

**IN THE SUPERIOR COURT OF PENNSYLVANIA
WESTERN DISTRICT**

No. 849 WDA 2019

COMMONWEALTH OF PENNSYLVANIA,

Appellee,

v.

SECADA BLACK,

Appellant.

BRIEF OF APPELLANT SECADA BLACK

Appeal from Judgment of Sentence of the Court of Common Pleas
of Allegheny County Dated May 21, 2019 in CP-02-CR-2172-2019

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Statement of Jurisdiction

This is an appeal from the judgment of sentence imposed by the Allegheny County Court of Common Pleas. Accordingly, this Court has jurisdiction pursuant to 42 Pa.C.S. § 742. The judgment of sentence is final under Pa.R.A.P. 341(b).

Order in Question

The trial court's sentencing order is as follows:¹

ORDER OF SENTENCE

AND NOW, this 21st day of May, 2019, the defendant having been convicted in the above-captioned case is hereby sentenced by this Court as follows. The defendant is to pay all applicable fees and costs unless otherwise noted below:

Count 1 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (M1)

To be placed on Probation - County Regular Probation - for a minimum period of 1 Year(s) and a maximum period of 1 Year(s) to be supervised by ALLEGHENY COUNTY ADULT PROBATION.

The following conditions are imposed:

Restitution Ordered - Restitution owed: Amount of restitution owed: \$121.00

Restitution will be disbursed to victim: [REDACTED] in Bethal Park, PA

Restitution Ordered - Restitution payment 30 days: The responsible party shall make payment to: Department of Court Records - Allegheny County. The court has established a payment plan in which the case payments will begin 30 days from the date of this order with first payment due on the first day of the following month. This Restitution is imposed as a part of the sentence.

This sentence shall commence on 05/21/2019.

Count 2 - 18 § 903 - Conspiracy - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 3 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 4 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 5 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Charge Changed

Count 999 - 18 § 903 - Conspiracy - Retail Theft-Take Mdse (F3)

Offense Disposition: Charge Changed

¹ The name of the victim to whom restitution is owed is redacted pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania.

Statement of the Scope and Standard of Review

Each of the issues raised in Ms. Black's appeal addresses whether the trial court had the legal authority to impose certain court costs upon conviction and whether it acted unlawfully. These are questions of law, not of the trial court's discretion, and are accordingly reviewed *de novo*. See *Commonwealth v. Moody*, 125 A.3d 1, 6 (Pa. 2015) (whether the trial court followed the right procedures is a question of law reviewed *de novo*); *Commonwealth v. Boyd*, 73 A.3d 1269, 1273–74 (Pa. Super. Ct. 2013) (en banc) (trial court's failure to follow statutory requirements in imposing financial obligations is a question of law). The Court also uses a plenary scope of review. *Moody*, 125 A.3d at 6.

Statement of the Questions Presented

1. Did the trial court err by failing to provide Ms. Black with a bill of costs detailing the specific costs, and the amount thereof, that she must pay?
2. Did the trial court err by imposing the total aggregate amount of supervision fees, pursuant to 18 P.S. § 11.1102, at once, rather than allowing them to accrue each month that Ms. Black is on supervision?
3. Did the trial court err by imposing certain court costs even though there is no statute that authorizes imposing such costs?
4. Did the trial court err by imposing court costs on Ms. Black without considering her financial resources and ability to pay?

The trial court erred by answering each of these questions as “no.”

Statement of the Case

A. Form of Action and Procedural History

This direct appeal challenges the imposition of court costs on Appellant Secada Black because the trial court failed to comply with Pennsylvania law. In CP-02-CR-0002172-2019, Ms. Black was charged with two counts of felony retail theft in violation of 18 Pa.C.S. § 3929(a)(1) and two counts of felony criminal conspiracy in violation of 18 Pa.C.S. § 903, resulting from thefts at two retail store on January 26, 2019. (R. 03a).

On May 21, 2019, Ms. Black entered into a plea agreement with the District Attorney and pled guilty before the Honorable John A. Zottola to one count of misdemeanor retail theft. (R. 21a). The District Attorney withdrew the other charges. *Id.* The trial court sentenced Ms. Black to 12 months of probation, ordered her to pay restitution in the amount of \$121 to one of the stores, complete any drug and alcohol treatment as required by probation, and to pay court costs. (R. 22a). At the time of sentencing, Ms. Black, through counsel, asked that the trial court consider her ability to pay and waive her court costs in light of her indigence. (R. 27a). The trial court denied her request. (R. 28a). Ms. Black’s court costs totaled \$1,500. (R. 30a).

Ms. Black filed a timely post-sentencing motion on May 29, 2019 that the trial court denied the same day. (R. 04a). She filed a Notice of Appeal on June 7, 2019 and a Concise Statement of Errors pursuant to Pa.R.A.P. 1925. (R. 05a). *See* Appendix B. On August 30, 2019, the trial court issued its opinion. *See* Appendix A.

B. Factual Background

On January 26, 2019, Ms. Black and two other women stole two bottles of liquor, valued at approximately \$121, from a retail wine and liquor store. Trial Ct. Op. at 2. An hour later, Ms. Black and one of those women then attempted to steal an additional \$1,151 in clothing from a clothing store; the store's loss-prevention staff stopped and detained them before they succeeded in the theft. *Id.* at 2–3. Police from the Bethel Park Police Department arrived and arrested the women for both offenses. *Id.*

After Ms. Black pled guilty and accepted responsibility for these crimes, she requested that the trial court waive her court costs in light of her indigence. (R. 27a). At the May 21, 2019 sentencing hearing, Ms. Black's counsel explained that Ms. Black is indigent and unable to work. (R. 28a). She has two daughters, a six-year-old and an eighteen-year-old, for whom she is the primary caregiver. *Id.* At the time of the hearing, Ms. Black had recently been hit by a car and was in the process of seeking disability benefits from the Social Security Administration

because the accident left her unable to work. *Id.* The trial court refused to consider her “hard luck story,” considering it a “slippery slope.” *Id.* The trial court apparently had made a general policy determination “early on” that it does not waive court costs. *Id.*

At no time did the trial court provide Ms. Black, or her counsel, with a list of court costs that she owed, or even the total amount that she owed. Neither at sentencing, nor post-sentencing, did the trial court ever provide a bill of costs to Ms. Black or her counsel. When trial counsel was preparing an appeal to challenge the trial court’s refusal to consider Ms. Black’s ability to pay, she discovered for the first time—upon reviewing the court docket—that the court had imposed all of Ms. Black’s supervision fees upon sentencing and had also imposed certain costs that lacked a proper statutory basis. The “Itemized Account of Fines, Costs, Fees, and Restitution” that was placed in the court file was prepared on May 30, 2019—nine days after sentencing—was never given to Ms. Black or her counsel, and was apparently not signed by the trial court judge. (R. 30a-31a).

Summary of the Argument

This case implicates the manner in which a trial court in the Commonwealth may impose court costs on a criminal defendant, including what procedures a court must follow and what categories of costs are properly taxable on a defendant. As a result of her guilty plea to a charge of misdemeanor retail theft, Ms. Black owes

nearly \$1,500 in court costs. (R. 30a). Yet the manner in which such costs were imposed upon her violates both Pennsylvania law and fundamental principles of due process. As a result, these costs should be vacated and the matter remanded so that the trial court can re-impose costs in a manner consistent with Pennsylvania law.

The trial court committed several procedural errors, each of which is separate grounds to vacate the imposition of costs. First, the trial court failed to provide Ms. Black with a detailed bill of costs when it imposed these costs upon her. It is well-established under Pennsylvania law that criminal defendants must receive a reasonably specific bill of costs at the time of sentencing. This requirement also has a constitutional underpinning: due process requires that defendants receive notice, such as in the form a bill itemizing precisely what they owe, before they may be deprived of their property. Ms. Black never received a bill of costs; rather, a clerk of courts entered a vague entry on the docket nine days after she was sentenced and never served her or her counsel with a copy. The trial court contends that such an entry on the docket was legally sufficient. It was not. Instead, she was entitled to receive a copy of the bill of costs at the time of sentencing, in the same way that she received a specific order listing the amount of restitution she must pay.

