

No. 18-8808

18-8808

IN THE

SUPREME COURT OF THE UNITED STATES

Derrick Redmond

(Your Name)

— PETITIONER

FILED

MAR 19 2019

vs.

OFFICE OF THE CLERK
SUPREME COURT, U.S.

People of the State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ORIGINAL

Illinois Supreme Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick Redmond # R31921

(Your Name)

P.O. Box 112

(Address)

Soliet, Illinois 60434

(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

whether this Court should grant writ of certiorari to decide whether fine commonly-imposed assessments are fines or fees, according to the analysis adopted by the court in People v. Graves, 285 Ill. Ad 244 (2009).

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1) Lisa Madigan, Attorney General, 100 W. Randolph St.
Chicago, IL 60601

2) Ms. Kimberly M. Foxx, State's Attorney. Cook County State's
Attorney Office, 300 Daley Center, Chicago, IL 60602

3) Clerk of the United States Supreme Court, Supreme Court
Building, Washington, D.C. 20543

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OTHER

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix N/A to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix N/A to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is

[] reported at Supreme; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the Appellate court appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

[] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was N/A

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

[] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from state courts: Supreme

The date on which the highest state court decided my case was Jan 31, 2019.
A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment & Fourteenth Amendment to the United States Constitution provides in Relevant part:
The Accused Got the Right to a Fair Trial Also
has due process Rights from the undue excess
Fines & Fees. The State is trying to add to the
defendant's Case.

STATEMENT OF THE CASE

on march 29, 2012, Derrick Redmond was arrested in relation to the shooting death of David Gulley (C.28) after three days of trial, Redmond was found guilty of first degree murder. (C.218, R.KK60-64). The jury also found that, during the commission of the offense, Redmond personally discharged a firearm that proximately caused the death of another person. (R.KK61). On November 14, 2014, the court sentenced Redmond to a total of 55 years' imprisonment, consisting of 30 years for the murder & 25 years for the mandatory firearm add-on. (C.218, Supp. R.46).

Additionally, the court awarded Redmond 961 days of pre-sentence incarceration credit. (C.218) The court then imposed a total of \$654 in fines & fees, including the following (1) \$15 "Automation (clerk)" fee, (2) \$15 "Document Storage (clerk)" fee, (3) \$25 "Court Services (sheriff)" fee, (4) \$2 "Public Defender Records Automation" fee, & \$2 "State Attorney Records Automation" fee. (C.215-17)

On direct appeal, Redmond argued, *inter alia*, that certain fees were improperly imposed & that he was entitled to \$4,805 in pre-sentencing credit against all applicable fines. People v. Redmond, 2017 Ill. App. (1st) 150081-U, 46-54. The Appellate Court vacated the two fees that did not apply to Redmond's case & ruled that he was entitled to have certain fines offset by his \$5-per-day pre-sentence credit. Id. at 46-52. However, the Appellate Court further concluded that the five above-mentioned assessments were fees &, thus, not subject to offset. Id. at 53-54. Redmond now seeks this court's review.

REASONS FOR GRANTING THE PETITION

This Court should grant this writ of certiorari to determine the following assessment, which are labeled fees, are actually fines subject to offset by a defendant's \$ 5-per-day Custody Credit: (1) \$ 15 "Automation (clerk)" (2) \$ 15 Document storage (clerk), (3) \$ 25 Court Services (sheriff) (4)

\$ 2 public Defender Records Automation, & (5) \$ 2 states Attorney Records Automation. "The appellate court in this case concluded that each of these charges are fees. People v. Redmond, 2017 IL 1st

15CG81-U, § 3-34. However, it failed to analyze these assessments according to the framework laid out by this court in People v. Graves, 235 Ill. App. 2d 44 (2009) In Graves, this court clarified that a charge is a fee "only if it is intended to reimburse the state for some cost incurred in the defendant's prosecution. Id. at 250-51. at issue in this case are five charges that, according to their respective statutes, are intended to finance various aspects of the court system generally. Because these assessments do not reimburse the state for prosecuting Redmond, Graves suggests that they are fines, not fees.

Moreover, with regard to the \$ 2 "public Defender Records Automation" & \$ 2 states Attorney Records Automation assessments, there is a split of authority within the Illinois Appellate Courts. As to whether these assessments constitute fines. Specifically, in People v. Camacho, 2016 IL App (1st) 140604, the Second Division of the First District explained that both of these costs are fines, & not fees, because it cannot be said that they are associated with prosecuting a particular defendant.

2016 IL App (1st) 140604, at 50. In this case, ignoring Camacho, the third Division of the First District followed the bulk of legal authority "finding that these charges are fees not subject to offset by defendant's presentence Custody Credit. Redmond,

Reasons For Granting The Petition

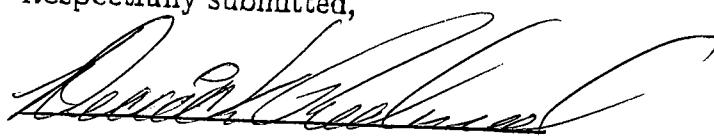
2017 I.I. App (1st) 150081-U, 34 (citing people v. Brown, 2017. App (1st) 150146, 38

Because these assessments are commonly imposed in Every Criminal Case, this issue is of Great Importance notably, this Court Recently granted the defendant leave to appeal in people v. Clark, 2017. I.I. App (1st) 150740-U, petition for leave to appeal allowed, no. 122495 (Sept 27, 2017) In Clark, The defendant asked this Court to Resolve the exact same issues present here: whether the aforementioned "fees" are actually fines subject to offset by pre-sentence Credit. Therefore, Derrick Redmond Respectfully Requests that this Court Either grant this writ of Certiorari to apply to Graves test to these assessments OR in the alternative, hold his case in abeyance until this Court issues a decision in Clark, which will likely resolve the issues presented here.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel M. Neuberger".

Date: MAR 19, 2019
