

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

6a

Case No. 5D2025-1490
LT Case No. 2010-CF-000737-A

JASON JONES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

3.800 Appeal from the Circuit Court for Citrus County.
Joel D. Fritton, Judge.

Jason Jones, Bushnell, pro se.

No Appearance for Appellee.

June 24, 2025

PER CURIAM.

AFFIRMED.

WALLIS, SOUD, and BOATWRIGHT, JJ., concur.

APPENDIX C

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR CITRUS COUNTY, FLORIDA

STATE OF FLORIDA

v.

CASE NO.: 2010-CF-737-A

JASON PAUL JONES,
Defendant.

**ORDER ON DEFENDANT'S "MOTION TO STRIKE COSTS OF INCARCERATION
AND FINES AS CONTRARY TO THE EIGHTH AMENDMENT'S EXCESSIVE FINES
CLAUSE"**

THIS COURT having considered Defendant's *pro se* "Motion to Strike Costs of Incarceration and Fines as Contrary to the Eighth Amendment's Excessive Fines Clause," filed on December 30, 2024, having reviewed the record of this case and all documents pertinent to Defendant's motion, and being otherwise fully advised in the premises finds as follows:

On July 8, 2011, Defendant entered a no contest plea to the following counts:

- I. Conspiracy to Commit Trafficking in Cocaine
- II. Trafficking in Cocaine
- III. Conspiracy to Commit Trafficking in Controlled Substance
- IV. Conspiracy to Commit Trafficking in Cannabis
- V. Trafficking in Cannabis
- VI. Conspiracy to Commit Sale of Cocaine
- VII. Conspiracy to Commit Sale of Cannabis
- VIII. Conspiracy to Commit Sale of Cannabis
- IX. Conspiracy to Commit Sale of Controlled Substance
- X. Conspiracy to Commit Sale of Cocaine
- XI. Conspiracy to Commit Sale of Cannabis
- XII. Conspiracy to Commit Sale of Cannabis
- XIII. Conspiracy to Commit Sale of Cocaine
- XIV. Conspiracy to Commit Delivery of Cocaine
- XV. Conspiracy to Commit Trafficking in Cocaine
- XVI. Conspiracy to Commit Sale of Cocaine
- XVII. Sale of cannabis While Armed
- XVIII. Possession of Cannabis with Intent to Sell
- XIX. Possession of Hydrocodone
- XX. Possession of Carisprodal
- XXI. Possession of Alprazolam
- XXII. Possession of Cannabis - 20 grams or less

APPENDIX D

APR 30 '25 3:22PM

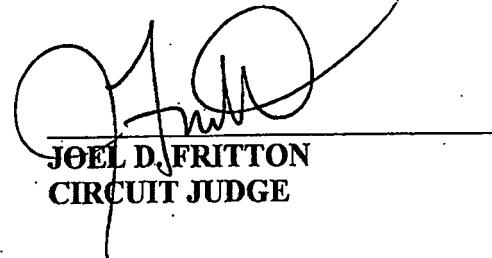
XXIII. Possession of Paraphernalia

On August 8, 2011, Defendant was sentenced to the following: Count I, 7 years minimum mandatory sentence in the Department of Corrections (DOC) followed by 20 years of probation; Count II, 23.4 years with 7 years minimum mandatory sentence in the DOC; Counts III-V, 3 years minimum mandatory sentence in the DOC followed by 3 years of probation concurrent with Counts I and II; Counts IX-XVI, 5 years of probation concurrent with each other and counts I and III-VIII; Counts XVII-XXI, 5 years of probation concurrent with each other and Counts I, III-VIII, and IX-XVI; and time served as to Counts XXII and XXIII. Defendant was assessed financial requirements of \$275,000.00 fines, \$398.00 costs, \$20.00 CSTF, 5% fee, \$100.00 COPR, and \$50.00 per day cost of incarceration. Defendant appealed his judgment and sentence, which was *per curiam* affirmed by the Fifth District Court of Appeal with the Mandate issuing on August 22, 2012.

In the instant Motion, Defendant argues the costs of incarceration and fines that he was sentenced to are excessive in violation of the Eighth Amendment and, thus, should be stricken. However, the statute assessing the costs of incarceration against a convicted offender does not violate the Excessive Fines Clause of the United States Constitution. Wells v. State, 369 So. 3d 1176 (Fla. 5th DCA 2023). Moreover, the Court cannot waive statutorily mandated costs and fines. Accordingly, it is,

ORDERED: Defendant's "Motion to Strike Costs of Incarceration and Fines as Contrary to the Eighth Amendment's Excessive Fines Clause" is **DENIED**.

