionally, legal scholars who have addressed defense counsel's obligations concerning sentencing have opined that counsel should be aware of applicable fines and argue for the least burdensome sentence that is realistically possible. See, *e.g.*, Carissa Byrne Hessick, *Ineffective Assistance at Sentencing*, 50 B.C.L. Rev. 1069, 1116–17 (2009).

National standards aside, Illinois law is also instructive. When the circuit court imposed monetary assessments in this case, fines and fees had become the subject of increased focus and litigation in Illinois courts. In the 10 years immediately preceding this case, this Court had addressed the propriety of fines and fees in numerous criminal cases. See, *e.g.*, *People v. Somers*, 2013 IL 114054 (addressing public defender fee); *People v. Gutierrez*, 2012 IL 111590 (addressing public defender fee); *People v. Johnson*, 2011 IL 111817 (addressing application of *per diem* credit to DNA analysis fee); *People v. Jackson*, 2011 IL 110615 (addressing medical costs assessment); *People v. Marshall*, 242 Ill.2d 285 (2011) (addressing DNA analysis fee); *People v. Smith*, 236 Ill.2d 162 (2010) (addressing preliminary examination fee); *People v. Graves*, 235 Ill.2d 244 (2009) (addressing multiple monetary assessments and distinguishing between a fine and a fee); *People v. Lewis*, 234 Ill.2d 32 (2009) (addressing street value fine); *People v. Jamison*, 229 Ill.2d 184 (2008) (addressing VCVA fine); *People v. Jones*, 223 Ill.2d 569 (2006)

(addressing multiple fines and differentiating between a fine and a fee).

The same could be said for the Illinois Appellate Court. In the two years immediately preceding this case, the Third Judicial District alone had issued more than 10 published decisions addressing monetary assessments. See, *e.g.*, *People v. Johnson*, 2015 IL App (3d) 130431 (addressing various monetary assessments); *People v. Hollahan*, 2015 IL App (3d) 130525 (remanding for proper imposition of assessments in an itemized order); *People v. Lake*, 2015 IL App (3d) 140031 (addressing application of *per diem* credit against various fines); *People v. Moreno*, 2015 IL App (3d) 130119 (remanding for proper calculation and imposition of assessments); *People v. McClinton*, 2015 IL App (3d) 130109 (addressing public defender fee); *People v. Dillard*, 2014 IL App (3d) 121020 (addressing various fines); *People v. Schronski*, 2014 IL App (3d) 120574 (addressing public defender fee and *per diem* credit); *People v. Ackerman*, 2014 IL App (3d) 120585 (addressing multiple assessments); *People v. Hill*, 2014 IL App (3d) 120472 (addressing DNA analysis fee); *People v. Hunter*, 2014 IL App (3d) 120552 (remanding after trial court miscalculated monetary assessments); *People v. Williams*, 2014 IL App (3d) 120240 (addressing various assessments); *People v. Jackson*, 2013 IL App (3d) 120205 (addressing various assessments).

Of course, during the same time period, there were numerous published opinions from all the other judicial districts of the Illinois Appellate Court that addressed the propriety of monetary assessments. See, *e.g.*, *People v. Rankin*, 2015 IL App (1st) 133409 (addressing public defender fee); *People v. Robinson*, 2015 IL App (1st) 130837 (addressing various assessments); *People v. Jernigan*, 2014 IL App (4th) 130524 (addressing various fines); *People v. Smith*, 2014 IL App (4th)

121118 (addressing various assessments); *People v Higgins*, 2014 IL App (2d) 120888 (addressing various assessments); *People v. Larue*, 2014 IL App (4th) 120595 (addressing propriety of fines imposed by circuit court clerk); *People v. Wynn*, 2013 IL App (2d) 120575 (addressing various assessments); *People v. Butler*, 2013 IL App (5th) 110282 (addressing various assessments and *per diem* credit).

There were also numerous Rule 23 orders from the Third Judicial District, including cases from Will County, in which the Appellate Court addressed the propriety of monetary assessments. See, *e.g.*, *People v. Harmon*, 2015 IL App (3d) 130517-U; *People v. Branch*, 2015 IL App (3d) 130686-U; *People v. Lane*, 2015 IL App (3d) 130520-U; *People v. Pulley*, 2015 IL App (3d) 130506-U; *People v. Larimore*, 2015 IL App (3d) 130377-U; *People v. Kimmitt*, 2015 IL App (3d) 130323-U; *People v. Taylor*, 2015 IL App (3d) 130283-U; *People v. Howell*, 2015 IL App (3d) 130166-U; *People v. Rogers*, 2015 IL App (3d) 130088-U; *People v. Cerna*, 2014 IL App (3d) 140225-U; *People v. Hamilton*, 2015 IL App (3d) 121065-U; *People v. Pedigo*, 2015 IL App (3d) 121060-U; *People v. Marquis*, 2014 IL App (3d) 130293-U; *People v. Hatten*, 2014 IL App (3d) 130159-U; *People v. Blalock*, 2014 IL App (3d) 120964-U; *People v. Moore*, 2014 IL App (3d) 120928-U; *People v. Howard*, 2014 IL App (3d) 120738-U; *People v. Thornton*, 2014 IL App (3d) 120652-U; *People v. Blackhawk*, 2014 IL App (3d) 120263-U; *People v. Frederickson*, 2014 IL App (3d) 110733-U; *People v. McCann*, 2013 IL App (3d) 120732-U; *People v. Richardson*, 2013 IL App (3d) 120404-U; *People v. Brazelton*, 2013 IL App (3d) 120184-U; *People v. Shoffner*, 2013 IL App (3d) 120123-U.

