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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-897

Filed 05 July 2023

Pitt County, Nos. 20 CRS 56642-43, 20 CRS 56646-47, 20 CRS 56673

STATE OF NORTH CAROLINA

v.

CHRISTOPHER JERMAINE PURVIS

Appeal by Defendant from Judgments entered 4 April 2022 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 23 May 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Lisa R. Atwater, for the State.

Edward Eldred for Defendant-Appellant.

HAMPSON, Judge.

Factual and Procedural Background

Christopher Jermaine Purvis (Defendant) appeals from Judgments entered 4 April 2022. The Record before us tends to reflect the following:

On 28 June 2021, Defendant was indicted on eleven charges. The date of offense for nine of the charges was 12 November 2020. The date of offense for the other two charges was 15 November 2020. In April 2022, Defendant pled guilty to

five of the 12 November 2020 charges, and the State dismissed the remaining six charges as well as a pending district court charge. The trial court accepted Defendant's plea and entered three separate Judgments on 4 April 2022. The first Judgment entered in file number 20 CRS 56673 imposed an active 8 to 19 month sentence and \$1,755.50 in costs, including a \$1,380.00 pre-trial detention fee. The second Judgment entered in file number 20 CRS 56642 imposed a suspended 8 to 19 month sentence to begin at the expiration of the first sentence. The third Judgment entered in file number 20 CRS 56647 imposed a suspended 8 to 19 month sentence and \$375.50 in court costs—in addition to attorney fees and an appointment fee, which are not at issue in this case. Defendant filed written Notice of Appeal on 5 April 2022.

Appellate Jurisdiction

Defendant filed a Petition for Writ of Certiorari to this Court on 3 February 2023 seeking review of the Judgments entered upon his guilty plea pursuant to N.C.R. App. P. 21 and N.C. Gen. Stat. §§ 7A-32(c), 15A-1444(g). Defendant acknowledges “[i]t does not appear that a defendant appealing from judgments entered on a guilty plea has the right to challenge duplicative court costs on direct appeal.” For its part, the State concedes the trial court erred in imposing duplicative court costs in the case *sub judice* and it is in our discretion to issue the Writ of Certiorari. In our discretion, we grant Defendant's Petition for Writ of Certiorari. *See State v. Perez*, 275 N.C. App. 860, 868, 854 S.E.2d 15, 22 (2020) (“This Court

reviews Defendant's disputed Criminal Bill of Costs under the writ of certiorari pursuant to N.C. Gen. Stat. § 15A-1444(g).").

Issue

The dispositive issue on appeal is whether the trial court erred in imposing duplicative court costs in Judgments entered in file numbers 20 CRS 56673 and 20 CRS 56647.

Analysis

The standard of review in evaluating whether a trial court properly assessed statutory court costs is de novo. *State v. Rieger*, 267 N.C. App. 647, 649, 833 S.E.2d 699, 700 (2019).

Defendant contends—and the State concedes—the trial court erred in imposing duplicative court costs in Judgments entered in file numbers 20 CRS 56673 and 20 CRS 56647. Both parties agree the trial court imposed duplicative court costs; however, the costs imposed in the two Judgments are not exact. The Judgment in file number 20 CRS 56673 imposes \$1,755.50 in costs, including a \$1,380.00 pre-trial detention fee. The Judgment in file number 20 CRS 56647 imposes \$375.50 in costs, which duplicates some of the costs awarded in 20 CRS 56673, including a \$20.00 installment plan and set up fee.¹

¹ In its briefing to this Court, the State notes the trial court imposed \$355.50 in both Judgments, which omits the \$20.00 installment fee included in both Judgments.

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N.C. Gen. Stat. § 7A-304 requires costs in “every criminal case”. N.C. Gen. Stat. § 7A-304 (2021). This Court previously held in *State v. Rieger*: “When multiple criminal charges arise from the same underlying event or transaction and are adjudicated together in the same hearing or trial, they are part of a single ‘criminal case’ for purposes of N.C. Gen. Stat. § 7A-304.” 267 N.C. App. at 652-53, 833 S.E.2d at 703. Thus, “the trial court may assess costs only once, even if the case involves multiple charges that result in multiple, separate judgments.” *Id.* at 653, 833 S.E.2d at 703.

In the present case, as both parties agree, the charges to which Defendant pled guilty arose from the same underlying event on 12 November 2020 and were adjudicated together at the same hearing. Thus, here, as in *Rieger*, the three Judgments entered against Defendant were part of a single “criminal case” for purposes of N.C. Gen. Stat. § 7A-304. Thus, the statute permitted the trial court to assess court costs only once across those three Judgments. Therefore, the trial court erred in assessing those costs twice—in file numbers 20 CRS 56647 and 20 CRS 56673. Consequently, we vacate the imposition of court costs in file number 20 CRS 56647 and remand this matter for entry of a new Judgment that does not include duplicative court costs.

Conclusion

Accordingly, for the foregoing reasons, we vacate the imposition of court costs in the Judgment entered in file number 20 CRS 56647 and remand this matter for

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entry of a new Judgment that does not include duplicative costs or fees imposed in the Judgment entered in file number 20 CRS 56673.

VACATED IN PART AND REMANDED.

Judges FLOOD and RIGGS concur.

Report per Rule 30(e).