DONE AND ORDERED in Chambers at Inverness, Citrus County, Florida this 30
day of April, 2025.

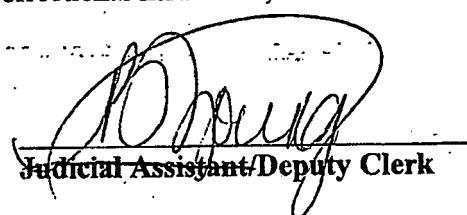


JOEL D. FRUTTON
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished to the following
by e-service or U.S. Mail delivery this 5th day of April, 2025.

- Office of the State Attorney, by e-mail: EservicCitrus@sao5.org
- Jason Paul Jones, via mail: DC# 567730, Sumter Correctional Institution, 9544 CR 476
B, Bushnell, FL 33513



Judicial Assistant/Deputy Clerk

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR CITRUS COUNTY, STATE OF FLORIDA

JASON PAUL JONES
Defendant,

v.

STATE OF FLORIDA
Plaintiff.

PROVIDED TO
SINATER CORRECTIONAL INSTITUTION
DATE 7/30/14
OFFICER INITIALS JJD Case No.: 2010-CF-000737

**MOTION TO STRIKE COSTS OF INCARCERATION AND FINES AS
CONTRARY TO THE EIGHTH AMENDMENT'S EXCESSIVE FINES CLAUSE**

Jason Jones, defendant in the above styled cause, moves this Honorable Court to strike his costs of incarceration and criminal fines as unconstitutional as applied to him under the Eighth Amendment's Excessive Fines Clause and the Immunities Clause of the Fourteenth Amendment.

BACKGROUND

Mr. Jones pled guilty on 7/8/2011 for a plea agreement of 23.4-years in prison followed by 20-years probation for various drug related offenses (See Attached Judgment and Sentencing Order). The issue presented in this motion are the statutory costs and fines imposed for the following: Counts 1 and 2, fine of \$210,000; Counts 3 – 5, fine \$78,750; and \$427,050 for cost of incarceration (Att. *infra* at pg. 1). Even though Jones entered a plea of guilty in this case, if he lost at trial, the outcome would have been the same. Both the costs of incarceration and the fines are mandatory given the plain text of the statutes that authorized their imposition. In sum, Jones' total obligation to the State of Florida from the three cost items above is \$715,800.

I.

Amend. XIV, of the U.S. Const. states: "No State shall make or enforce any law which shall abridge the *privileges or immunities* of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Amend. VIII, of the U.S. Const. provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The Privileges and Immunities Clause of Amend. XIV makes Amend. VIII's prohibition on excessive fines and cruel

punishment fully applicable to the States. *Timbs v. Indiana*, 586 U. S. 146, 139 S. Ct. 682, 691, 203 L. Ed. 2d 11, 21 (2019)(Justice Thomas, concurring in the judgment.). Petitioner is before this Court asserting his right to be immune from excessive fines.

The Florida Constitution in Art. 1., Sec. 17. 'Excessive punishments', states: "Excessive fines, cruel and unusual punishment...are forbidden" *** "The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution."

Mr. Jones avers that the decisions and dicta from the United States Supreme Court, as the Florida Constitution requires, as argued below will provide this Court with a constitutional basis to answer in the affirmative: (a) whether \$427,050 for cost of incarceration is both punitive and excessive subjecting it to Amend. VIII, (b) whether \$288,750 for Counts 1 – 5 is excessive and (c) whether Jones' total obligation of \$715,800 is excessive and as applied to him given his financial circumstances when he is released from prison.

II.

A.

Florida Statutes §960.293(2)(b)(2011), required the Court to impose Jones' incarceration costs as follows: "If the conviction is for an offense other than a capital or life felony, a liquidated damage amount of \$50 per day of the convicted offender's sentence shall be assessed against the convicted offender and in favor of the state or its local subdivisions. Damages shall be based upon the length of the sentence imposed by the court at the time of sentencing." Jones was sentenced to 8,541 days in prison, which multiplied by \$50 dollars per day equals \$427,050 cost of incarceration as ordered in his judgment and sentencing order.