The Illinois Appellate Court had also addressed claims of ineffective assistance of counsel in the context of monetary assessments. In 1996, the Second Judicial

District held that a defense attorney was ineffective for failing to request $190 in *per diem* credit against qualifying fines under section 110-14 of the Code of Criminal Procedure. *People v. Siedlinski*, 279 Ill. App. 3d 1003, 1004–06 (2d Dist. 1996). See also generally *People v. Cox*, 2017 IL App (1st) 151536, ¶¶ 104–07 (holding that defense counsel was ineffective for failing to argue for a $170 reduction in monetary assessments).

Courts in other jurisdictions had also found criminal defense attorneys ineffective under *Strickland* for failing to raise meritorious objections to monetary assessments. See, *e.g.*, *People v. Martinez*, 172 Cal. Rptr. 3d 793, 809–11 (Cal. Ct. App. 2014) (holding that counsel was ineffective for failing to object to the trial court's incorrect calculation of a felony restitution fine); *People v. Le*, 39 Cal. Rptr. 3d 146, 152–53 (Cal. Ct. App. 2006) (holding that counsel was ineffective for failing to object to the trial court's incorrect calculation of a defendant's restitution and parole revocation fines); *State v. Ward*, 932 N.E.2d 374, 377–78 (Ohio Ct. App. 2010) (holding that counsel was ineffective for failing to file an affidavit of indigence before sentencing where it was reasonably probable that the court would have found the defendant indigent and relieved him of the obligation to pay a mandatory fine had the affidavit been filed).

In light of this authority, prevailing professional norms require defense attorneys in criminal cases to consider what fines could be imposed on their clients and to challenge the imposition of unauthorized fines, in the pursuit of obtaining the least burdensome sentence for their client. Under prevailing professional norms, defense counsel in this case should have considered the propriety of the $1,587 in monetary assessments that the circuit court imposed on defendant (C122–25).

For all counsel knew, the entire $1,587 in assessments could have been improper; counsel had no way of knowing unless he considered the propriety of the assessments that the court had itemized. Had counsel done so, he would have found that the $100 VCVA fine and the $25 judicial facilities fine were *ex post facto* violations and that defendant was overcharged $57, as previously discussed. At that point, all counsel had to do to raise the challenge was to briefly present the errors in a written motion to reconsider; he did not even have to go court to orally argue the claim. See *People v. Burnett*, 237 Ill.2d 381, 387 (2010) (stating that the purpose of a motion to reconsider is to bring to the court's attention errors in its previous application of existing law and that oral argument on a motion to reconsider sentence is discretionary); *People v. Mink*, 141 Ill.2d 163, 171 (1990) (stating that a circuit court in a criminal case has the power to reconsider its prior orders so long as it has jurisdiction).

There was no strategic reason for counsel not to challenge the errors. Defendant was clearly entitled to the monetary relief, as previously discussed. And defendant was indigent, as counsel acknowledged in open court when he asked the circuit court to appoint the Office of the State Appellate Defender to represent defendant (R183). See generally 725 ILCS 105/10(a) (2015) ("The State Appellate Defender shall represent indigent persons on appeal in criminal . . . proceedings[.]"). Given defendant's indigence at the time the court imposed the assessments, counsel should have acted in his client's best financial interest by saving defendant $57 in fines that had been unconstitutionally imposed. Every dollar matters to the indigent.

Therefore, counsel's failure to challenge the $100 VCVA fine and the $25 judicial facilities fine as *ex post facto* violations was unreasonable under prevailing professional norms and, thus, deficient performance under *Strickland.*

2. The *ex post facto* violations were not *de minimis*, and a *de minimis* exception does not exist, defies *Strickland*, and is not workable.

Contrary to the opinion of Justice Schmidt, characterizing the amount of unconstitutional monetary assessments ($57) as "*de minimis*" does not negate the fact that defense counsel performed deficiently under *Strickland. People v. Rios-Salazar*, 2017 IL App (3d) 150524, ¶ 8.

Simply put, there is not a *de minimis* exception to claims of ineffective assistance of counsel. The Supreme Court of the United States has never referred to or used such an exception.

There is only one inquiry when determining whether a criminal defense attorney performed deficiently. And the Supreme Court articulated it in *Strickland*: whether counsel's representation fell below an objective standard of reasonableness under prevailing professional norms. *Strickland*, 466 U.S. at 687–88. Simply categorizing counsel's action or inaction as trivial or significant, without regard to what is reasonable under prevailing professional norms, defies *Strickland.*

Furthermore, a *de minimis* exception would be incredibly difficult to implement. Would a line be drawn for what is *de minimis* or would *de minimis* be defined on a case-by-case basis? Neither scenario is workable. From who's prospective would *de minimis* be defined: the court, defense counsel, the defendant, or someone else? Would an objective or subjective standard be used? Of course, the value of a dollar means different things to different people. What may be *de minimis* to a judge or defense attorney may not be *de minimis* to a defendant.

And if a defendant is indigent, not even $1 is *de minimis*. Every dollar is important to an indigent person.

This Court has recognized the difficulties in implementing a *de minimis* exception and has declined to do so in the context of plain-error review, emphasizing that it "would be difficult to implement" because "[t]he question would necessarily arise as to where the line should be drawn." *Lewis*, 234 Ill.2d at 48. Other courts have also declined to impose *de minimis* exceptions. See, *e.g.*, *Glover v. United States*, 531 U.S. 198, 202–05 (2001) (holding that any amount of additional jail time is prejudicial under *Strickland* and declining to impose a "baseline standard of prejudice"); *Teague v. Quarterman*, 482 F.3d 769, 777–80 (5th Cir. 2007) (referring to a *de minimis* exception as a "Pandora's Box" and "troublemaker," denouncing it, and holding that no amount of good-time credit may be denied an inmate without due process).