Second, the trial court also immediately imposed the total balance of projected monthly supervision fees upon Ms. Black at sentencing, even though she only becomes liable for supervision costs one month at a time. Ms. Black was sentenced to a year of probation in Allegheny County, which charges defendants a \$45 monthly fee for probation supervision. The trial court, however, immediately obligated her to pay \$540, the entire cost of one year of court supervision, even though Ms. Black only becomes liable under the plain language of the applicable statutes for charges on a *monthly* basis. The reason that costs accrue each month, rather than all at once, is simple: at the time of sentencing, it is impossible to know whether the defendant will actually be on probation for the entire projected length of supervision. This is reflected in the plain text of 18 P.S. § 11.1102(c), which authorizes the monthly supervision fees. As it is a penal statute, which is subject to strict construction, the appropriate outcome is a ruling that Ms. Black was not liable for the entire balance of her supervision fees the day of sentencing—only \$45 for the first month.

Third, the trial court imposed certain costs on Ms. Black even though no statute requires that she pay them. As our Supreme Court has explained, “a defendant may be required to only pay costs authorized by statute.”

Commonwealth v. Coder, 415 A.2d 406, 410 (Pa. 1980). If no such statutory authorization exists, the court cost is invalid and must fall. Ms. Black challenges

four court costs that lack statutory authority: Court Technology Fee (Allegheny); Department of Records – Conviction (Allegheny) (charged twice); Record Management Fee (Allegheny) (charged twice); and Use of County (Conviction) (Allegheny). Neither of the statutes cited by the trial court justified these costs. Nor are these costs authorized by other statutes that the trial court did not address but that this Court sometimes looks to, including 42 Pa.C.S. § 9728(g) and Section 64 of the Criminal Procedure Act of 1860 (repealed). In light of the strict construction required for these penal statutes, the trial court erred in imposing costs without statutory authorization.

Fourth, all of the costs in this case were imposed upon Ms. Black without any consideration of her indigence, as is required under Pennsylvania law. This Court, sitting *en banc* is already considering this issue in *Commonwealth v. Lopez*, 1313 EDA 2018, and *Commonwealth v. Gary-Ravenell*, 2551 EDA 2018, which are currently pending and should resolve this question of law. All of the evidence of record, as well as the fact of her representation by the Office of Conflict Counsel, negates any finding that she is, or will be, able to pay these costs. The trial court nonetheless denied her relief, apparently as a matter of policy, without considering her individual circumstances. Pa.R.Crim.P. 706(C) and 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2) require precisely the consideration that the trial court declined.

Pennsylvania law seeks to create order in how court costs are imposed upon defendants. The challenged costs imposed upon Ms. Black here did not comport with Pennsylvania law, and the trial court's actions created many of the problems that those laws sought to solve: the imposition of costs without legal basis, the imposition of costs that a defendant cannot pay, and the imposition of costs without any notice. Accordingly, this Court should vacate the imposition of costs and order the trial court to re-impose costs only in accordance with Pennsylvania law.

Argument

A. The trial court unlawfully imposed costs on Ms. Black without providing her with a bill of costs detailing them.

The trial court's failure to provide Ms. Black with a detailed bill of costs when it imposed them at sentencing violates both Pennsylvania law and underlying fundamental notions of due process firmly established by case law. It compounded the error by not even providing Ms. Black (or her counsel) any information regarding the types and amounts of court costs to be imposed in her case post-sentencing. This is the equivalent of being convicted and sentenced to probation, without a court ever explaining the length of probation or the conditions thereof. All the sentencing judge told Ms. Black was that she was "responsible for [court] costs," and the court merely noted on the sentencing form that she was "to pay all applicable fees and costs unless otherwise noted." (R. 22a; 27a). This practice did

not comport with the requirements set forth by both the Supreme Court of Pennsylvania and this Court when trial courts impose court costs.

Pennsylvania courts have long recognized that defendants must receive a bill of costs that outlines precisely which costs are being assessed against them, so that they have an opportunity to file objections. *See Commonwealth v. Coder*, 415 A.2d 406, 410 (Pa. 1980) (explaining that a defendant is entitled to a bill of costs on which she can file objections). This Court explained in *Commonwealth v. Allshouse*, 924 A.2d 1215 (Pa. 2007),² that it is “well-settled” that a defendant must receive a bill of costs. *See also Commonwealth v. Gill*, 432 A.2d 1001, 1004 (Pa. Super. Ct. 1981) (noting that defendants received bills of costs from which they filed objections).³

The requirement that defendants receive a bill of costs has a constitutional due process underpinning. The bill of costs reflects money that the defendant must pay, pursuant to a court order.⁴ This money is a protected property interest under the U.S. Constitution’s Due Process Clause. *See Nelson v. Colorado*, 137 S.Ct.

² The judgment in this case was vacated by *Allshouse v. Pennsylvania*, 562 U.S. 1267 (2011), because of the Supreme Court’s decision in *Michigan v. Bryant*, 562 U.S. 355 (2011), concerning the Confrontation Clause. This subsequent history does not disturb the separate holding on costs.

³ While cases sometimes use the phrase “bill of costs” in connection with the District Attorney’s submission of the costs of prosecution, the clerk of courts is, separately, required to submit a bill of costs detailing all of the costs assessed in the case. *See Commonwealth v. Hower*, 406 A.2d 754, 755 (Pa. Super. Ct. 1979) (describing the bill of costs presented by the clerk of courts, from which the defendant successfully had several items stricken).

⁵ The docket sheet does not even list “bill of costs” or any other descriptor for the May 30th: it simply says “penalty assessed.”

1249, 1255 (2017); *Buck v. Beard*, 879 A.2d 157, 160 (Pa. 2005). When protected property interests are at stake, the state must provide notice and an opportunity to be heard, considered “fundamental,” before depriving an individual of their property. *Pa. Bankers Ass’n v. Pa. Dep’t of Banking*, 956 A.2d 956, 965 (Pa. 2008); *see also Commonwealth v. All That Certain Lot*, 104 A.3d 411, 459 n.17 (Pa. 2014) (in civil proceedings for property, “the Commonwealth must provide the owner of the property with adequate notice and an opportunity to be heard”). The bill of costs fulfills this constitutional obligation of providing notice; if such a bill is not provided, any subsequent deprivation of property does not comply with due process.

The trial court does not dispute that Ms. Black was entitled to a bill of costs. Instead, it reasons that the entry of costs by the clerk of courts onto the docket was sufficient to fulfill its obligation to provide Ms. Black with a bill of costs. Trial Ct. Op. at 6. It was not. As the record shows, the bill of costs—labeled an “Itemized Account of Fines, Costs, Fees, and Restitution”—was prepared by the Department of Court Records on May 30, 2019 at 2:22 PM.⁵ (R. 04a; 30a). This was *nine days after* Ms. Black was sentenced on May 21. The trial court judge *never* signed the document assessing the costs, as the signature line for the “Issuing Authority” is blank. (R. 31a). Moreover, neither she nor her counsel was *ever* served with a copy

⁵ The docket sheet does not even list “bill of costs” or any other descriptor for the May 30th: it simply says “penalty assessed.”

of this bill of costs. Ms. Black received no notice; without such notice, it was impossible for Ms. Black to contest the amount. Rather, the trial court merely told Ms. Black was that it was ordering her to pay costs. (R. 27a). The plea colloquy did not contain *any* discussion of costs, let alone alert her to the amount she would owe. (R. 8a–18a). At sentencing, Ms. Black’s counsel requested that the court waive costs in light her indigence, yet the court still failed to discuss the amount of costs. (R. 27a–28a). At no point did the judge specify a dollar amount, let alone the specific costs assessed. Even the sentencing order did not specify the types of costs Ms. Black would owe or the amounts thereof, even though it does specify the restitution. (R. 22a). The onus is not on the defendant to proactively monitor the docket: the law requires that the court provide the defendant with a bill of costs at the time of sentencing.⁶ Accordingly, the Commonwealth failed in its due process obligations to provide Ms. Black with notice and an opportunity to be heard before depriving her of her property.

