

[Cite as *State v. Ragland*, 2017-Ohio-2783.]

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

STATE OF OHIO

Plaintiff-Appellee

V.

RONALD E. RAGLAND, II

Defendant-Appellant

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C.A. CASE NO. 2015-CA-36

T.C. NO. 14-CR-287

(Criminal Appeal from
Common Pleas Court)

OPINION

Rendered on the 12th day of May, 2017.

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DONOVAN, J.

{¶ 1} Defendant-appellant Ronald E. Ragland, II, appeals his conviction and sentence for one count of domestic violence, in violation of R.C. 2919.25(A), a felony of the third degree, and one count of disrupting public services, in violation of R.C. 2909.04(A), a felony of the fourth degree.

{¶ 2} Ragland was originally charged by indictment on December 11, 2014, with

one count of domestic violence (“Count One”), and one count of disrupting public services. On July 7, 2015, Ragland appeared for arraignment via teleconference, represented by counsel. Counsel indicated to the court that he and Ragland had discussed the indictment, and Ragland, through counsel, accepted service of the indictment, waived its reading, and entered a plea of not guilty. At a scheduling conference on July 17, 2015, the matter was scheduled for trial to be held on September 22 and 23, 2015, with a final pretrial conference scheduled for August 31, 2015.

{¶ 3} On September 8, 2015, Ragland pled guilty to both counts in the indictment. On October 5, 2015, Ragland was sentenced to a 30-month prison term for Count One, and a 14-month prison term for Count Two, to be served concurrently to one another but consecutively to his current term of incarceration. The trial court imposed a total fine of \$250.00, and it ordered Ragland to pay back the cost of attorney fees and expenses, including court costs. In so doing, the trial court imposed a post-confinement payment plan for the repayment of court appointed counsel fees and court costs.

{¶ 4} Ragland appealed. Appointed counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), indicating that he found no potential assignment of error having arguable merit. This Court rejected the *Anders* brief, finding that the issue of whether the trial court erred in imposing a post-confinement payment plan for the repayment of court appointed counsel fees and court costs had arguable merit. New counsel was appointed to brief the issue, including any additional assignments of error recognized.

{¶ 5} Ragland’s appeal is now properly before us.

{¶ 6} Ragland’s sole assignment of error is as follows:

{¶ 7} “THE TRIAL COURT ERRED IN ORDERING A POST CONFINEMENT PAYMENT PLAN FOR APPOINTED COUNSEL FEES.”

{¶ 8} In his sole assignment, Ragland argues that the trial court erred when it ordered him to pay his court-appointed counsel fees through a post-prison repayment schedule set at \$50.00 per month. Based upon our recent holding in *State v. Springs*, 2015-Ohio-5016, 53 N.E.3d 804 (2d Dist.), Ragland argues that such fees must be pursued by a county against a defendant in a separate civil action. Therefore, Ragland asks us to vacate the portion of the judgment entry ordering him to pay his court-appointed counsel legal fees. We note that the State concedes error in the instant case based on our holding in *Springs. Id.*

{¶ 9} Ragland’s judgment entry of conviction states in pertinent part:

FINANCIAL OBLIGATION PAYMENT SCHEDULE

Defendant shall pay *court costs, fine, and court-appointed legal fees at a minimum of \$50.00 per month* beginning the second month after release from confinement and due the 28th of each month thereafter. Clerk shall apply monies collected to court costs, fine, and court-appointed legal fees in that order.

{¶ 10} In *Springs*, which also involved the Champaign County Court of Common Pleas, we held that although the trial court, following defendant's guilty plea, could properly find defendant obligated to repay court-appointed counsel fees and enter judgment for them, the obligation to reimburse appointed-counsel fees could not properly be blended into the court's post-confinement repayment schedule. *Id.* at 12. Rather, if the county desired to enforce the reimbursement to which the trial court's findings entitled it,

it was required to pursue civil execution collection proceedings. *Id.*; see R.C. 2941.51(D). See *State v. Johnson*, 2016-Ohio-5160, 69 N.E.3d 176, ¶¶ 35, 36 (2d Dist.).