Regardless, the *ex post facto* violations in this case were not *de minimis*, from either a practical or legal standpoint. From a practical standpoint, defendant was indigent when the court imposed the unconstitutional fines, so every dollar mattered to him (R183; C131). Furthermore, it is unjust for a government to take a person's money when it has no right to do so. From a legal standpoint, this Court had previously refused to characterize small amounts of money as *de minimis* in criminal cases. *Lewis*, 234 Ill.2d at 48. In *Lewis*, this Court vacated under plain-error review a $100 street value fine that was imposed without a proper evidentiary basis. *Id.* at 34–49. In refusing to categorize the $100 error as *de minimis*, this Court opined that "[a]n error may involve a relatively small amount of money . . . but still affect the integrity of the judicial process and the fairness of the

proceedings . . . ." *Id.* at 48. This Court added, "The error here is more than a simple mistake in setting the fine. Rather, it is a failure to provide a fair process for determining the fine based on the current street value of the controlled substance." *Id.* The same can be said in this case. The court assessed fines that were not in effect at the time defendant committed the instant offense. Thus, defendant did not receive fair warning of the punishment that could be imposed for his offense. The constitutional violations affected the integrity and fairness of defendant's sentencing proceeding and were not *de minimis*. See also generally *Day v. McDavid*, 119 Ill. App. 2d 62, 65 (4th Dist. 1970) ("*De minimis non curat lex*, often a useful legal maxim, has no application where, as here, personal but nonetheless substantial constitutional rights are asserted."); *Lewis v. Woods*, 848 F.2d 649, 651 (5th Cir. 1988) ("A violation of constitutional rights is never *de minimis* . . . ."); *Cary v. Piphus*, 435 U.S. 247, 266–67 (1978) (holding that a party who proves a violation of his or her constitutional rights, but not an actual injury, is entitled to at least nominal damages because constitutional rights are important to organized society and should be scrupulously honored).

Simply put, there is nothing trivial about a government taking, or attempting to take, money from a person when it has no right to do so, especially when the constitution prohibits it. And this remains true regardless of the amount of money at issue.

Finally, Justice Schmidt's suggestion that defense counsel did not have a constitutional obligation to object to the *ex post facto* violations because "there is no right to counsel under the sixth amendment of the United States Constitution in cases where a defendant is not sentenced to imprisonment" is inapposite. Although

the United States Constitution guarantees the right to the appointment of counsel only when a defendant is sentenced to a period of incarceration, the fact remains that defendant was sentenced to a period of incarceration in this case and did have a constitutional right to counsel (C121; R147–48). *Scott v. Illinois*, 440 U.S. 367, 373 (1979). Because defendant did have counsel at sentencing, counsel was constitutionally required to perform reasonably under prevailing professional norms. *Strickland*, 466 U.S. at 687–88. Counsel did not do so, as previously discussed. When the constitution requires the appointment of counsel for a defendant and what performance the constitution requires of counsel are two different things. Justice Schmidt's reasoning conflated the two. The Supreme Court of the United States never has.

Accordingly, defense counsel performed deficiently by failing to challenge the *ex post facto* violations to reduce defendant's financial obligation, despite the violations involving only a small amount of money.

3. Counsel's deficient performance satisfies the *Strickland* prejudice standard.

Under the second prong of the *Strickland* test, the defendant must show that counsel's deficient performance prejudiced the defense. *Strickland*, 466 U.S. at 687, 692. To establish prejudice, the defendant must show "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694.

In this case, counsel's deficient performance prejudiced defendant. Had counsel presented the *ex post facto* violations to the circuit court, there is a reasonable probability that the court would not have allowed the $100 VCVA fine and the $25 judicial facilities fine to remain as defendant's financial obligations

and would have reduced his financial obligation by $57. As previously discussed, these were clear *ex post facto* violations and should not have been imposed.

Therefore, counsel's deficient performance prejudiced defendant under *Strickland.*

4. The circuit court's failure to impose other mandatory fines does not extinguish the prejudice to defendant.

Even assuming that the circuit court neglected to impose mandatory assessments that exceeded $57, as Justice Wright opined in her special concurrence, *Rios-Salazar*, 2017 IL App (3d) 150524, ¶¶ 15–16 (Wright, J., specially concurring), counsel's deficient performance was still prejudicial to defendant. Defendant did not receive a "savings" or "bargain" due to counsel's failure to raise the *ex post facto* violations. *Id.* at ¶ 16 (Wright, J., specially concurring).

In the event the court failed to impose mandatory fines, the State could still pursue through *mandamus* the additional mandatory fines that the circuit court neglected. *Mandamus* "permits the State to challenge criminal sentencing orders where it is alleged that the circuit court violated a mandatory sentencing requirement." *People v. Castleberry*, 2015 IL 116916, ¶ 27. For example, in *People ex rel. Berlin v. Bakalis*, 2018 IL 122435, ¶ 29, this Court recently awarded *mandamus* and ordered the circuit court to both vacate a defendant's one-year term of mandatory supervised release and impose a mandatory four-year term required by statute.

Thus, if defendant in the instant case was faced with the possibility of the State seeking additional mandatory fines at a later date regardless of whether counsel raised the *ex post facto* violations in the circuit court, it was in defendant's financial best interest for counsel to raise the violations in the circuit court and

reduce defendant's financial obligation. If no action is taken to reduce defendant's financial obligation in light of the *ex post facto* violations, and the State later obtains through *mandamus* an increase in defendant's financial obligation, defendant would be even worse off than if he had obtained the *ex post facto* relief and the State obtained *mandamus* for neglected mandatory assessments.

Finally, defense counsel's failure to challenge the *ex post facto* violations in the circuit court did not cause the court to neglect any mandatory assessments. Defendant did not receive a bargain due to counsel's deficiency. And had counsel raised the *ex post facto* violations in the circuit court, it would not have been a request that the court continue to neglect the imposition of any mandatory assessments that it had previously neglected, *i.e.*, a windfall to which defendant was not entitled. Rather, it would have been a request for relief that defendant was entitled to under the United States and Illinois Constitutions. In other words, counsel would have made "the adversarial testing process work." *Strickland*, 466 U.S. at 690. The imposition of any neglected mandatory assessments remained a matter for the State to pursue and the court to impose.