Allowing a docket entry to suffice as notice would create other serious issues, including with timing of an appeal. In Ms. Black’s case, nearly all of the

⁶ Indeed, it is a fluke that Ms. Black’s counsel ever identified the problems with her court costs set out above. Because of Ms. Black’s indigence and the serious burden that court costs will impose on her, she decided to challenge the imposition of costs based primarily on her ability to pay. Only when reviewing the docket to prepare the appeal paperwork did counsel notice costs that appeared to lack a proper statutory basis. It is certainly not the normal practice for public defenders with heavy caseloads to check the docket weeks after a client has been sentenced to see what costs the court has imposed without notice.

time to file a post-sentencing motion passed before the clerk of courts filed the bill of costs, and *even then* the court did not actually serve the defendant.⁷ Because a bill was not timely received, Ms. Black could not raise objections to the costs that raised a proper statutory basis with the trial court and thus these issues are necessarily being litigated for the first time on appeal. While this Court has explained that a challenge to the legality of costs is not waivable and is thus properly before this Court, *see, e.g., Commonwealth v. Lehman*, 201 A.3d 1279, 1283 (Pa. Super. Ct. 2019), the trial court's practice here nevertheless creates serious issues that impact both defendants' rights and effective judicial administration.

At sentencing, the court specifies the length of a jail sentence, a period of probation, and even the amount of fines and restitution at sentencing. Indeed, Ms. Black was explicitly informed by the court at sentencing that she would have to pay \$121 in restitution, both in the sentencing order and a separate restitution order. (R. 22a; 24a). It is unacceptable, and unlawful, for a court to fail to provide the same level of detail concerning costs owed at this time.⁸ Accordingly, this

⁷ Pa.R.Crim.P. 720 places a strict time limit on filing a post-sentencing motion, as it operates on the assumption that the defendant actually receives notice of the details of the sentencing order *at sentencing*.

⁸ After all, these costs are all set by statute and the bill is automatically generated by the CPCMS computer system; there are no practical obstacles to making the information available contemporaneously to the parties, and the court. Not only is this practice feasible, it is required by Pennsylvania law and fundamental notions of due process. While there may be some costs that are not yet ready at the time of sentencing, such as a lab bill or witness fees, this does not

Court should vacate the imposition of court costs in this case, with instructions to the trial court to re-impose such costs only when it provides a contemporaneous bill of costs to Ms. Black and counsel, *i.e.* at sentencing.

B. The trial court unlawfully imposed the total projected balance of monthly supervision fees on Ms. Black at the time of sentencing, even though she only becomes liable for \$45 each month.

The trial court immediately imposed the total projected balance of monthly supervision fees at the time of sentencing, even though the law only makes Ms. Black liable for a portion of her supervision costs on a monthly basis. Ms. Black received a sentence of one year of probation. Allegheny County charges a monthly supervision fee of \$45 for each month that a defendant spends on probation, pursuant to 18 P.S. § 11.1102(c). When the trial court imposed costs, however, it immediately charged her with the total \$540 in supervision fees in one lump sum. However, a defendant does not become liable for the cost of the entire period of supervision at the time she begins probation because it is unknown at this time how much of the period of supervision she will actually complete. Instead, she only becomes liable for \$45, with the remaining balance accruing each month that she actually serves on probation.

prevent the court from providing the defendant with a contemporaneous accounting of all of the “standard” costs imposed in the case at sentencing. In Ms. Black’s case, there were no such potentially contested bills.

Section 11.1102(c) provides:

The court shall impose as a condition of supervision a monthly supervision fee of at least \$25 on any offender placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment unless the court finds that the fee should be reduced, waived or deferred based on the offender's present inability to pay. Of the fee collected, 50% shall be deposited into the County Offender Supervision Fund established in each county pursuant to this section, and the remaining 50% shall be deposited into the State Offender Supervision Fund established pursuant to this section.

Per the plain language of this provision, Ms. Black must pay a minimum “monthly” supervision fee while on probation, and Allegheny County has set that monthly amount at \$45. The use of the word “monthly” implies that the liability for the \$45 accrues each separate month that a defendant is under supervision. Much like a recurring subscription fee, the total balance does not become due, but rather the amount comes due with each month of actual use. The plain language of the statute does not require, nor does it support, the imposition of the potential total amount.

This narrow, plain language construction of the term “monthly” is compelled by Pennsylvania’s Statutory Construction Act (“SCA”). Section 1928(b)(1) of the SCA requires that penal provisions be strictly construed. 1 Pa.C.S. § 1928. Statutes imposing court costs are considered penal in nature. *See Commonwealth v. Garzone*, 34 A.3d 67, 75 (Pa. 2012). Words and phrases in statutes must be construed “according to their common and approved usage.” 1 Pa.C.S. § 1903(a).

“Monthly” is not ambiguous; it has a clear meaning. Merriam-Webster defines “monthly” as “occurring or appearing every month”: it occurs each month that she has a supervision fee to pay, akin to a cable or telephone bill.⁹ No Pennsylvania court appears to have interpreted the term “monthly” in this provision or other analogous statutory provisions. The straightforward, dictionary definition of “monthly” should settle the matter—Ms. Black only becomes liable for \$45 each month as she participates in court supervision, rather than a projected total of supervision fees at sentencing.

Even if the term “monthly” could be considered ambiguous, such as that the defendant *owes* the entire amount at sentencing but must only *pay* the \$45 fee on a monthly basis, that interpretation is at odds with Pennsylvania law and its principles of statutory interpretation. Pennsylvania courts follow the principles of lenity, requiring any ambiguous language in a penal statute to be “interpreted in the light most favorable to the accused.” *Commonwealth v. Huggins*, 836 A.2d 862, 868 n.5 (Pa. 2003) (quoting *Commonwealth v. Booth*, 766 A.2d 843, 846 (Pa. 2001)). The interpretation that a defendant has to pay a set amount each month is not the one that results from a strict interpretation of the statute. It would also conflict with the authority granted to courts in Pa.R.Crim.P. 706(B) to set an installment payment plan for fines and costs: if the defendant was statutorily

⁹ “Definition of Monthly,” Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/monthly>.

required to *pay* \$45 per month (rather than the \$45 *accruing* each month), then it would upset the court's power to set affordable payment plans.

Allegheny County's own administrative order setting forth supervision fees also assumes that a defendant becomes liable for supervision fees each month she is on supervision. Order No. AD-2012-120-CR requires that each individual on probation "shall be assessed an offender supervision fee of forty-five dollars (\$45.00) for every month or fraction thereof that an offender is under supervision." 42 Pa.B. 3438 (June 16, 2012). Allegheny County's order presumes that the fee only becomes due after each month of supervision is completed, and it contemplates reductions where an entire monthly period is not completed—after all, sentencing courts impose periods of probation in full months, not fractions thereof. When Ms. Black was sentenced, she was given a probationary sentence for one year, but that does not mean she will actually serve a year of supervision. Intervening factors such as early termination of probation or re-incarceration would end that supervision, and under Allegheny County's order, the individual would no longer be liable for any future fees.¹⁰

¹⁰ The Allegheny order also specifies that a defendant "may pay the offender supervision fees either at one time or on a monthly basis." This is, in a sense, contradictory to the other language in the order, but it does not undercut the basic requirement that a defendant be on supervision in order to accrue the cost. It is also subservient to 18 P.S. § 11.1102. Regardless, a perfectly natural reading of that language is that payment of the defendant's supervision fees could be *deferred* under § 11.1102 and the defendant can pay them all in a lump sum once she is able.

