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People v. Aguilar; 340 P.3d 366 (Cal. 2015)

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People v. Aguilar

340 P.3d 366 (Cal. 2015)

Opinion by Werdegar, J. with Cantil-Sakauye, C.J, Chin, Corrigan, Liu, Baxter, Franson, JJ. concurring

OVERARCHING ISSUE

Whether the appellate forfeiture rule applies to fees that were imposed at a criminal sentencing hearing.¹

STATEMENT OF FACTS

Defendant, Octavio Aguilar (“Defendant”), was convicted by a jury of one count of corporal injury on a spouse and was found to have had a prior conviction for battery.² During the sentencing hearing Defendant was placed on probation and had various fines imposed, all without any objection by the Defendant.³ The fines followed the recommended of the presentence investigation report and included a fee for the report itself, the cost of probation supervision not to exceed \$75 per month, a booking fee, and attorney fees in the amount of \$500.⁴

However, after imposing these fees the court noted that the fees would be based on the Defendant’s ability to pay and that the Defendant would have an opportunity to speak with a probation deputy when he contacted the probation office regarding his ability to pay.⁵ Despite this invitation by the court, there was no evidence in the record that Defendant ever contacted a probation officer to contest his ability to pay the fees.⁶

Defendant appealed, contesting that the fees were imposed without any finding of Defendant’s ability to pay, imposed without any finding of the actual costs to justify the booking fee, and that Defendant had not waived his right to a court hearing on the probation supervision fee.⁷ The court of appeal rejected Defendant’s arguments.⁸

ANALYSIS

Although the court has previously held that challenges to booking fees are forfeited unless made at sentencing, Defendant attempted to distinguish the facts here

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1. People v. Aguilar, 340 P.3d 366, 367 (Cal. 2015), reh’g denied (Feb 25, 2015).
 2. *Id.* at 368.
 3. *Id.*
 4. *Id.*
 5. *Id.*
 6. *Id.*
 7. *Aguilar*, 340 P.3d at 368.
 8. *Id.*

based on procedural specifications outlined in the California Penal Code.⁹ These statutes provide procedural guidelines to the imposition of sentences; however, the court rejected Defendant's contention that they should apply equally to the imposition of fees given that imposing fees are of much less import than imposing sentences.¹⁰ Similarly the court found Defendant's reliance on two prior cases to be equally unpersuasive given that one case was silent on the forfeiture issue and the other involved a defendant whom tried to call witnesses for his own hearing but was denied the opportunity to do so; facts far different from those seen here.¹¹

Defendant then argued that given that civil judgments can be appealed even when no objection was made when they were imposed, and that orders for probation costs and attorney fees can be enforced as civil judgments, that the forfeiture rule should not apply here.¹² The court, however, quickly rejected this argument by emphasizing the while such orders shall be "enforce[d]. . .in the same manner as civil judgments," this does not mean the Legislature intended defendants to be able to "challenge. . .such orders" in the same manner.¹³

Defendant also argued that precedent existed for allowing an appeal without an objection at a hearing based on a case involving involuntary HIV testing; however, the court declined to follow that case law due to the case being limited on its face to similar facts.¹⁴

The court explained that application of the forfeiture rule here is particularly appropriate given that Defendant was given two opportunities to object to the fees imposed, both at the sentencing hearing itself and then later before the probation officer, yet failed to take either opportunity.¹⁵ Defendant failed to establish any attempts to object to the fees to a probation officer, or even to have seen the probation officer in the first place.¹⁶ Similarly Defendant failed to object to the fees at the sentencing hearing itself, despite this being the proper time to assert such arguments.¹⁷

Lastly, Defendant argued that the imposition of fees violated his due process rights since there was no record of any findings regarding the actual costs to justify those imposed.¹⁸ Defendant based this argument on that the statutory language referenced "the 'reasonable cost' of the presentence investigation. . .'actual administrative costs' incurred for booking. . .'statement of the cost of the legal

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9. *Id.* at 369 (citing *People v. McCullough*, 56 Cal. 4th 589 (2013) and Cal. Penal Code §§ 1203.1b and 987.8).
 10. *Aguilar*, 340 P.3d at 369 (citing *People v. Trujillo*, 60 Cal. 4th 850, 856-857 (2015)).
 11. *Aguilar*, 340 P.3d at 369 (citing *People v. Heath*, 207 Cal.App.3d 892, 902-903 (1989) and *People v. Poindexter*, 210 Cal.App.3d 803, 810 (1989)).
 12. *Aguilar*, 340 P.3d at 369.
 13. *Id.* at 369 (emphasis in original).
 14. *Id.* at 369-370.
 15. *Id.* at 370.
 16. *Id.*
 17. *Id.*
 18. *Aguilar*, 340 P.3d at 370.

assistance provided to the defendant.”¹⁹ Without evidence of the actual costs involved, Defendant alleged that the court lacked authority to order their payment.²⁰

The court again rejected Defendant’s arguments, explaining how each fee was reached in turn.²¹ The booking fee was set based on the fee schedule approved by the county board of supervisors; the probation costs and monthly fee was reached by a payment schedule set by the probation department and approved by the board of supervisors; and the attorney fee order was justified based on an implied finding by the trial judge that counsel’s legal services for the four-day jury trial was at least equal to the amount of fees imposed.²²

Based on these reasons, the court affirmed the judgment of the court of appeal.²³

LEGAL SIGNIFICANCE

This case serves the dual purpose of furthering judicial economy while protecting the line between our criminal and civil systems when dealing with matters that arguably crossover between them. From a judicial perspective, the fact that the forfeiture rule is being strictly applied will ultimately promote judicial economy by forcing defendants to either make objections at the proper time or be deemed to have waived the objections.

This limits the number of “bites at the apple” that defendants are able to take, and puts the decisions predominantly at the hands of the trial courts who are best suited to sustain or overrule whatever objections may be made. From a legislative perspective, the case protects the ability of the Legislature to create laws that are criminally based yet span the gap into civil enforcement. There has been a growing trend of statutes like those seen here where the underlying statute is criminal, yet part of the consequence of being found guilty involves fines and fees for which enforcement can be sought through civil courts.

By keeping the clear distinction between an ability to enforce the fees civilly while still having to challenge the fees based on criminal requirements, the court protects such laws from being subjected to less stringent standards than the Legislature intended.²⁴

19. *Id.* at 370-371 (quoting Cal. Pen. Code §§ 1203.1b(a), 987.8(d)(1), and Cal. Gov’t Code § 29550(c)).

20. *Aguilar*, 340 P.3d at 371.

21. *Id.*

22. *Id.*

23. *Id.*

24. The author of this summary, Seth DuMouchel, is a Juris Doctor candidate, May 2015, at Western State College of Law.