The Florida Supreme Court held that costs of incarceration are remedial in *Goad v. Fla. Dep't of Corr.*, 845 So.2d 880, 884 (Fla. 2003) "we hold that imposing a civil restitution lien pursuant to sections 960.293 and 960.297 to recover the incarceration costs of convicted offenders is a civil remedy that is not so punitive in nature as to constitute criminal punishment. The *Goad* court though was confronted with a Savings Clause challenge that "cost of incarceration do[es] not violate the constitutional prohibition against ex post facto laws [or]...violate the right to substantive due process." *id* 881. Mr. Jones provides this Court with a synopsis of *Goad* because it is the only Florida Supreme

Court decision on the constitutionality of s. 960.293. This decision though is distinguishable because the supreme court did not decide whether Amend. VIII should restrict a threshold amount as excessive compared to an offender's ability to pay. Likewise, there are no United States Supreme Court holdings, as Art. 1., Sec. 17, Fla, Const. requires that specifically addresses whether Florida's cost of incarceration are punitive and what constitutes excessive, therefore, this is likely a case of first impression.

B.

Jones asserts that costs of incarceration are both remedial *and* punitive therefore subject to the restrictions in the Excessive Fines Clause. A textual approach to define the terms applicable to this claim is necessary. See Blacks Law Dictionary, 777 (11th Ed. 2019) "Fine: A pecuniary criminal punishment or civil penalty payable to the public treasury." But how does the U.S. Supreme Court define a fine? Is it different than reimbursement to the state for *per diem*, food, lodging and medical care because it is not titled as a 'remedy' for costs of incarceration? The answer is no, funds paid by offenders for incarceration are made to the State's general fund. In *Tyler v. Hennepin County*, 598 US ___, 143 S. Ct. 1369, 1381 215 L. Ed. 2d 564, 578 (2023), the Court affirms a broad definition of a fine that supports Jones' argument: "[e]ven without emphasizing culpability, this Court has said a statutory scheme may still be punitive where it serves another "goal of punishment," such as "[d]eterrence." *United States v. Bajakajian*, 524 U.S. 321, 329, 118 S. Ct. 2028, 141 L. Ed. 2d 314 (1998). *** Economic penalties imposed to deter willful noncompliance with the law are fines by any other name. And the Constitution has something to say about them: They cannot be excessive." (Justice *Gorsuch*, with whom Justice *Jackson* joins, concurring.). The *Tyler* decision provides further support when it rejected a district court's "conclusion that the Minnesota tax-forfeiture scheme is not punitive because 'its primary purpose' is "remedial" aimed, in other words, at "compensat[ing] the government for lost revenues due to the non-payment of taxes." ***That primary-purpose test finds no support in our law. Because "sanctions frequently serve more than one purpose," this Court has said that the Excessive Fines Clause applies to any statutory scheme that "serv[es] in part to punish." *Austin v. United States*, 509 U.S. 602, 610, 113 S.Ct. 2801, 125 L.Ed.2d 488 (1993) (emphasis added). It matters not whether the scheme has a remedial purpose, even a predominantly remedial purpose. So long as the law "cannot fairly be said solely to serve a remedial purpose," the Excessive Fines Clause applies. *Ibid.* (emphasis

added; internal quotation marks omitted). Nor, this Court has held, is it appropriate to label sanctions as "remedial" when (as here) they bear "no correlation to any damages sustained by society or to the cost of enforcing the law," and "any relationship between the Government's actual costs and the amount of the sanction is merely coincidental." *Id.*, at 621-622, 113 S.Ct. 2801, 125 L.Ed.2d 488, and n. 14." *Id.* In *Paroline v. U.S.*, 572 US 434, 134 S.Ct 1710, 188 L.Ed.2d 714 (2014), the supreme Court stated "[t]o be sure, this Court has said that "the Excessive Fines Clause was intended to limit only those fines directly imposed by, and payable to, the government." *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 268, 109 S.Ct. 2909, 106 L.Ed.2d 219 (1989). But while restitution under § 2259 is paid to a victim, it is imposed by the Government "at the culmination of a criminal proceeding and requires conviction of an underlying" crime, *United States v. Bajakajian*, 524 U.S. 321, 328, 118 S. Ct. 2028, 141 L. Ed. 2d 314 (1998). Thus, despite the differences between restitution and a traditional fine, restitution still implicates "the prosecutorial powers of government," *Browning-Ferris, supra*, at 275, 109 S. Ct. 2909, 106 L. Ed. 2d 219. Restitution for damages required by s. 960.293, Fla. Stat. fits squarely within this description. The primary goal of restitution is remedial or compensatory, *cf. Bajakajian, supra*, at 329, 118 S. Ct. 2028, 141 L. Ed. 2d 314, but it also serves punitive purposes, see *Pasquantino v. United States*, 544 U.S. 349, 365, 125 S. Ct. 1766, 161 L. Ed. 2d 619 (2005) ("The purpose of awarding restitution" under 18 U.S.C. § 3663A ["The Mandatory Victims Restitution Act] "is...to mete out appropriate criminal punishment"); *Kelly*, 479 U.S., at 49, n. 10, 107 S. Ct. 353, 93 L. Ed. 2d 216. That may be "sufficient to bring [it] within the purview of the Excessive Fines Clause," *Bajakajian, supra*, at 329, n. 4, 118 S. Ct. 2028, 141 L. Ed. 2d 314.

