

SUPREME COURT OF KENTUCKY

Billy Chadwell v. Commonwealth of Kentucky

Chadwell · No. 2020-SC-0201-DG · Decided August 23, 2021

SUMMARY

The Supreme Court of Kentucky affirmed the Court of Appeals' decision upholding Billy Chadwell's conviction, sentence, and assessment of \$165 in court costs. The Court held that because the trial court had not determined Chadwell was a "poor person" exempt from court costs, the assessment was not an illegal sentence subject to correction on appeal. The Court also explained that the one-year payment limitation in KRS 23A.205(3) applies only when the court establishes an installment plan.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Nickell; Minton, C.J.; Conley, J.; Hughes, J.; Lambert, J.; VanMeter, J.; Keller, J.
JURISDICTION	Kentucky
DECIDED	August 23, 2021
DOCKET	2020-SC-0201-DG
DISPOSITION	affirmed
PROCEDURAL POSTURE	Chadwell sought discretionary review of the Kentucky Court of Appeals' decision affirming his convictions, sentence, and assessment of court costs.
STANDARD OF REVIEW	The court reviewed the legality of the court-cost assessment for sentencing error, including an unpreserved alleged illegal-sentence claim, under the court's authority to correct illegal sentences.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; designated to be published.
PARTIES	Billy Chadwell v. Commonwealth of Kentucky

TOPICS

[sentencing](#)[criminal procedure](#)[statutory interpretation](#)[appellate procedure](#)[standard of review](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court's assessment of court costs was illegal because Chadwell was indigent or had been determined to be a poor person under KRS 23A.205(2).
2. Whether the one-year payment limitation in KRS 23A.205(3) invalidated the order requiring payment of court costs after Chadwell's release from prison.
3. Whether the alleged sentencing error could be corrected on appeal despite Chadwell's failure to preserve the issue in the trial court.

HOLDINGS

1. An assessment of court costs is an illegal sentence subject to correction on appeal only when the defendant has been adjudged a poor person and court costs were assessed contrary to that status. When the trial court neither determined the defendant's poverty status nor was asked to do so, imposing court costs does not constitute a sentencing error.
2. KRS 534.020 did not govern Chadwell's court-cost assessment because, at the time of sentencing, it applied only to criminal fines; the applicable statute was KRS 23A.205.
3. The one-year payment limitation in KRS 23A.205(3) applies only when the sentencing court establishes an installment payment plan. Because no installment plan was ordered, the limitation did not invalidate the court-cost payment deadline.

KEY QUOTATIONS

"The assessment of court costs in a judgment fixing sentencing is illegal only if it orders a person adjudged to be "poor" to pay costs." (3-4)

"Determining a criminal defendant is "needy" and entitled to the services of a public defender is not equivalent to finding a defendant is "poor" and exempt from paying court costs." (4)

FACTUAL BACKGROUND

Chadwell was convicted by a jury of two counts of first-degree trafficking in a controlled substance and of being a second-degree persistent felony offender. The trial court imposed a fourteen-year prison sentence and ordered him to pay \$165 in court costs within six months after release from custody. The record did not show that the trial court expressly or implicitly determined that Chadwell was a "poor person" exempt from court costs, although appellate counsel was appointed and he was permitted to proceed in forma pauperis.

PROCEDURAL HISTORY

Following a jury trial in Madison Circuit Court, Chadwell was convicted of two counts of first-degree trafficking in a controlled substance and being a second-degree persistent felony offender. He received a fourteen-year sentence and was ordered to pay \$165 in court costs. The Court of Appeals affirmed on direct appeal, and the Supreme Court of Kentucky granted discretionary review. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Buster v. Commonwealth*, 381 S.W.3d 294 (Ky. 2012)
- *Travis v. Commonwealth*, 327 S.W.3d 456, 459 (Ky. 2010)
- *Jones v. Commonwealth*, 382 S.W.3d 22, 27 (Ky. 2011)
- *Spicer v. Commonwealth*, 442 S.W.3d 26, 35 (Ky. 2014)
- *Maynes v. Commonwealth*, 361 S.W.3d 922, 929 (Ky. 2012)
- *Hall v. Commonwealth*, 551 S.W.3d 7, 23 (Ky. 2018)

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