Therefore, defendant was prejudiced under *Strickland*, notwithstanding any failure of the circuit court to impose additional mandatory fines exceeding $57. Where counsel's performance was deficient and the deficiency prejudiced defendant, defendant was deprived of the effective assistance of counsel.

Accordingly, defendant respectfully requests that this Court reverse the judgment of the Illinois Appellate Court, vacate his $25 judicial facilities fine, and reduce his $100 VCVA fine to $68.

CONCLUSION

Aaron Rios-Salazar respectfully requests that this Court reverse the Illinois Appellate Court's judgment, vacate his $25 judicial facilities fine, and reduce his $100 VCVA fine to $68 because defense counsel deprived him of the effective assistance of counsel by failing to challenge the fines as *ex post facto* violations.

Respectfully submitted,

JAMES E. CHADD
State Appellate Defender

~~Respectfully submitted,~~

PETER A. CARUSONA
Deputy Defender

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COUNSEL FOR DEFENDANT-APPELLANT

CERTIFICATE OF COMPLIANCE

I, Dimitri G. Golfis, certify that this brief conforms to the requirements of Supreme Court Rule 341(a) and (b). The length of this brief, excluding pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 21 pages.

/s/ Dimitri G. Golfis
DIMITRI G. GOLFIS
Assistant Appellate Defender

APPENDIX TO THE BRIEF

Aaron Rios-Salazar No. 123052

People v. Rios-Salazar, Aaron
2010CF002114 3-15-0524

R1	Report of Proceedings of October 28, 2010 Grand Jury Return
R4	Report of Proceedings of October 14, 2011 Warrant Review
R5	Warrant is granted and extended for another year under same terms and conditions
R7	Report of Proceedings of October 12, 2012 Warrant Review
R8	Warrant is granted and extended for another year under same terms and conditions
R10	Report of Proceedings of October 11, 2013 Warrant Review
R11	Two year extended granted
R13	Report of Proceedings of July 31, 2014 Warrant Issues/Case continued on arraignment
R17	Report of Proceedings of August 7, 2014 Arraignment
R18	Defendant enters a plea of not guilty
R20	Report of Proceedings of September 10, 2014 Pre-Trial conference
R21	Defense Motion to reduce bond
R22	Defense Argument on Motion to reduce bond State's Argument on Defense Motion to reduce bond
R27	Report of Proceedings of September 18, 2014 Defense Bond Reduction Motion

Witness	DX	CX	RDX	RCX
Det. Carianne Siegel	R29	R35		

Witness	DX	CX	RDX	RCX
Alexia Rios	R106			
Jeanett Rios	R112			
Bonnie Mcphillips-	R115	R118		
Ramona Rios	R124			
Norma Rios	R128	R130		

Manila Envelope
EX1

STATE OF ILLINOIS | UNITED STATES OF AMERICA | COUNTY OF WILL

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS
VS.
AARON RIOS-SALAZAR

Case Number 2010CF002114

TABLE OF CONTENTS

Table of Contents

Table of Contents

2017 IL App (3d) 150524

Opinion filed November 20, 2017

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2017

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. AARON RIOS-SALAZAR, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois. Appeal No. 3-15-0524 Circuit No. 10-CF-2114 Honorable Carla Alessio-Policandriotes, Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court, with opinion.
Justice Wright specially concurred, with opinion.
Justice Lytton dissented, with opinion.

OPINION

¶ 1 Defendant, Aaron Rios-Salazar, after being sentenced to 24 years for predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2010)), argues only that his defense counsel was ineffective for failing to object to $57 in fines. We affirm.

¶ 2 FACTS

¶ 3 Defendant pled guilty to predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2010)) for an offense that occurred between February 1 and August 30, 2010. In return, the State nol-prossed two counts of predatory criminal sexual assault of a child, three

counts of criminal sexual assault, and one count of aggravated criminal sexual assault. The circuit court sentenced defendant to 24 years' imprisonment.

¶ 4 A cost sheet signed by the circuit court, bearing the file-stamped date of July 24, 2015, appears in the record. The cost sheet shows that the court imposed $1587 in assessments, including a $100 Violent Crime Victims Assistance Fund (VCVA) assessment and a $25 "house fee." A separate document, which is unsigned and appears to be a computer print-out, also lists the monetary assessments. That document describes the $25 "house fee" as "judicial facilitie[s]."

¶ 5 ANALYSIS

¶ 6 Defendant argues that his trial counsel was ineffective for failing to object to the $25 judicial facilities fee and the $100 VCVA assessment. He contends that the assessments violated *ex post facto* principles and, had counsel objected, the $25 judicial facilities fee would have been vacated and the $100 VCVA assessment would have been reduced to $68. Essentially, defendant's argument is that his trial counsel was constitutionally deficient for failing to object to $57 in improper fines. By challenging the fines on the basis of ineffective assistance of counsel rather than directly, defendant implicitly concedes that he forfeited the issue. For the reasons stated below, we find no reason to determine whether the contested charges are fines or fees, appropriate or inappropriate.

¶ 7 To state a claim for ineffective assistance of counsel, a defendant must show that (1) counsel's performance was deficient and (2) the deficient performance prejudiced defendant. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). "In order to satisfy the deficient-performance prong of *Strickland*, a defendant must show that his counsel's performance was so inadequate that counsel was not functioning as the 'counsel' guaranteed by the sixth amendment." *People v. Smith*, 195 Ill. 2d 179, 188 (2000).

¶ 8 Even accepting defendant's argument that $57 of his fines were improper, we find that trial counsel's failure to object to this *de minimis* amount of monetary assesments did not constitute constitutionally deficient performance. That is, counsel's failure to challenge $57 in allegedly improper fines did not render counsel's performance "so inadequate that counsel was not functioning as the 'counsel' guaranteed by the sixth amendment." *Id.* Not every mistake of counsel constitutes deficient performance. *People v. Easley*, 192 Ill. 2d 307, 344 (2000) ("[I]neffective assistance of counsel refers to competent, not perfect, representation."). In the instant case, defendant pled guilty to a Class X felony and received a sentence of 24 years' imprisonment. Counsel's failure to object to *de minimis* fines is simply not an error of constitutional magnitude.