This construction also finds support in the administrative regulations promulgated by the Board of Probation and Parole. According to those regulations, after collecting money, the “county clerk of courts shall on a monthly basis transfer 50% of the supervision fees collected by that county to the Board” 37 Pa. Code § 68.53. Similarly, when the county probation department collects money from defendants, it “shall deposit, at least monthly, 50% of the funds” into the supervision fee fund. 37 Pa. Code § 68.51. While not dispositive, these regulations do suggest that the Board views the *monthly* supervision fee as a monthly event, with payments coming in each month from defendants as they accrue.

In its 1925 opinion, the trial court sidesteps this issue by claiming that it acted pursuant to 42 Pa.C.S. § 9728(b)(4), which specifies that the “total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced or ordered, regardless of whether the amount has been ordered to be paid in installments.” Trial Ct. Op. at 5. What this provision means is that, if Ms. Black were on a payment plan of \$10 per month for her entire \$1,500 in court costs, there would be no problem with the court entering the total *civil* judgment against her, even though the court only expects her to pay \$10 a month. However, Section 9728(b)(4) is irrelevant here: it has no bearing on the question before this Court, which is *when* Ms. Black

becomes liable for the probation supervision fees, something that is unaddressed by Section 9728.

This is not an academic exercise. Because it is unknown at the outset whether an individual may not actually complete the entire period of supervision, imposing the costs of the entire period immediately is illogical and risks absurd outcomes. Under various circumstances, a defendant may be on probation for a shorter period of time than initially envisioned at sentencing. Probation may be terminated early, or the defendant may be arrested while on probation and incarcerated. Either way, the obligation to pay the monthly fee under Section 11.1102 terminates. When the supervision fee for the entire probationary period is assessed at the time of sentencing, there is the very real risk that the clerk of courts will not properly credit the time and money that the defendant no longer owes.¹¹ A defendant may pay the entire balance at sentencing, only to find herself re-incarcerated before completing probation; at that point, although the defendant would be lawfully entitled to a refund, it would be up to her to affirmatively seek it. This is not an abstract issue: 10 percent of prison admissions in Pennsylvania each year stem from supervision violations by individuals on probation, which means that many thousands of defendants necessarily no longer owe supervision

¹¹ As but one example, the defendant in CP-51-CR-0311841-2001 had \$650 in supervision fees removed from his case balance only after the defendant, represented by undersigned counsel, filed a motion and explained to the court that he had been incarcerated for those months during which he otherwise would have owed the supervision fees. That this was noticed and corrected is an aberration.

fees for months that the sentencing court assumed they would be on probation.¹² A more just, and administrable, course of action is to require the clerk of courts to automatically impose each month's fee on a monthly basis, which can be done via an automated process in the CPCMS computer system. It is also required by 18 P.S. § 11.1102(C). This Court should vacate the imposition of supervision fees and instruct the trial court on the proper procedure when assessing supervision fees.

C. The trial court lacked statutory authority to impose certain costs, which renders their imposition unlawful.

Separate from the issue of Ms. Black's ability to pay is the question of whether the trial court could impose certain court costs without any statutory authority to do so. A court's power to place costs upon a defendant "requires statutory authority." *Commonwealth v. Houck*, 335 A.2d 389, 391 (Pa. Super. Ct. 1975). Without any statutory authority, "the assessment must fall." *Id.* Here, the following four court costs appear to lack a statutory basis: Court Technology Fee (Allegheny) for \$5.50; Department of Records – Conviction (Allegheny), which is listed twice, once for \$20.00 and once for \$180.00; Record Management Fee (Allegheny), which is listed twice, once for \$2.20 and once for \$3.30; and Use of

¹² Samantha Melamed, *How Probation and Parole Violations are Filling Pennsylvania Prisons, Bloating Budgets*, Phila. Inquirer (June 18, 2019), <https://www.inquirer.com/news/probation-parole-philadelphia-prison-mass-incarceration-violations-corrections-secretary-john-wetzel-20190618.html>.

County (Conviction) (Allegheny) for \$4.00.¹³ (R. 06a). Even if Ms. Black had the means to pay her court costs, it would be unlawful for the trial court to impose these four costs. Accordingly, these assessments must be stricken.

This is not the first time that the Allegheny County court has imposed unlawful costs, as this Court addressed a similar issue arising from an Allegheny County court in *Commonwealth v. Gill*, 432 A.2d 1001 (Pa. Super. Ct. 1981). The *Gill* Court invalidated unlawful costs, including a \$80 “Court Fee” for certain hearings, a witness fee, a fee for processing payments to witnesses, a “probate fee” charged on money paid to the court, and a fee for service of process. *Id.* at 1009. As this Court explained in *Gill*, “costs must not be assessed except as authorized by law,” and “the burden of justifying” the costs is on the Commonwealth. *Id.* In other words, it is not Ms. Black’s burden to show that the costs were imposed unlawfully, but rather the Commonwealth’s affirmative duty to show that there is sufficient statutory authorization for their imposition.

In other cases concerning court costs, Pennsylvania courts, including this Court and the Supreme Court of Pennsylvania, have reiterated the requirement that each cost assessed have proper statutory authority and have invalidated other unlawful court costs imposed on defendants that lacked such authority. *See, e.g., Garzone*, 34 A.3d at 80 (finding assessment relating to prosecutors’ salaries

¹³ Ms. Black’s Rule 1925 statement also listed a DCR Civil Judgment Fee (Allegheny) as possibly lacking a statutory basis, but Appellant is no longer pursuing that argument.

improper as it was not authorized by statute); *Coder*, 415 A.2d at 410 (explaining that “a defendant may be required to only pay costs authorized by statute” and invalidating costs relating to jurors’ expenses); *Commonwealth v. Rivera*, 95 A.3d 913, 916 (Pa. Super. Ct. 2014) (noting that Pennsylvania courts have “repeatedly refused” to require defendants to pay for their public defenders “absent explicit statutory authority”); *Commonwealth v. Williams*, 909 A.2d 419, 421 (Pa. Commw. Ct. 2006) (remanding with instructions to determine whether assessment of “transportation costs” was statutorily authorized).

The question of whether each cost was properly imposed is one of statutory interpretation. As the Supreme Court of Pennsylvania has explained, statutes imposing court costs are “penal in nature and therefore subject to strict construction.” *Garzone*, 34 A.3d at 75. Where a “statute does not expressly identify” certain costs, and the question of whether such costs are statutorily authorized is “equivocal (at best),” a narrower construction favoring defendants “must prevail.” *Id.* Here, the statutes relied upon by the trial court below do not clearly authorize the challenged costs and the Commonwealth has not carried its burden. In addition, other potential sources of statutory authority for the charges are likewise insufficient.

1. The statutes that the trial court cited do not clearly authorize the challenged costs.

While the trial court acknowledged that it cannot impose costs without statutory authorization, the provisions that it cited as allowing such costs, do not provide the necessary authorization. Trial Ct. Op. at 4–5. In total, the trial court cited two different provisions as providing a statutory basis for the costs at issue, but neither of these cited provisions in fact authorizes the court costs assessed.