{¶ 11} In the case at bar, the State does not challenge Ragland's argument that it was improper for the trial court to blend appointed counsel fees into a post-confinement repayment schedule. Appointed counsel fees must be collected through a civil proceeding brought by the clerk of courts or the State after Ragland is released from prison. *Johnson* at ¶ 41. Although not raised by Ragland, based on our holding in *Johnson*, we further conclude that the trial court erred when it ordered him to remit the costs from his criminal action through the fee schedule it created and included in his judgment entry of conviction.

{¶ 12} R.C. 2949.111(A)(1) defines “court costs” as “any assessment that the court requires an offender to pay to defray the costs of operating the court.” R.C. 2949.111(A)(3) defines “reimbursement” as “any reimbursement for the costs of confinement that the court orders an offender to pay pursuant to section 2929.28 of the Revised Code, any supervision fee, any fee for the costs of house arrest with electronic monitoring that an offender agrees to pay, any reimbursement for the costs of an investigation or prosecution that the court orders an offender to pay pursuant to section 2929.71 of the Revised Code, or any other costs that the court orders an offender to pay.”

{¶ 13} We review a trial court's imposition of a repayment schedule for court costs under an abuse of discretion standard. See *State v. Gullett*, 4th Dist. Gallia No. 09CA4, 2010-Ohio-2785, ¶ 10. Pursuant to R.C. 2947.23, the trial court was required to “include in the sentence the costs of prosecution * * * and render a judgment against the defendant for such costs.” However, court costs are distinct from criminal punishment. This is

because “although costs in criminal cases are assessed at sentencing and are included in the sentencing entry, costs are not punishment, but are more akin to a civil judgment for money.” *State v. Threatt*, 108 Ohio St.3d 277, 2006-Ohio-905, 843 N.E.2d 164, ¶ 15. An order to pay court costs is essentially a judgment on a contractual debt where the court is the creditor and the party ordered to pay court costs is the debtor. *State v. Lamb*, 163 Ohio App.3d 290, 2005-Ohio-4741, 837 N.E.2d 833, ¶ 13 (2d Dist.). As such, the creditor, i.e., the court, *can collect only the money it is due by the methods provided for the collection of civil judgments. Id.*

{¶ 14} In *Threatt*, the Ohio Supreme Court held that “the state may use any method that is available for collection of a civil judgment for money.” 108 Ohio St.3d 277, 2006-Ohio-905, 843 N.E.2d 164, at ¶ 16. Here, the trial court clearly had the authority to impose court costs against Ragland at sentencing. Further, once Ragland is released from prison, the State or the Department of Rehabilitation and Corrections can implement one of many civil collection methods to collect the costs generated during his case. However, the trial court did not have the authority to enforce monetary obligations *except through civil enforcement mechanisms. State v. Springs*, 2015-Ohio-5016, 53 N.E.3d 804, ¶ 13 (2d Dist.). Since costs from a criminal action can only be collected through civil enforcement mechanisms, the trial court erred when it ordered Ragland to remit the costs from his criminal action through the fee schedule it created and included in his judgment entry of conviction. If Champaign County, or the clerk thereof, desires to enforce the reimbursement to which the trial court's findings entitle it, it must pursue civil execution collection proceedings. *Id.* at ¶ 12.

{¶ 15} Ragland's sole assignment of error is sustained.

{¶ 16} Ragland's sole assignment of error having been sustained, we hereby modify the trial court's final judgment entry by vacating and excising only the words "costs" "and court appointed legal fees" from the "financial obligation payment schedule" to the extent that the schedule compels Ragland to make monthly payments toward his court-appointed counsel fees and costs in connection with his criminal case. The judgment of the trial court is therefore **affirmed** as modified.

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WELBAUM, J. and TUCKER, J., concur.

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