¶ 9 In reaching our holding, I note that there is no right to counsel under the sixth amendment of the United States Constitution in cases where a defendant is not sentenced to imprisonment. *Scott v. Illinois*, 440 U.S. 367, 373-74 (1979). Even the statutory right to counsel in Illinois, which is broader than the right to counsel guaranteed by the sixth amendment, does not apply in cases punishable by fine only. 725 ILCS 5/113-3(b) (West 2010). The fact that there is no right to counsel in cases punishable only by fines supports our holding that counsel's failure to object to certain *de minimis* fines did not render his representation of defendant constitutionally deficient.[1]

¶ 10 CONCLUSION

¶ 11 For the foregoing reasons, we affirm the judgment of the circuit court of Will County.

¶ 12 Affirmed.

---

[1]The author is alone in this observation, as witnessed by the special concurrence and dissent.

¶ 13 JUSTICE WRIGHT, specially concurring.

¶ 14 I agree that the judgment should be affirmed. However, I reach the same conclusion as the author for different reasons. To show ineffective assistance of counsel, defendant must first establish prejudice. In my view, prejudice is simply not present in this record.

¶ 15 Here, the criminal cost sheet contains multiple errors by the trial court. I agree the court incorrectly calculated the VCV fine and should not have imposed the $25 Judicial Facilities fine. However, I also notice from the face of the criminal costs sheet that the trial court neglected to order defendant to pay the mandatory criminal surcharge calculated at the rate of $10/$40 in all punitive fines imposed. 730 ILCS 5/5-9-1(c) (West 2010). I recognize the mandatory surcharge cannot be added to defendant's sentence at this point.

¶ 16 Assuming defendant has correctly calculated the basis for the VCV fine in the amount of $68, I point out that the criminal surcharge in this case would have increased defendant's punitive fines by at least $170 ($10 x 17 $40 units). The bottom line is that defense counsel's failure to challenge the trial court's sentencing order, regarding monetary issues, resulted in a savings to defendant of at least $113. Based on this record, I conclude defendant received a bargain and was not overcharged by $57 as defendant contends on appeal. On this basis, I disagree that ineffective assistance of counsel is present in this record and would deny defendant the relief requested.

¶ 17 For these reasons, I specially concur and agree with the result in this case only.

¶ 18 JUSTICE LYTTON, dissenting.

¶ 19 I disagree with the majority's characterization of the improper fines in this case as "*de minimis*." A fine imposed in direct contravention of the law is an error of constitutional magnitude; here, it violates *ex post facto* principles and should be addressed. Had trial counsel

raised the issue below, the fines and fees order would have been corrected. Nothing prevents us from doing the same on appeal.

¶ 20 Both the federal and state constitutions prohibit *ex post facto* laws. See U.S. Const., art. I, § 9; Ill. Const. 1970, art. I, § 16. A criminal law violates *ex post facto* principles if a legislative change is retroactively applied to a defendant and increases the penalty by which a crime is punishable. *Hadley v. Montes*, 379 Ill. App. 3d 405, 409 (2008). To establish an *ex post facto* violation, a defendant must show (1) a legislative change, (2) the change imposed a punishment, and (3) the punishment is greater than the punishment that existed at the time the crime was committed. *Id.* Fines are subject to the prohibition against *ex post facto* laws. *People v. Dalton*, 406 Ill. App. 3d 158, 163 (2010).

¶ 21 In 2010, when defendant committed the offense in this case, the Violent Crime Victims Assistance Act (Act) (725 ILCS 240/1 *et seq.* (West 2010)) imposed a "penalty of $4 for each $40, or fraction thereof, of [other] fine[s] imposed." 725 ILCS 240/10(b) (West 2010). This penalty is a fine. See *People v. Vlahon*, 2012 IL App (4th) 110229, ¶¶ 35-38. Effective July 16, 2012, section 10 of the Act was amended by Public Act 97-816, which increased the fine to $100 for any felony conviction. Pub. Act 97-816 (eff. July 16, 2012) (amending 725 ILCS 240/10(b)(1)).

¶ 22 Defendant was assessed a total of $645 in fines. Therefore, the Violent Crime Victims Assistance fine applicable under the 2010 statute was $68[2] rather than $100. See *Vlahon*, 2012 IL App (4th) 110229, ¶ 38 (proper method of calculating Violent Crime Victims Assistance fine). Because the amended version of section 10(b) was not yet in effect at the time of the

[2]$645 divided by $40 equals $16.125, plus a "fraction thereof," multiplied by $4 equals $68. 725 ILCS 240/10(b) (West 2010).

offense and the fine is now greater than the punishment that previously existed, the trial court violated *ex post facto* principles by assessing a $100 Violent Crime Victims Assistance fine against defendant.

¶ 23 The $25 fine for judicial facilities also violates *ex post facto* principles. Section 5-1101.3 of the Counties Code provides for "a judicial facilities fee to be used for the building of new judicial facilities," not to exceed $30. 55 ILCS 5/5-1101.3 (West 2016). This assessment is a fine. See *People v. Johnson*, 2015 IL App (3d) 140364 (appendix); 55 ILCS 5/5-1101.3(b) (West 2016) (assessment is not an expense incurred by the State for prosecuting the defendant). Again, the statute was not in effect at the time defendant committed the offense. Thus, the trial court's imposition of the fine is an *ex post facto* violation.