First, the trial court cited 16 P.S. § 1403, which requires that the defendant pay the costs incurred by the District Attorney for investigation, apprehension, prosecution, and conviction, as providing authorization for these costs.¹⁴ The trial court appeared to reason that because the revenues that result from collection of these county-imposed would ultimately help fund the office of the District Attorney, they are authorized by Section 4403. Trial Ct. Op. at 5 (finding that costs imposed would be “allocated to the designated offices which were incurred [sic] in prosecution of the Appellant”). However, Section 4403 provides no such authority for these costs, as it encompasses *only* the costs “incurred by district attorney or his assistants or any officer directed by him.” 16 P.S. § 4403. Indeed, the Supreme Court has rejected a broad reading of Section 4403 in *Garzone*, ruling that it does not even permit courts to charge defendants with the cost of District Attorney

¹⁴ The trial court incorrectly cited to 16 P.S. § 1403. However, that statute does not actually apply to Allegheny County. Because it is a county of the Second Class, it is instead governed by 16 P.S. § 4403.

salaries. 34 A.3d at 80. While the statutory language does reach the actions of law enforcement officers taken at the behest of the District Attorney, *see Commonwealth v. Smith*, 901 A.2d 1030, 1032 (Pa. Super. Ct. 2006), it certainly does not reach costs incurred by entities outside the authority of the District Attorney's office. The Court Technology Fee (Allegheny), Department of Records – Conviction (Allegheny), Record Management Fee (Allegheny), and Use of County (Conviction) (Allegheny) bear no relationship to expenses of the District Attorney or law enforcement acting at his direction. They do not go to the District Attorney to repay that office's costs. Three of the four costs go instead to various parts of the court, such as the records department or court technology, and one goes generally to the county.¹⁵

The trial court next claimed that these costs were justifiably imposed under 16 P.S. § 3405(a.2), which concerns offices, records, and papers of county officers. Section 3405(a.2) provides:

The county commissioners shall have the power to impose a fee on recorded instruments required to be kept permanently that are filed with the county. The county commissioners, with the approval of the president judge, shall have the power to impose **a fee** on civil or criminal cases filed in the court of common pleas. The fees will be collected by the appropriate row officer and **deposited in a special records management fund**, administered by the county's records management program in the Office of Management and Productivity or, in the absence of such an office, an office that handles the same or

¹⁵ When costs pursuant to 16 P.S. § 4403 appear on a docket or bill of costs, they are labeled as “DA’s Costs of Prosecution.”

similar functions. The fund shall be solely used to help defray the cost of maintaining, administering, preserving and caring for the records of the county. (emphasis added).¹⁶

However, the trial court's assertion that Section 3405(a.2) authorized the costs at issue here presents several problems. First, the only possible cost that this provision authorizes is a Record Management Fee, not the three other costs challenged in this appeal. Second, although the provision *authorizes* the county commissioners to create such a fee, it does not itself *establish* this fee. Because the trial court did not cite to any ordinance, resolution, notice in the Pennsylvania Bulletin, or other appropriate document in which the county commissioners set forth the actual dollar amount of the fee, the Commonwealth has not carried its burden of establishing the statutory authorization for the Record Management Fees charged in this case. Finally, although Section 3405(a.2) authorizes charging such a fee, nothing in the statute authorizes charging the *defendant* for the fee. As is noted above, the Supreme Court has already explained that a defendant can only be required to pay costs authorized by a statute when that statute makes the defendant liable for those costs. *See Coder*, 415 A.2d at 410. Thus, the Commonwealth Court found in *Fordyce v. Clerk of Courts, Forest County*, 869 A.2d 1049, 1053–54 (Pa. Commw. Ct. 2005), that a statute authorizing sheriff to bill county for transportation costs did not make the *defendant* liable for the transportation costs

¹⁶ That this cost is to go into a “special records management fund” is also another explanation for why these costs are plainly not reimbursements to the District Attorney under Section 4403.

absent clear statutory authority. That is why, for example, a defendant is generally liable for the District Attorney's itemized costs under 16 P.S. § 4403: the statute explicitly makes the defendant liable upon conviction. By contrast, 16 P.S. § 3405(a.2) contains no such language. For these reasons, Section 3405(a.2) cannot serve as the statutory basis for any of the challenged costs.

2. The challenged costs are also not authorized by 42 Pa.C.S. § 9728(g).

In other cases, the Commonwealth has relied upon statutes not mentioned by the trial court here to justify costs levied against criminal defendants. For the sake of completeness, two of those provisions are discussed below.

The first is 42 Pa.C.S. § 9728, which is titled "Collection of restitution, reparation, fees, costs, fines and penalties." Section 9728(g) provides:

(g) Costs, etc.--Any sheriff's costs, filing fees and costs of the county probation department, clerk of courts or other appropriate governmental agency, including, but not limited to, any reasonable administrative costs associated with the collection of restitution, transportation costs and other costs associated with the prosecution, shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

While this provision may seem to authorize any "reasonable administrative costs" borne by the clerk of courts, or "other costs associated with the prosecution," this provision actually deals only with costs associated with the *collection* of fines,

costs, and restitution (as the name of the statute indicates).¹⁷ Accordingly, this provision is applicable when a defendant becomes liable for any costs charged by the clerk of courts that are associated with filing a contempt or probation violation petition, as well as any costs of the District Attorney associated with prosecuting that contempt or probation violation petition. In *Commonwealth v. Gaddis*, 639 A.2d 462 (Pa. Super. Ct. 1994), this Court interpreted Section 9728 and determined that “the separate reference to ‘costs’ in subsection (g) provides for the collection of costs associated with obtaining a money judgment against the defendant, and does not provide for the imposition of the costs of prosecution itself.” 639 A.2d at 472. This flows logically from the structure and purpose of Section 9728, which is focused on *collecting* funds already lawfully imposed at sentencing. Under that correct interpretation, none of the costs at issue in Ms. Black’s case could be authorized under this statute because none of the costs address the collection of fines, costs, or restitution.

This Court implicitly affirmed the *Gaddis* decision last year in *Commonwealth v. Lehman*, 201 A.3d 1279, 1283 n.12 (Pa. Super. Ct. 2019). In *Lehman*, the Commonwealth argued that the costs it incurred associated with resentencing were authorized by Section 9728(g), but this Court rejected that

¹⁷ A statute’s title and preamble, as well as headings, “may be considered in the construction thereof.” 1 Pa.C.S. § 1924. “[H]eadings prefixed to titles, parts, articles, chapters, sections, and other divisions” within a statute “may be used to aid in the construction thereof,” but do not control. *Id.* See also *Commonwealth v. McCoy*, 962 A.2d 1160, 1168 (Pa. 2009) (noting that statute’s “construction also squares with the Section’s title”).

argument, explaining instead that they are, at most, governed by 16 P.S. § 4403.

Simply put, Section 9728(g) cannot serve as a source of authority to impose costs incurred as part of the original criminal proceeding.

However, between *Gaddis* and *Lehman*, another panel decision from this Court that grappled with a 2006 statutory amendment to Section 9728 took a contrary—and incorrect—position. *See Commonwealth v. Allshouse*, 924 A.2d 1215 (Pa. Super. Ct. 2006). When *Gaddis* was decided, Section 9278(g) read:

(g) Costs, etc.—Any sheriff's costs, filing fees and costs of the county probation department or other appropriate governmental agency shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

Following the enactment of Act 143 of 2006 (which remains operative today), Section 9278(g) was altered as follows, with alterations in bold:

(g) Costs, etc.—Any sheriff's costs, filing fees and costs of the county probation department, **clerk of courts** or other appropriate governmental agency, **including, but not limited to, any reasonable administrative costs associated with the collection of restitution, transportation costs and other costs associated with the prosecution**, shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

While these changes expanded the scope of recoverable costs, the additional language did not alter the purpose of the statute: addressing costs associated with *collecting* fines, costs, and restitution.

