## STATE OF ILLINOIS IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT COUNTY OF DU PAGE

PEOPLE OF THE STATE OF ILLINO  VS	OIS, ) ) ) ) No.
DEFENDANT	_, )

## ORDER

This matter is before the Court for the Defendant's PETITION FOR REVOCATION OF FINES.

The Court hereby finds:

- The Court has considered the Defendant's PETITION FOR REVOCATION OF FINES.
- 2. The Court does have statutory authority to vacate fines:
  - 730 ILCS 5/5-9-2 "Except as to fines established for violations of Chapter 15 of the Illinois Vehicle Code [ (625 ILCS 5/15–101 to 319 (West 2010) (a chapter addressing weight and load limits))], the court, upon good cause shown, may revoke the fine or the unpaid portion or may modify the method of payment."
- 3. Section 5-9-2 of the Code does not impose a timeliness requirement and the circuit court retains jurisdiction to hear a motion to revoke fines.

  People v. Garza, 2018 IL App (3d) 160684, 119 N.E.3d 25, People v. Mingo, 403 III. App. 3d 968, 344 III.Dec. 399, 936 N.E.2d 1156 (2010).
- 4. The Criminal and Traffic Assessment Act which went into effect on January 1, 2019, creates a unified statute that covers most criminal and traffic fines, fees and assessments (costs) except for Illinois Vehicle Code assessments. The Act also gives the court the power to waive all or part of

those fines, fees and assessments if the defendant meets the standards for an indigent person, which is set forth in the Act, and files a petition within 30 days of sentencing. 725 III. Comp. Stat. Ann. 5/124A-20.

- 5. Illinois Supreme Court Rules states in part';
  - a) In criminal cases, the circuit court retains jurisdiction to correct the following sentencing errors at any time following judgment and after notice to the parties, including during the pendency of an appeal, on the court's own motion, or on motion of any party:
  - (1) Errors in the imposition or calculation of fines, fees, assessments, or costs;
  - (2) Errors in the application of per diem credit against fines;
  - (3) Errors in the calculation of presentence custody credit; and
  - (4) Clerical errors in the written sentencing order or other part of the record resulting in a discrepancy between the record and the actual judgment of the court.
  - (b) Where a circuit court's judgment pursuant to this rule is entered more than 30 days after the final judgment, the judgment constitutes a final judgment on a justiciable matter and is subject to appeal in accordance with Supreme Court Rule 303.
- 6. Per People v. Graves, 235 III. 2d 244, 250, 919 N.E.2d 906, 909 (2009):
  - A "fee" is defined as a charge that "seeks to recoup expenses incurred by the state," or to compensate the state for some expenditure incurred in prosecuting the defendant. Jones, 223 III.2d at 582, 308 III.Dec. 402, 861 N.E.2d 967. A "fine," however, is "'punitive in nature'" and is "'a pecuniary punishment imposed as part of a sentence on a person convicted of a criminal offense.'" Jones, 223 III.2d at 581, 308 III.Dec. 402, 861 N.E.2d 967, quoting People v. White, 333 III.App.3d 777, 781, 267 III.Dec. 464, 776 N.E.2d 836 (2002).
- 7. In <u>People v. Garza</u>, the defendant sought to have three financial obligations reduced or vacated by the Court. First, defendant sought to revoke the laboratory analysis assessment. The Court found that the laboratory analysis assessment is not a fine. It is a fee, which is not subject to revocation pursuant to section 5-9-2 of the Code. See <u>People v. Littlejohn</u>, 338 III. App. 3d 281, 283, 273 III.Dec. 30, 788 N.E.2d 339 (2003). <u>People v. Garza</u>, 2018 IL App (3d) 160684, 119 N.E.3d 25.

8.	The costs statute leaves no discretion in the trial court because it directs that court to give judgment against the convicted offender to pay the costs of the prosecution. People v. Terneus, 239 III. App. 3d 669, 607 N.E.2d 568 (1992)
9.	Therefore, this court retains jurisdiction to correct errors in the Order as it relates to Fines, Costs, and Assessments even after 30 days have elapsed after the entry of the Sentencing Order.
10.	Although the Court may revoke or modify a "fine" after 30 days have elapsed after the entry of the Sentencing Order, it may not revoke or modify costs or assessments unless such modification is based upon an error in the imposition or calculation.
11.	Wherefore, after consideration of the defendant's Motion and the law that applies, this court find and orders:
by ce	The Circuit Clerk is directed to send copies of this Order to the Defendant ertified mail within 10 days of its entry.
Date	
	ludge Debert A Miller

Judge Robert A Miller