¶ 24 The majority declines to review these fines for error. Instead, it concludes that, even if the fines were imposed in violation of the law, the amounts were *de minimis* and any error need not be addressed. I disagree. The error here is more than a simple mistake in calculating a fee. Rather, it is the retroactive application of two statutes that increased the penalty by which defendant's crime was punishable. Contrary to the majority, I do not believe a *de minimis* exception can be placed on such a constitutional violation. Notably, this supposed exception is difficult to implement, as it requires the very subjective process of determining when the amount in error becomes significant rather than *de minimis*, or a mere trifle. See Black's Law Dictionary 524 (10th ed. 2014) (defining *de minimis* as "trifling"). More compelling, a *de minimis* exception is inconsistent with the constitutional concerns and concepts of fairness inherent in *ex post facto* principles. *People v. Coleman*, 111 Ill. 2d 87, 93-94 (1986). "An error may involve a relatively small amount of money or unimportant matter, but still affect the integrity of the judicial process and the fairness of the proceeding ***." *People v. Lewis*, 234 Ill. 2d 32, 48 (2009).

¶ 25 The challenged fines were imposed in violation of *ex post facto* principles. In light of this constitutional error, the Violent Crime Victim Assessment fine should be reduced to $68 and the $25 judicial facilities fine should be vacated.

3-15-0524 07/27/15 13:17:01 WCCH

NOTICE OF APPEAL

APPEAL TAKEN FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN WILL COUNTY, ILLINOIS

APPEAL TAKEN TO THE APPELLATE COURT, THIRD JUDICIAL DISTRICT, ILLINOIS

The People of the State of Illinois

Plaintiffs-Appellees,
-vs-
Aaron Rios-Salazar
Defendant-Appellant

Case No 10 CF 2114

☐ Joining Prior Appeal / ☑ Separate Appeal / ☐ Cross Appeal
(Mark One)

An appeal is taken from the Order of Judgment described below

(1) Court to which appeal is taken is the Appellate Court

(2) Name of Appellant and address to which notices shall be sent
NAME Aaron Rios-Salazar
ADDRESS 95 S Chicago St Joliet, IL 60432

(3) Name and address of Appellant's Attorney on appeal
NAME Peter A Carusona, Deputy Defender
Office of the State Appellate Defender
Third Judicial District
770 E Etna Rd
Ottawa, Illinois 61350
If Appellant is indigent and has no attorney, does he/she want one appointed?
YES

FILED
2015 JUL 24 AM 11 08
CLERK CIRCUIT COURT
WILL COUNTY, ILLINOIS

(4) Date of Judgment or Order March 19, 2015
(a) Sentencing Date June 16, 2015
(b) Motion for New Trial N/A
(c) Motion to Vacate Guilty Plea July 23, 2015
(d) Other
Motion to withdraw guilty plea and Motion to reconsider sentence, July 23, 2015 Both denied

(5) Offense of which convicted
Preditory Criminal Sexual Assault

(6) Sentence
24 years IL Department of Corrections

(7) If appeal is not from a conviction, nature of order appealed from

(8) If the appeal is from a judgment of a circuit court holding unconstitutional a statute of the United States or of this state, a copy of the court's findings made in compliance with Rule 18 shall be appended to the notice of appeal

(Signed) Pamela J McGuire / jmkk
(May be signed by appellant, attorney, or clerk of circuit court)
PAMELA J McGUIRE
Clerk of the Circuit Court
NOAPL

cc State's Attorney
Attorney General

07/27/15 13:17:01 WCCH

3-15-0524

C0000122

CRIMINAL COST SHEET
(revised Aug. 2012)

DEFENDANT Aaron Rios-Salazar CASE # 10 CF 2114

Note: Items in bold to be assessed on all cases.

SECTION I: CLERK'S FEES

Children's Advocacy Center Fee [55 ILCS 5/5-1101(f-5)]- CF- $30/ CM- $20	$ 30
Clerk's Filing Fee [705 ILCS 105/27 2] CF- $125/ CM, Business, Petty- $75/ Minor traffic- $20/ Must appear traffic- $30	$ 125
Court Automation Fee [705 ILCS 105/27 3a]- $15	$ 15.00
Court Security Fee [55 ILCS 5/5-1103]- $25 (CF, CM, DUI, Agg TR), $4 (all others)	$ 25.00
Court Services Operations Fee [705 ILCS 105/27 3a]- $10 EXCEPT MINOR TRAFFIC AND CONSERVATION	$ 10.00
Court Systems Fee [55 ILCS 5/5-1101]- CF- $50/ CM cl A- $25, cl B & C- $15/ Petty or Business- $10/ DUI. 1st- $30, 2nd + - $100/ traffic- $5	$ 50
Document Storage Fee [705 ILCS 105/27 3c]- $15 (except petty nonmoving traffic)	$ 15.00
Drug Court Fee [55 ILCS 5/5-1101(f)]- $5	$ 5.00
Motion Fees [705 ILCS 105/27 2]	
Vacate/amend final orders- $40	$
Vacate bond forfeiture- $30	$
Vacate ex parte judgment- $30	$
Vacate judgment on forfeiture- $25	$
Vacate FTA or FT comply notices to SOS- $40	$
Notice Mailing Fee [705 ILCS 105/27 2]- $10 plus postage per notice ($7.37 x ____)	$
Specialized Court Fee [55 ILCS 5/5-1101(d-5)]- $10 MENTAL HEALTH COURT, DRUG COURT, VETERANS COURT	$ 10.00
Other Arrival fee	$ 25
TOTAL AMOUNT SECTION I	$ 345

FILED
2015 JUL -9 AM 10:44
CLERK OF CIRCUIT COURT
WILL COUNTY, ILLINOIS

SECTION II: PENALTIES IMPOSED BY THE COURT

**Arrestee's Medical Costs Fee [730 ILCS 125/17]- $10	$
Crime Lab Fees	$
Cannabis and Controlled Sub [730 ILCS 5/5-9-1 4]- $100	
DUI Analysis [730 ILCS 5/5-9-1 9]- $150	
DNA database analysis fee [730 ILCS 5/5-4-3(j)]- $250	$ 250
Expungement Fee [730 ILCS 5/5-9-1 17]- $30 IF CONVICTED	$
Parole Violation Fine [730 ILCS 5/5-9-1 20]- $25	$