Following the 2006 amendment, the *Allshouse* panel suggested that *Gaddis* was effectively overruled “when our General Assembly decided to amend the language of 42 Pa.C.S. § 9728(g) to include ‘transportation costs and other costs associated with the prosecution’ as express ‘costs’ within the meaning of the provision.” *Allshouse*, 924 A.2d at 1230. Notably, neither party briefed this issue in *Allshouse*.¹⁸ The *Allshouse* panel reasoned that those additional terms mean that Section 9728(g) must reach costs beyond those “associated with executing a money judgment from a defendant.” *Id.*

In some ways, *Allshouse* is correct: the revised statute now reaches certain costs beyond those associated with a money judgment. As is noted above, Section 9728(g) also covers the costs associated with prosecuting contempt or probation violation hearings for nonpayment, as well as filing fees and other costs associated

¹⁸ As the Court in *Allshouse* noted, “the amended version of 42 Pa.C.S. § 9728(g), Costs, etc., was passed after appellant filed both his brief and reply brief.” *Allshouse*, 924 A.2d at 1230 n.29. Without the benefit of the adversarial process, or an opportunity for the appellant in that case to present any argument to explain why the as-amended § 9278(g) still applied in the same way as in *Gaddis*, the conclusion in *Allshouse* should not be given the same weight as *Gaddis* and *Lehman*. See *Commonwealth v. Shaw*, 770 A.2d 295, 304 (Pa. 2001) (Castille, J., dissenting) (explaining that our “system of jurisprudence, of course, proceeds upon the time-proven assumption that adversarial presentation in actual cases and controversies, rather than visceral reactions to academic questions discovered by the Court itself, produces the best and wisest decision-making”).

with such prosecution and collection efforts. However, if *Allshouse* is understood to stand for the proposition that the costs authorized by Section 9728(g) now reach actions that occur *unrelated* to the collection of already-imposed fines, costs, and restitution, the opinion is wrong and should not be followed. *Gaddis* is certainly still controlling and accurate on this point because the amendments did not change the structure or purpose of those costs, as the Court’s recent decision in *Lehman* indicates. When viewed in the context of the statute, there is no serious question that the costs in subsection (g) must be related to fulfilling the primary purpose of Section 9728: recouping costs associated with collections.¹⁹ A deeper analysis of Section 9728 supports this interpretation.

a. If 42 Pa.C.S. § 9728(g) authorized the imposition of any costs at sentencing, it would at least in part be superfluous.

A broader reading of *Allshouse* would render portions of Section 9728 as superfluous, which would violate basic principles of statutory construction. As is described above, 16 P.S. § 4403 allows the District Attorney to recover costs from a defendant who is convicted as a result of that prosecution. If Section 9728(g)’s

¹⁹ This conclusion is supported by the limited available legislative history. In Act 3 of 1996, the legislature added costs of the “clerk of courts” as among those recoverable through Section 9728(g). As Representative David Mayernik explained, the purpose of the amendment—which streamlined procedures for the entry of a civil judgment—was to address the collection of fines, costs, and restitution the defendant owes as a result of sentencing. 1995 Pennsylvania House of Representatives Legislative Journal at 2331 (Dec. 12, 1995), <https://www.legis.state.pa.us/WU01/LI/HJ/1995/0/19951212.pdf#page=13>. The costs associated with that transmission are now borne by the defendant. It is this provision that authorizes billing Ms. Black for the DCR Civil Judgment Fee, which is why she does not contest that cost. Nothing in this amendment to Section 9728(g) addressed any costs incurred prior to assessment of these costs, however.

reference to “costs associated with the prosecution” encompassed costs associated with the underlying criminal conviction, then it would be superfluous and unnecessary because such costs are explicitly recoverable under 16 P.S. § 4403. The SCA, however, instructs that “[e]very statute shall be construed, if possible, to give effect to all its provisions”). 1 Pa.C.S. § 1921(a). *See also Commonwealth v. McCoy*, 962 A.2d 1160, 1168 (Pa. 2009) (“We are not permitted to ignore the language of a statute, nor may we deem any language to be superfluous.”); *Commonwealth v. Velez*, 51 A.3d 260, 265 (Pa. Super. Ct. 2012) (“Basic rules of statutory construction set forth that statutes “shall be construed, if possible, to give effect to all its provisions” and that the “legislature did not intend any statutory language to exist as mere surplusage.”).²⁰

The Supreme Court of Pennsylvania’s decision in *Commonwealth v. Garzone*, 34 A.3d 67 (Pa. 2012), which considered the analogue of 16 P.S. § 4403 applicable in Philadelphia (16 P.S. § 7708), is also helpful in reaching the proper construction of Section 9728. The District Attorney in *Garzone* argued that the “costs of prosecution” authorized by 16 P.S. § 7708 included the salaries of the prosecutors who worked on the case. *Id.* at 69. The Court disposed of that argument with three main points. First, other statutes addressed prosecution salaries (as, here, other statutes cover at least some of the costs that would

²⁰ Similarly, the fee schedule for the clerk of courts is set forth in 42 P.S. § 21061; it would be duplicative for Section 9728(g) to make the defendant liable for the same.

otherwise be set forth in Section 9278(g)). *Id.* at 76–77. Second, the General Assembly “has often been specific in conveying its intention that attorneys’ fees are recoverable.” *Id.* at 77. Here, as discussed above, the General Assembly has been specific about the types of court costs that are taxable on defendants, whether they are filing fees, costs of prosecution, or other costs that would be caught up in Section 9728(g) like lab costs²¹ or even postage²²—costs that are incurred by a “governmental agency.” Third, the statute, being penal in nature, must be read narrowly and the specific costs must be “expressly identified” therein. *Id.* at 77. Yet here the only expressly authorized costs in Section 9728(g) are for costs incurred as part of the effort to collect fines, costs, or restitution.

Sound principles of statutory and the Supreme Court of Pennsylvania’s decision in *Garzone* both counsel in favor of reading *Allshouse* narrowly, in order to construe Section 9728(g) in such a way that give effects to all of its provisions.

b. Comparing 42 Pa.C.S. §§ 9721 with 9728 shows that § 9728 does not apply at sentencing.

A comparison of Section 9721 with Section 9728—both of which appear in the same subchapter entitled “Sentencing Alternatives”—provides further support for the conclusion that Section 9728 applies *only* after the initial conviction and associated fines, costs, and restitution thereof are assessed. In short, Section 9721

²¹ 42 Pa.C.S. § 1725.3.

²² 42 Pa.C.S. § 1725.1(b)

makes a defendant liable for costs *at sentencing*, while the nearly identical language used in Section 9728 makes a defendant liable for costs imposed *after* sentencing as part of the collections effort. Act 96 of 2010 added both 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2), which both make clear that defendants owe court costs, as set forth by appropriate statutes, even if a court does not explicitly order them. Section 9721, which is entitled “Sentencing generally,” unquestionably applies at sentencing, and subsection (c.1) specifically addresses liability for costs at the time of sentencing.²³ By contrast, Section 9728(b.2) only concerns procedures *after* sentencing, but it uses nearly identical language to make defendant liable for these post-sentencing costs.²⁴ Logically, and as a matter of statutory construction, § 9728(b.2) must mean something different than § 9721(c.1). If both provisions intended to make defendants liable for court costs upon conviction and at sentencing, then Section 9728(b.2) would be duplicative and would have no separate meaning, raising the same superfluity issue discussed

²³ The subsection provides: (c.1) Mandatory payment of costs.--Notwithstanding the provisions of section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) or any provision of law to the contrary, in addition to the alternatives set forth in subsection (a), the court shall order the defendant to pay costs. In the event the court fails to issue an order for costs pursuant to section 9728, costs shall be imposed upon the defendant under this section. No court order shall be necessary for the defendant to incur liability for costs under this section. The provisions of this subsection do not alter the court’s discretion under Pa.R.Crim.P. No. 706(C) (relating to fines or costs).

²⁴ The subsection provides: (b.2) Mandatory payment of costs.--Notwithstanding any provision of law to the contrary, in the event the court fails to issue an order under subsection (a) imposing costs upon the defendant, the defendant shall nevertheless be liable for costs, as provided in section 9721(c.1), unless the court determines otherwise pursuant to Pa.R.Crim.P. No. 706(C) (relating to fines or costs). The absence of a court order shall not affect the applicability of the provisions of this section.

above. The only reading that avoids this problem is that the costs set forth in Section 9728(g)—as referenced also by § 9728(b.2)—apply those incurred by a defendant as a result of *collecting* fines, costs, and restitution. Thus, Section 9721(c.1) makes a defendant automatically liable for costs associated with the underlying conviction, while Section 9728(b.2) makes defendants automatically liable for certain post-conviction costs associated with collection as set forth in Section 9728(g).

