

Jerry Higgins

From: Jerry Higgins
Sent: Tuesday, June 29, 2010 11:25 AM
To: Hannah Kunkle
Cc: Jeff May; Randall Rice; Shela Vinson; Patricia Crigger; Melissa Smith; Kristy Littrell-Duty; Gloria Bailey
Subject: FW: Court Costs

Hannah

The issue of collecting felony fees on misdemeanor convictions came up during the current audit for the Third and Fourth Quarters of FY09. The Finding, Recommendation, Response and Auditor's Response are shown below.

Findings:

A review of fees collected on a sample of criminal cases revealed the following:

1. Cases initially filed as felony indictments (\$133) and later reduced to a Class A misdemeanor conviction (\$83) are assessed court costs based upon the initial Felony indictment. The Consolidated Court Cost fee and the Courthouse Security fee are different based upon the degree of the charge.

Recommendations:

1. The Consolidated Court Cost fee and the Courthouse Security fee should be reduced from felony cost to misdemeanor cost. Please see:
 - Code of Criminal Procedure 102.017 Court Costs; Courthouse Security Fund
...(b) A defendant convicted of a misdemeanor offense in a ...or district court shall pay a \$3 security fee...
 - Local Government Code 133.102 Consolidated Fees on Conviction
...(2) \$83 on conviction of a Class A or B misdemeanor;...

District Clerk personnel should review cases reduced from felonies to misdemeanors to identify the amount incorrectly collected from payees. These incorrectly collected amounts should be returned to the payee at the earliest opportunity.

Response:

If the case was actually presented to us by indictment as a felony, then we charge the felony costs regardless of how it was disposed of. If it came through the grand jury and was transferred to county court as a misdemeanor, then when county sets up their case they'll use their charges.

Auditor's Response:

Indictment and initialization of a case on a felony level does not mean a case will be adjudicated as a felony case. If the case results in a misdemeanor conviction, misdemeanor costs should be charged as shown in the statutes listed above. Melissa Williamson and Ted Wood from the Texas Office of Court Administration affirmed this by email on June 29, 2010. We have forwarded a copy of their email response to you.

Please see the thread below.

Thank you

7/15/2010

Jerry

-----Original Message-----

From: Ted Wood [mailto:Ted.Wood@courts.state.tx.us]
Sent: Tuesday, June 29, 2010 10:22 AM
To: Jerry Higgins; Melissa Williamson
Subject: RE: Court Costs

Yes, Melissa is correct. If a person is convicted of a misdemeanor, he or she should only pay the misdemeanor court costs - regardless of whether the case originated as a felony charge in a district court.

-----Original Message-----

From: Jerry Higgins [mailto:jhiggins@co.collin.tx.us]
Sent: June 29, 2010 10:16 AM
To: Melissa Williamson
Cc: Ted Wood
Subject: RE: Court Costs

Melissa
Thank you
Jerry

-----Original Message-----

From: Melissa Williamson [mailto:Melissa.Williamson@courts.state.tx.us]
Sent: Tuesday, June 29, 2010 10:11 AM
To: Jerry Higgins
Cc: Ted Wood
Subject: RE: Court Costs

Good morning Jerry,

I believe I recall from my days at Randall County and Cooke County that we did adjust the court costs back to the misdemeanor assessments in these situations since the 'conviction' was a misdemeanor and not a felony, including situations of deferred adjudication in accordance with the statutory definition of 'conviction'.

However, since I'm certainly not a lawyer, I'm copying Ted Wood in our legal division at OCA HQ on this email for his response. I know he can clearly answer your question for both of us!

Melissa Williamson
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tate.tx.us>
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North Texas Regional Collections Specialist
110 W Hickory, Suite 304
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From: Jerry Higgins [jhiggins@co.collin.tx.us]
Sent: Tuesday, June 29, 2010 10:09 AM
To: Melissa Williamson
Subject: Court Costs

Melissa

7/15/2010

When a case is originated and setup as a felony case, but the court decides to convict as a misdemeanor should the costs be reduced to the misdemeanor amount instead of the felony amount. When reading the two statutes below, they state that someone convicted on a misdemeanor charge should pay misdemeanor costs. I have been unable to locate a statute that references the costs charged when charges are reduced from felony to misdemeanor.

The Consolidated Court Cost fee and the Courthouse Security fee should be reduced from felony cost to misdemeanor cost. Please see:

* Code of Criminal Procedure 102.017 Court Costs; Courthouse Security Fund

...(b) A defendant convicted of a misdemeanor offense in a ...or district court shall pay a \$3 security fee...

* Local Government Code 133.102 Consolidated Fees on Conviction
...(2) \$83 on conviction of a Class A or B misdemeanor;...

Our current practice is not to lower the fees; do you have any other references that might shed some light on this?

Thank you
Jerry Higgins
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