Trauma Center Fees $_____

Minor traffic [625 ILCS 5/16-104b]- $5

**DUI [730 ILCS 5/5-9-1(c-5)]- $100 (+ $5 above = $105)

**Weapons [730 ILCS 5/5-9-1 10]- $100

Drugs [730 ILCS 5/5-9-1 1(b)]- $100 $ 100

**Violent Crime Victim Assistance Fee [725 ILCS 240/10] $_____

CF- $100/ CM- $75/ Traffic- $50 (except speeding)

Specific Crime Fines

**Arson Fine [730 ILCS 5/5-9-1 12]- $500 $_____

Child Pornography Fine [730 ILCS 5/5-9-1 14]- $500 $_____

**Domestic Battery Fine [730 ILCS 5/5-9-1 6]- $10 $_____

Domestic Violence Fine [730 ILCS 5/5-9-1 5]- $200 $_____

SEE STATUTE FOR INCLUDED OFFENSES

Drug Offenses- $_____

Drug Paraphernalia Fine [720 ILCS 600/3 5]- $750 $_____

Cannabis and Controlled Sub Fine- $100 NON- METH CASES

Drug Traffic Prevention Fund [730 ILCS 5/5-9-1 1(e)]- $25

**Perf Enhancing Sub Testing Fund [730 ILCS 5/5-9-1 1(d)]- $50

Prescrip Pill & Drug Disposal Fund [730 ILCS 5/5-9-1 1(f)]- $20

**Spin Cord Injury Para. Cure Rsrch. Fund [730 ILCS 5/5-9-1 1(e)]- $5

Mandatory Assessment [720 ILCS 550/10 3 & 570/411 2] $_____

CL X- $3000/ CL 1- $2000/ CL 2- $1000/ CL 3 & 4- $500

CL A- $300/ CL B & C- $200

Methamphetamine Fine- $195 $_____

Drug Traffic Prevention Fund [730 ILCS 5/5-9-1 1-5(e)]- $25

Meth Law Enforce Fund [730 ILCS 5/5-9-1 1-5(b)]- $100

**Perf Enhancing Sub Testing Fund [730 ILCS 5/5-9-1 1(d)]- $50

Prescrip Pill & Drug Disposal Fund [730 ILCS 5/5-9-1 1-5(d)]- $20

Street Value Fine [730 ILCS 5/5-9-1 1(a) and 720 ILCS 550/10 1, 570/411 1] $_____

DUI Law Enforcement Fine [625 ILCS 5/11-501 01(f)]- $750 (1st) $_____
$1000 (2nd +)

To _____ (police depts)

**DUI- Spin. Cord Injury Para Cure Rsrch. Fund [730 ILCS 5/5-9-1(c-7)]-$5 $_____

**Sexual Assault Fine [730 ILCS 5/5-9-1 7, 725 ILCS 5/110-14]- $200 $ 2000

INCLUDES ATTEMPT

**Sex Offender Fine [730 ILCS 5/5-9-1 15]- $500 $ 500

SEE 730 ILCS 150/2 FOR DEFINITION OF SEX OFFENDER

Streetgang Fine [730 ILCS 5/5-9-1 19]- $100 $_____

SEE 740 ILCS 147/10 FOR DEFINITION OF STREETGANG

**Violation of OP Fine [730 ILCS 5/5-9-1 11]- $20 $_____

Violation of OP Fee [730 ILCS 5/5-9-1 16]- $200 IF CONVICTED $_____

Other _____

**ARE NOT CONSIDERED FINES FOR PURPOSES OF $5 PER DAY CREDIT

Fine $_____

TOTAL SECTION II $ 1080

SECTION III: PENALTIES IF FINE IMPOSED

**Surcharge on fines ($10 for every $40) [730 ILCS 5/5-9-1(c)] $_____
(Except parking, registration or offense by pedestrian)

**Driver's School Education Fund ($4 for every $40) $_____
[625 ILCS 5/16-104a(a)] IF CONVICTED

Other _____ $_____

**ARE NOT CONSIDERED FINES FOR PURPOSES OF $5 PER DAY CREDIT

TOTAL SECTION III $_____

FILED
2015 JUL 24 AM 10: 44
CLERK OF THE CIRCUIT COURT
WILL COUNTY, ILLINOIS

SECTION IV: STATE'S ATTORNEY'S FEES

Conviction Fee [55 ILCS 5/4-2002] $_____
CF- $30 (per count)
CM and all other cases- $10 (per count/ up to 10 counts)
Prelim Hrg Fee- $10 $_____
Appeal Fee- $50 $_____
Trial Fee or Habeas Corpus hearing (per diem)- $25 x ____ (days) $_____
Forfeiture Set Aside Fee- $10 (recog. bonds only) $_____
Mental Illness Fee- $10 $_____
Automation Fee- $2 $ 2.00

Other _____ $_____

TOTAL SECTION IV $ 32

SECTION V: SHERIFF'S FEES

Green Sheet Fees [55 ILCS 5/4-5001 & 725 ILCS 5/124(a-5)(extradition costs)] $ 195

SECTION VI: BOND FEE

Bond Fee [725 ILCS 5/110-7]- 10% of bond $ —
DOES NOT APPLY TO CASH BOND

TOTAL ALL SECTIONS

Section I	$ 310	1355
Section II	$ 1050	227
Section III	$ —	
Section IV	$ 32	1582
Section V	$ 195	
Section VI	$ —	
Total Court Costs	$ 1587	
Credit for time served ___ days at $5 00 per day CREDIT AGAINST FINES ONLY	- $	
Cost Subtotal	$	
		$

Restitution
To _____
_____
_____

DUI Emergency Response Reimbursement [730 ILCS 5/5-5-3(a)(8)]
MAX $500 PER AGENCY