* * *

As the Supreme Court has explained, in a situation where two readings of a cost statute are “equivocal (at best), the narrower construction favoring” the defendant must prevail. *Garzone*, 34 A.3d at 75. In light of the statutory structure, the strict construction requires a finding—as in *Commonwealth v. Gaddis*, 639 A.2d 462 (Pa. Super. Ct. 1994)—that § 9728(g) does not authorize any of the costs in this case because they are not costs associated with collecting fines, costs, or restitution.²⁵

²⁵ Even if it did authorize costs associated with sentencing, Section 9728(g) would at most only authorize the Department of Records – Conviction (Allegheny) costs. But note that there is already a civil judgment fee, the DCR Civil Judgment Fee, imposed on Ms. Black and which is actually associated with collecting the fines, costs, and restitution.

3. The long-repealed Section 64 of the Criminal Procedures Act of 1860 cannot authorize imposition of the challenged costs.

Another potential source of authority for costs that this Court sometimes looks to is a long-repealed statute that remains part of Pennsylvania common law. That repealed statute, Section 64 of the Criminal Procedure Act of 1860, the Act of March 31, 1860, P.L. 427, 19 P.S. § 1223 (repealed) provided:

The costs of prosecution accruing on all bills of indictments charging a party with felony, returned *ignoramus* by the grand jury, shall be paid by the county; and that the costs of prosecution accruing on bills of indictment charging a party with felony, shall, if such party be acquitted by the petit jury on the traverse of the same, be paid by the county; and in all cases of conviction of any crime, all costs shall be paid by the party convicted; but where such party shall have been discharged, according to law, without payment of costs, the costs of prosecution shall be paid by the county; and in cases of surety of the peace, the costs shall be paid by the prosecutor or the defendant, or jointly between them, or the county, as the court may direct.

This provision was repealed in 1978 by the Judiciary Act Repealer Act (“JARA”).

However, JARA contains a savings clause that maintains Section 64 as part of Pennsylvania common law. *See Commonwealth v. Lehman*, 201 A.3d 1279, 1284 (Pa. 2019). In *Lehman*, this Court concluded that Section 64 is still part of the common law and analyzed it as part of its effort to determine whether defendants have to pay the costs of resentencing to correct an illegal sentence. *Id.* at 1285.

However, because the Court decided the issue on constitutional grounds, it explicitly *did not reach* the question of whether Section 64 served as a source of authority to impose costs. *Id.* at 1283–84 (noting that it was “immaterial for

purposes of this decision whether costs were imposed” under Section 64). Thus, no court has held that Section 64 can serve as statutory authority for imposing costs not otherwise authorized by a current statute.

Nor can Section 64 serve as such an authority. Although Section 64 provided that “in all cases of conviction of any crime, all costs shall be paid by the party convicted,” it does not actually authorize the imposition of any costs that are not otherwise set forth by statute. Section 64 is only part of Pennsylvania’s common law. However, this Court and the Supreme Court have both repeatedly held that costs can be imposed on a defendant only pursuant to a *statute*. See *Commonwealth v. Coder*, 415 A.2d 406, 410 (Pa. 1980). And as this Court noted in *Lehman*, Section 64 “is no longer a statute.” *Lehman*, 201 A.3d at 1287 n.14.²⁶ Accordingly, Section 64 cannot serve as statutory authority for courts imposing costs.

Moreover, Section 64 remains part of our common law only to the extent that it represents a *procedural* rule, not a substantive source of law. JARA’s savings clause only saved the procedural portions of statutes from extinction. As the *en banc* Commonwealth Court has explained, there is a “distinction between substantive and procedural questions for purposes of determining whether” a statute remains in effect under JARA. *Donatucci v. Pa. Labor Relations Bd.*, 547

²⁶ Furthermore, Pennsylvania courts have noted that no costs were recoverable at common law. See, e.g., *Commonwealth v. Newell*, 2 Pa. D. & C. 3d 613, 616 (Pa. Ct. Comm. Pleas 1976).

A.2d 857, 861 (Pa. Commw. Ct. 1988) (en banc).²⁷ The JARA savings clause in 42 P.S. § 20003 explains that the provisions repealed by the Act were “obsolete, unnecessary or suspended.” In place of these repealed provisions, the “[g]eneral rules promulgated” by the Supreme Court would instead “prescribe and provide the practice and procedure.” *Id.*²⁸ *Only if* “no such general rules are in effect with respect to the repealed statute on the effective date of its repeal, the **practice and procedure** provided in the repealed statute shall continue in full force and effect, as part of the common law of the Commonwealth, until such general rules are promulgated.” *Id.* (emphasis added).

While technical, the provision’s impact is simple: the statutes that JARA repealed became part of the common law only if they addressed procedural rules and the Supreme Court has not promulgated replacement rules (i.e. Rules of Criminal Procedure).²⁹ *See Ricci v. Cuisine Mgmt. Servs., Inc.*, 621 A.2d 163, 165

²⁷ To fully understand the Commonwealth Court’s decision, it is important to note that the JARA savings clause codified in 42 P.S. § 20003 is actually contained in Section 3 of JARA, while Section 2 of JARA contained all of the repeals of existing statutes. The full text of Act 53 of 1978 is available at the website of the Legislative Reference Bureau, <http://www.palrb.us/pamphletlaws/19001999/1978/0/act/0053.pdf>.

²⁸ The term “General Rules” is a term of art for procedural rules promulgated by the Supreme Court.

²⁹ This procedural-substantive divide is also consistent with the Commonwealth Court’s decision in *Department of Public Welfare v. Joyce*, 571 A.2d 536, 538 (Pa. Commw. Ct. 1990). There, a Rule of Civil Procedure excused DPW from paying certain fees, but a JARA-repealed statute excused it from even more fees. *Id.* That the Supreme Court’s procedural rules governed the filing fee issue, it makes sense that the JARA-repealed statute would remain in effect to the extent it had not been superseded by those rules. *See also Commonwealth v. Romolini*, 557 A.2d 1073, 1079–80 (Pa. Super. Ct. 1989) (court procedural rule on the same subject invalidated the JARA-repealed statute).

(Pa. Super. Ct. 1993) (explaining that a repealed statute remains in effect under JARA only if “no general rule of procedure has ever been promulgated”). The Supreme Court of Pennsylvania is empowered to promulgate such rules by Article V, Section 10 of the Pennsylvania Constitution, to the extent that these rules neither “enlarge nor modify the substantive rights of any litigant.” Pa. Const. art V, § 10. This distinction between the substantive versus procedural impact of a statute saved under JARA is precisely what the Commonwealth Court views as “logical and in keeping with JARA’s legislative scheme.” *Donatucci*, 547 A.2d at 861.

If Section 64, which only remains as a part of the common law pursuant to JARA, were to create a liability for Ms. Black to pay any costs, it would create a substantive right of the Commonwealth to collect money from her. That would be unlawful and unconstitutional.³⁰ Under *Coder* and the well-established body of case law in Pennsylvania, no court—including the Supreme Court through general rules—may impose any costs not authorized by statute. *Coder*, 415 A.2d at 410 (“[A] defendant may be required to only pay costs authorized by statute.”); *see also Commonwealth v. Houck*, 335 A.2d 389, 391 (Pa. Super. Ct. 1975) (en banc)

³⁰ In *Commonwealth v. Larsen*, 682 A.2d 783, 797 (Pa. Super. Ct. 1996), this Court seemed to suggest that both Section 64, as part of the common law, and 16 P.S. § 1403 (governing costs of prosecution) made a defendant liable for costs associated with a grand jury. The Court’s opinion did not address any of the issues set forth here, however—it does not even acknowledge that such statutes are subject to strict construction. It is best read as including the costs associated with the grand jury as costs of prosecution, authorized by 16 P.S. § 1403, which is how this Court subsequently described the decision. *See Commonwealth v. Garzone*, 993 A.2d 1245, 1256 (Pa. Super. Ct. 2010), *aff’d* 34 A.3d 67 (explaining that it was “undisputed” in *Larsen* “that all of the costs were necessary ‘costs of prosecution,’” the term used in Section 1403).

