

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 22796
Plaintiff-Appellee	:	
	:	Trial Court Case No. 07-CR-4059
v.	:	
	:	(Criminal Appeal from
MARK N. NASON	:	Common Pleas Court)
	:	
Defendant-Appellant	:	
	:	

.....

O P I N I O N

Rendered on the 5th day of December, 2008.

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MATHIAS H. HECK, JR., by KELLY D. CRAMMER, Atty. Reg. #0079994, Montgomery County Prosecutor's Office, Appellate Division, Montgomery County Courts Building, P.O. Box 972, 301 West Third Street, Dayton, Ohio 45422
Attorney for Plaintiff-Appellee

MICHAEL T. COLUMBUS, Atty. Reg. #0076799, 2100 First National Plaza, 130 West Second Street, Dayton, Ohio 45402
Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} Mark Nason appeals from his conviction of theft of an automobile pursuant to his no-contest plea. On December 17, 2007, Nason was sentenced to a fifteen month prison term and ordered to pay court costs. On May 12, 2008, Nason moved to vacate

the trial court's termination entry which ordered him to pay court costs. Three days later the trial court overruled his motion on the basis it lacked jurisdiction to amend the sentencing entry.

{¶ 2} Nason's appointed lawyer states he can find no merit to any claim of error except that the trial court may have by oversight ordered Nason to pay court costs despite his indigency.

{¶ 3} In *State v. Clevenger*, 114 Ohio St.3d 258, 2007-Ohio-4006, 871 N.E.2d 589, the Supreme Court held that a trial court may not suspend court costs previously imposed on a criminal defendant absent statutory authority. The court also held that a trial court may waive the payment of court costs previously imposed on a defendant only upon statutory authority and only if the defendant moves for waiver of costs at the time of sentencing.

{¶ 4} It is thus clear that a trial court may impose court costs upon an indigent. In this matter the trial court clearly imposed costs upon Nason in the sentencing entry. Because Nason entered a no-contest plea, the court costs imposed by the court were not substantial. (See cost bill mailed by clerk to Nason on January 9, 2008.)

{¶ 5} We have reviewed the record and are in agreement with Nason's counsel that there is no merit to Nason's appeal. The Judgment of the trial court is Affirmed.

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WOLFF, P.J., and FAIN, J., concur.

Copies mailed to:

Mathias H. Heck, Jr.
Kelly D. Crammer
Michael T. Columbus
Mark N. Nason #A567-622
Hon. Michael Tucker