$_____ to _____ (agency)		$
$_____ to _____ (agency)		$
$_____ to _____ (agency)		$
$_____ to _____ (agency)		$
Restitution Subtotal		$
+ Cost Subtotal	+	$
	=	$
Public Defender Reimbursement [725 ILCS 5/113-3 1]	+	$
Probation Fee [730 ILCS 5/5-6-3]	+	$
Less Bond	-	$
TOTAL DUE OR TOTAL REFUND		$

7-24-15
Date

Judge

07 · 27 · 15 13 17 01 WCCH

C0000132

3:15-0524

CMD06 Criminal/Traffic Paymt Setup Batch 09 106 9/10/2015 Rec# 00
Action E Charge No 08 Of 14 00 Case 2010 CF 002114 # 2001 Bond Amt.
Typ 9 Manual Y Judge 065 C Cla X RIOS-SALAZAR AARON .00
Manual Calculations ASA MLF S Agency 101 L M PLAINFIELD VILL
1587.00 Supervision Open Paymt N Probation Use Bond Y/N Y More + _

AcctNo	M	Description	Tot-Amount	Tot-Payment
5220		CLERK FILING FEE	125.00	
5310		DOCUMENT STORAGE	15.00	
5200		AUTOMATION	15.00	
5280		STATES ATTORNEY	30.00	
5270		SHERIFF FEES	195.00	
5240		COURT SERVICES / S	25.00	
5320		COURT SYSTEMS	50.00	
5500		VICTIMS FUND-FINE	100.00	
5789		JUDICIAL FACILITIE	25.00	
5630		SEXUAL ASSAULT SER	100.00	
5775		STATE'S ATTORNEY A	2.00	
5635		DNA ANALYSIS FEE	250.00	
5614		DRUG COURT FEE 1	5.00	
5615		DRUG COURT FEE 2	10.00	
5749		CHILD ADVOCACY CEN	30.00	
5755		SEX OFFENDERS INVE	500.00	

Order Summary	
Cost Amount	637.00
Fine Amount	.00
Restitution	.00
Other Amounts	950.00
Interest	.00
Total Court	1587.00
Collection	.00
Total Amount	1587.00
Bond Used	.00
Other Paymts	.00
Total Paymts	.00
Balance Due	1587.00
Refund Amt	.00
Bond Fees	.00
Probation Fee	.00
Bond	.00
Order	1587.00

PRESS SHIFT & ROLL UP KEYS TO SEE THE NEXT PAGE
C Amt F Paymt S Seq + More P Print F3=Exit F6=Maint F12=Leave

C0000133

3-15-0524

CMD06 Criminal/Traffic Paymt Setup Batch 09 106 9/10/2015 Rec# 07
Action E Charge No 08 Of 14 00 Case 2010 CF 002114 # 2001 Bond Amt. .00
Typ 9 Manual Y Judge 065 C Cla X RIOS-SALAZAR AARON
Manual Calculations ASA MLF S Agency 101 L M PLAINFIELD VILL
1587.00 Supervision Open Paymt N Probation Use Bond Y/N Y More +

AcctNo	M	Description	Tot-Amount	Tot-Payment	Order Summary
5650		DOMESTIC VIOLENCE/	100.00		.00
5777		COURT SERVICES OPE	10.00		.00

PRESS SHIFT & ROLL UP KEYS TO SEE THE NEXT PAGE Bond .00
C Amt F Paymt S Seq + More P Print F3=Exit F6=Maint F12=Leave Order 1587.00

C0000134

3-15-0524

CMD06 Criminal/Traffic Paymt Setup Batch 09 106 9/10/2015 Rec# 07
Action C Charge No 08 Of 14 01 Case 2010 CF 002114 # 2001 Bond Amt.
Typ O Manual N Judge 065 C Cla X RIOS-SALAZAR AARON .00
No Fine & Cost ASA MLF S Agency 101 L M PLAINFIELD VILL
.00 Supervision Open Paymt N Probation 000 Use Bond Y/N Y More +

Amount	M	AcctNo	Description	Tot-Amount	Tot-Payment	Payee#	Seq# +
.....		5400	BOND 10% CHARGE				
.....		5900	REFUND BOND AMOUNT .				

Bond .00
C Amt F Paymt S Seq + More P Print F3=Exit F6=Maint F12=Leave Order 1587.00

SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

March 21, 2018

In re: People State of Illinois, Appellee, v. Aaron Rios-Salazar, Appellant. Appeal, Appellate Court, Third District. 123052

The Supreme Court today ALLOWED the Petition for Leave to Appeal in the above entitled cause.

We call your attention to Supreme Court Rule 315(h) concerning certain notices which must be filed.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

No. 123052

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- AARON RIOS-SALAZAR Defendant-Appellant	))))))))))	Appeal from the Appellate Court of Illinois, No. 3-15-0524. There on appeal from the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, No. 10-CF-2114. Honorable Carla Alessio-Policandriotes, Judge Presiding.

NOTICE AND PROOF OF SERVICE

Lisa Madigan, Attorney General, 100 W. Randolph St., Chicago, IL 60601, eserve.criminalappeals@atg.state.il.us;

Mr. David J. Robinson, Acting Deputy Director, State's Attorneys Appellate Prosecutor, 628 Columbus, Suite 300, Ottawa, IL 61350, 3rddistrict@ilsaap.org;

James Glasgow, Will County State's Attorney, 121 N. Chicago St., Joliet, IL 60432;

Mr. Aaron Rios-Salazar, Register No. M53398, Hill Correctional Center, P. O. Box 1700, Galesburg, IL 61401

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On May 24, 2018, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Ottawa, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/Esmeralda Martinez
LEGAL SECRETARY
Office of the State Appellate Defender
770 E. Etna Road
Ottawa, IL 61350
(815) 434-5531
Service via email will be accepted at
3rddistrict.eserve@osad.state.il.us