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McHenry County court costs balloon fines with variety of fees

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Tom Venezia tends to drive a little too fast.

His lead foot caught up with him in January 2014, when Bull Valley police issued him a speeding ticket for driving 47 mph in a 35 mph zone. Venezia appeared in McHenry County Court, pleaded guilty to the charge, and a judge ordered him to pay a \$50 fine.

When Venezia – like most defendants convicted of their crimes – headed to the circuit clerk's cashier window, he was shocked to find that once other court costs were added, his \$50 fine ballooned to \$250.

"It was a surprise," said Venezia, 46, a real estate agent from Crystal Lake. "... They can charge you anything they want, and there's no rhyme or reason to it.

"I thought it was excessive."

In Venezia's case, the court costs were five times the amount of the judge's punishment. On their own, the additional court costs were small, but they added up quickly. Circuit clerk fee: \$10; court security fee: \$25; court document fee: \$15; Bull Valley attorney fee: \$25; and more.

Some of the charges on Venezia's bill made sense. The circuit clerk processed him. He walked through the courthouse security checkpoint. Money also was paid to the municipality who wrote him the ticket.

"The purpose of [court costs] is so the users of the court system are paying to support the court system, rather than the taxpayer who's never stepped foot in the courthouse in their entire life," Circuit Clerk Kathy Keefe said.

However, some of the other costs are less clear and had nothing to do with Venezia's speeding ticket. He paid \$5 to the drug court and another \$10 to the mental health court, even though he never participated in either program. A \$13 fee was tacked on to his speeding ticket for the Child Advocacy Center, which conducts interviews with child victims of sexual and physical abuse. A \$20 surcharge was added simply because he was issued a \$50 fine. (That convoluted surcharge levies an additional charge on every court-ordered fine.)

It's important to note a legal distinction. Illinois courts have defined fees as the costs used to recoup the expenses of the incurred by the state for prosecuting these crimes. Fines, on the other hand, are penalties or punishments meted out by the judge.

The clerk is authorized under state statute and by the County Board to levy these costs. However, in recent decisions, the Illinois Appellate Court has held if the "fee" has nothing to do with one's case or charges, it is, in fact, a "fine." Fines cannot be assessed by a clerk, and are, therefore, void.

In an effort to make the court costs a bit clearer, McHenry County began rolling out electronic sentencing orders that are signed by a judge and handed to defendants before they leave the courtroom. In the past, they'd meet the cashier at the clerk's office for their total bill, like Venezia did.

A class action lawsuit pending in federal court deals with this very issue.

Attorneys Ray Flavin, Matt Haiduk and James Kelly said Venezia, and potentially thousands others, were unfairly assessed fines in McHenry County. They've named Keefe as the sole defendant in the lawsuit, saying she improperly imposed fines she was not authorized to. Only a judge can order fines.

The lawsuit has yet to be certified as a class action, but, according to Haiduk, there could be upward of 40,000 plaintiffs. Keefe's attorneys have filed a

motion to dismiss.

"Everybody's who's got a ticket has been cheated," Flavin said. "The clerk assessed fines that a clerk cannot assess. The law says when somebody does something they're not supposed to do, it's void.

"This case is all about the average person," Flavin said. "The average person gets a speeding ticket, and they don't expect [the costs] to be \$250 on a \$50 ticket."

In many instances, the less serious charges are more expensive than felonies. Murder, for example, carries \$430 in fines and fees, while DUI fines average \$3,761.

"See? It pays to murder," Flavin said sarcastically.

It's important to note most felonies involving significant prison time generally do not result in fines, or a judgment is entered because the defendant can't pay while serving time.

The Brennan Center for Justice, a left-leaning public policy think tank, has studied criminal justice financial obligations. In a 2010 paper, the center found an individual's inability to pay leads to more fees and an endless cycle of debt. The fees often are imposed without considering one's ability to pay. Although debtors' prisons are illegal in all states, reincarcerating individuals for failure to pay debt is common, the center said.

"All 15 of the states examined in [the center's] report (including Illinois) have jurisdictions that arrest people for failing to pay debt," the authors wrote. "... Many states also use the threat of probation or parole revocation or incarceration for contempt as a debt-collection tool."

Criminal justice debt creates a significant barrier for individuals seeking to rebuild their lives after a criminal conviction, the Brennan Center found.

"The system makes money on the backs of people who can't afford it," Haiduk said. "They're not the wealthiest people, they're not the people who should be

paying for the system.

"Let's be honest. A lot of them are getting public defenders and turning around and paying their fee by state benefit checks. ... The system has gotten fat and bloated, and it needs a way to feed itself."

Where the money goes

McHenry County court system collected \$7.9 million in fines and fees in 2014. Of that, \$3.9 million went to the state; \$3 million to municipalities; \$1 million to the county and \$34,000 to townships, according to data from the McHenry County Circuit Clerk.

Speeding ticket fines and fees:

McHenry County: \$270

Will County: \$272

DuPage County: \$352

Lake County: \$256

Kane County: \$340

Source: McHenry County Circuit Clerk