The relationship between Jones' actual costs of incarceration and the \$50 statutory fee to justify liquidated damages are undefined. Inmates cost different amounts to incarcerate; some have severe medical issues, others not. Some contribute to the Department's general fund through purchases from approved vendors; others subsist completely from State sources. The Department of Corrections (FDC) receives profits from canteen sales, tablet purchases and phone calls depending on an inmates income and spending. These profit sharing arrangements from FDC's vendors are paid directly to the Department, but payments for costs of incarceration are made to a County Clerk. Jones is a low-cost inmate with no medical issues who contributes to FDC's revenue by purchasing goods and services from its vendors. The statute does not require an accounting of Jones' contributions paid to FDC by

patronizing its vendors to offset actual damages and is therefore not remedial in its application.

Further support for this position is s. 960.293(a) Fla. Stat. (2011), which states: "If the conviction is for a capital or life felony, the convicted offender is liable for incarceration costs and other correctional costs in the liquidated damage amount of \$250,000." Stated differently, an inmate who commits a heinous capital sex crime against a child and receives a life sentence is liable for \$250,000, but Jones is liable for \$427,050 for drug offenses even though he has less than half of the average life sentence in days of incarceration. This demonstrates that, by the disparity of costs as a relation to the severity of offense and, the unlikelihood of recovering monies by most inmates released from incarceration, the cost of incarceration statute is more punitive than remedial and is a fine by another name.

The willful non-payment of restitution to the State for incarceration costs when an offender is serving probation, as will Jones when he is released, is considered a violation of probation and can cause his re-commitment to prison. See *Del Valle v. State*, 80 So. 3d 999 (Fla. 2011)(Further, in all probation revocation proceedings in which the violation alleged is a failure to pay a monetary obligation as a condition of the probation, we hold that the State must present sufficient evidence of the probationer's willfulness, which includes evidence on ability to pay, to support the trial court's finding of willfulness.) This holding implies that costs of incarceration is not purely civil because it can be used for an additional term of punishment by incarceration.

C.

Amend. VIII's prohibition on excessive fines requires a subjective determination of how much is constitutionally permissible, if any. Merriam-Webster's Dictionary 249 (11th ed. 2004) defines excess this way: "the amount by which one quantity exceeds another." This definition finds support in *Timbs v. Indiana*, 586 US ___, 139 S Ct 682, 688, 203 L Ed 2d 11, 19 (2019), "As relevant here, Magna Carta required that economic sanctions "be proportioned to the wrong" and "not be so large as to deprive [an offender] of his livelihood." *Browning-Ferris*, 492 U.S., at 271, 109 S.Ct. 2909, 106 L.Ed.2d 219. See also 4 W. Blackstone, *Commentaries on the Laws of England* 372 (1769)("[N]o man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear....")." Mr. Jones will not have the earning capacity to pay the cost of incarceration when he is released from prison in his mid 50's. It is then grossly disproportional to his circumstances to require him to repay a \$427k debt for his punishment and should be stricken as unconstitutionally excessive.

III.

A.

Mr. Jones was ordered by this Court to pay a fine of \$200,000 plus a \$10,000 surcharge for counts 1 and 2, and \$75,000 plus a \$3750 surcharge for counts 3 through 5.

Criminal Fines: Fla. Stat. § 893.135 (2009). "Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking," provides in relevant part.

* * *

(a)1. [Marijuana] Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$25,000.

* * *

(b)1.b. [Cocaine] Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

Surcharge § 938.04 (2009) "Additional costs with respect to criminal fines," "in addition to any fine ... an additional 5-percent surcharge ... shall be imposed."

B.

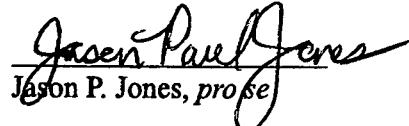
Jones asserts that the dicta of the supreme court's decisions above require a proportionality analysis of his fines versus his earning potential. As cited above, in *Browning-Ferris*, 492 U. S., at 271, 109 S. Ct. 2909, 106 L. Ed. 2d 219., the court used historical guidance from a command in the Magna Carta which required that economic sanctions ""be proportioned to the wrong" and "not be so large as to deprive [an offender] of his livelihood; and, ... [N]o man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear...." The fines imposed on Jones are an amercement meaning a "pecuniary penalty prescribed by a court as a punishment for a public offense," but they are disproportionate to his circumstances. Common sense and plain language are best-served with an inverse argument – how much of the \$290k in fines does the State of Florida reasonably expect to recover from Mr. Jones? How much do they expect to recover from any defendant that serves more than 23 years in prison who is released in their mid-50's and must pay supervision and drug testing costs well-into their 70's? If the State cannot answer these questions with any certainty because their answer may not pass common sense analysis, then the fines are excessive as applied to a defendant's circumstances.

Fines in the amount imposed on Mr. Jones are essentially a collateral form of bondage tantamount to a life sentence of obligations to the government. Because of this, the Excessive Fines Clause implicates more than just a monetary amount. Fines can also be so onerous as to make an offender a de facto ward of the state long after his prison and probationary sentence ends. For example, if an offender has an insurance policy or buys a home the state may lien those assets and, if he or she dies their children will be deprived of their full amount. The sins of the father would affect the guiltless long after his passing. Excessive then can also mean a sum that indentures a person like Jones and his livelihood in perpetuity and will damage his family's estate.

IV.

In conclusion, the cumulative effect of Jones' \$715,800 combined debt to the State of Florida violates his Fourteenth Amendment right to be immune from excessive fines prohibited by the Eighth Amendment. Jones prays that this Court will protect his constitutional rights, grant this motion and strike his fines and costs of incarceration in an amended judgment and sentencing order.

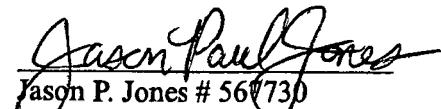
Respectfully submitted,



Jason P. Jones, pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this motion was served via First Class U.S. Mail to this Court and the Office of the State Attorney, 110 N. Apopka Ave., Inverness, FL 34450-4293 on this 30th day of DECEMBER, 2024.



Jason P. Jones # 567730
Sumter Correctional Institution
9544 CR 476-B
Bushnell, FL 33513

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

2a

Jason Jones,
Appellant(s),
v.
State of Florida,
Appellee(s).

Case No.: 5D2025-1490
L.T. No.: 2010-CF-000737-A

Date: August 1, 2025

BY ORDER OF THE COURT:

ORDERED that Appellant's "Motion for Written Opinion and Certified Question," filed July 7, 2025 (mailbox date), is denied.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

Sandra B. Williams
5D2025-1490 8/1/05
SANDRA B. WILLIAMS, CLERK



Panel: Judges Wallis, Soud and Boatwright

CC:

Criminal Appeals DAB Attorney General
Jason Paul Jones

M A N D A T E
FROM
DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

THIS CAUSE HAVING BEEN BROUGHT TO THIS COURT BY APPEAL OR BY PETITION, AND AFTER DUE CONSIDERATION THE COURT HAVING ISSUED ITS OPINION OR DECISION;

YOU ARE HEREBY COMMANDED THAT FURTHER PROCEEDINGS AS MAY BE REQUIRED BE HAD IN SAID CAUSE IN ACCORDANCE WITH THE RULING OF THIS COURT AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

WITNESS THE HONORABLE HARVEY L. JAY, CHIEF JUDGE OF THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH DISTRICT, AND THE SEAL OF THE SAID COURT AT DAYTONA BEACH, FLORIDA ON THIS DAY.

DATE: August 28, 2025
FIFTH DCA CASE NO.: 5D2025-1490

CASE STYLE: Jason Jones v. State of Florida
COUNTY OF ORIGIN: Citrus County
TRIAL COURT CASE NO.: 2010-CF-000737-A

I hereby certify that the foregoing is
(a true copy of) the original Court mandate.

Sandra B. Williams
5D2025-1490 8/28/2025
SANDRA B. WILLIAMS, CLERK



CC:
Criminal Appeals DAB Attorney General
Citrus Clerk
Jason Paul Jones

**Additional material
from this filing is
available in the
Clerk's Office.**