(“The power and authority of the Court to place costs upon the defendant or the prosecutor requires statutory authority.”); *Commonwealth v. Garramone*, 176 A.2d 263, 264 (Pa. Super Ct. 1935) (explaining that liability for court costs must derive from statutes, not the common law). Thus, Section 64 remains part of our common law only to the extent that it provides some procedural rule; it cannot serve as a substantive authority to impose court costs on Ms. Black here.³¹

Finally, it bears noting that even if Section 64 did apply here, it merely states that “all costs shall be paid by the party convicted.” As this Court has explained, “it simply permits the taxation of costs without specifying the type of costs which may be taxed,” and the legislature has therefore “enacted numerous statutes permitting or requiring costs in certain circumstances.” *Commonwealth v. Garzone*, 993 A.2d 1245, 1256 (Pa. Super. Ct. 2010), *aff’d* 34 A.3d 67 (Pa. 2012). There must be *other* statutes, such as 16 P.S. § 1443 (governing costs of prosecution), 42 Pa.C.S. § 1725.3(b) (establishing the Crime Lab User Fee in, or 42 Pa.C.S. § 3733(a.1) (authorizing collection of costs related to Judicial Computer System) setting forth what those actual, specific costs are. Absent the existence of another specific statute to authorize each of the challenged costs in this case, Section 64 would have no effect, even if it still provided any substantive authority. Prior to its repeal,

³¹ This Court never reached this issue in *Lehman*, and indeed Section 64 was not briefed by or argued by the parties. See Brief of Commonwealth, *Commonwealth v. Lehman*, 1556 MDA 2017, 2018 WL 7349776; Brief of Lehman, *Commonwealth v. Lehman*, 1556 MDA 2017, 2018 WL 7349777. In light of the discussion above, the correct analysis shows that Section 64 does not authorize any of these costs.

Section 64 only specified that a defendant must pay all of the costs otherwise set forth by statute.³² It did not provide any independent authority to impose costs on defendants not already imposed by other statutes. As discussed above, the costs at issue here have *no* independent statutory basis. Accordingly, no interpretation of Section 64 may make Ms. Black liable for the costs in this case.

D. Pennsylvania law required the trial court to consider Ms. Black’s ability to pay costs at the time it imposed them.

The trial court did not consider Ms. Black’s financial resources before it imposed \$1,500 in court costs. By failing to do so, the trial court did not meet its obligations under Pa.R.Crim.P. 706(C) and 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2), which require that the trial court consider a defendant’s ability to pay prior to imposing costs. At the time that this Brief is being filed, this Court is considering this issue *en banc* in *Commonwealth v. Lopez*, 1313 EDA 2018, and *Commonwealth v. Gary-Ravenell*, 2551 EDA 2018. The outcome of those cases will be binding and dispositive of this issue. Appellant raises it here to preserve the issue.

The legislature has explicitly mandated that costs should be imposed only if the defendant is financially able to pay. 42 Pa.C.S. § 9728(b.2) explains that a defendant is automatically liable for costs, “unless the court determines otherwise

³² It predated, for example, the requirement in 16 P.S. §§ 1403, 1443, and 7708 that defendants must pay the costs incurred by the prosecution.

pursuant to Pa.R.Crim.P. No. 706(C) (relating to fines or costs).” *See also* 42 Pa.C.S. § 9721(c.1) (same). Rule 706(C), in turn, provides that the Court, “in determining the amount and method of payment of a fine or costs *shall*, insofar as is just and practicable, consider the burden upon the defendant by reason of the defendant’s financial means.” Pa.R.Crim.P. 706(C) (emphasis added). This provision applies at sentencing, as this Court has previously explained. *See, e.g., Commonwealth v. Martin*, 335 A.2d 424 (Pa. Super. Ct. 1975) (en banc) (invalidating the imposition of a fine where the trial court did not determine ability to pay under Rule 706, previously Rule 1407);³³ *Commonwealth v. Mead*, 446 A.2d 971, 973 (Pa. Super. Ct. 1982) (finding that Rule 706’s predecessor, Rule 1407, requires considering a defendant’s ability to pay at sentencing). Moreover, the legislative history accompanying the 2010 enactment of 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2) is explicit that the statutes were intended to ensure that trial courts “retain all discretion to modify or even waive costs in an appropriate case.” Pennsylvania House of Representatives Judiciary Committee, SB 1169 Bill

³³ Although some recent Superior Court cases have suggested that an ability-to-pay hearing at sentencing is not required, *see Commonwealth v. Childs*, 63 A.3d 323, 326 (Pa. Super. Ct. 2013), *Martin* remains binding as it is an *en banc* opinion. *See In the Interest of A.A.*, 195 A.3d 896, 909 (Pa. 2018) (court must ignore three-judge panel opinion that conflicts with prior binding *en banc* opinion); Pa.R.A.P. 3103(b) (an “opinion of the court *en banc* is binding on any subsequent panel of the appellate court in which the decision was rendered”). Presumably, this conflict in the Court’s precedents will be resolved in the upcoming *en banc* proceeding.

Analysis (Sept. 15, 2010) PN 2181. Accordingly, the sentencing court should have considered Ms. Black’s ability to pay when imposing costs in this matter.³⁴

There is no dispute that Ms. Black is indigent and unable to work. She was run over by a car, and at the time of her sentencing was applying for Social Security Supplemental Security Income because she was unable to work. (R. 28a). Despite this, she was also attempting to care for both a minor child and an 18-year-old. *Id.* These facts, particularly in combination with the fact that she is represented by the Office of Conflict Counsel because of her limited financial resources, “invite the presumption of indigence.” *Commonwealth v. Eggers*, 742 A.2d 174, 176 n.1 (Pa. Super. Ct. 1999). The trial court did not dispute Ms. Black’s indigence, but instead denied her relief, it seems, out of a stated concern that there

³⁴ Those two statutes, coupled with Rule 706(C) also give the trial court authority to waive or reduce costs that would otherwise be mandatory for a person with means. Each of the statutes that imposes costs in Ms. Black’s case must be read *in pari materia* with Sections 9721(c.1) and 9728(b.2), as well as Rule 706(C), so that effect is given to each. *See* 1 Pa.C.S. §§ 1932–33; *see also Lohmiller v. Weidebaugh*, 469 A.2d 578, 581 (Pa. 1983) (statutes and court rules on same topic read *in pari material*). Not a single one of the individual statutes imposing costs on Ms. Black addresses what should occur if a court finds that he is unable to pay. None says “the court must impose this cost even if the defendant is too poor to pay it.” The way to give effect to all provisions together as a whole is that Rule 706(C) and Sections 9721(c.1) and 9728(b.2) create an exception so that defendants who are unable to pay can have their costs reduced or waived.

Moreover, if there were somehow an irreconcilable difference between any of the statutes imposing specific court costs and Sections 9721(c.1) and 9728(b.2), those two provisions would prevail. Although a more specific statute generally governs over a general one, the exception to that rule applies when the general statute is “enacted later and it shall be the manifest intention” of the legislature for the more general provision to prevail. Both Sections 9721(c.1) and 9728(b.2) apply “Notwithstanding any provision of law to the contrary.” As this Court has explained, such language “clearly indicates that the legislature intended to limit the application of prior” statutes. *Commonwealth v. Smith*, 544 A.2d 991, 998 (Pa. Super. Ct. 1988) (en banc). As a result, the legislature has ensured that trial courts have broad authority to reduce or waive costs for defendants who cannot afford to pay them.

might be many defendants with “hard luck stor[ies]” and that following the Rule’s requirement to consider those circumstances would lead to a “slippery slope.” (R. 28a). The fact that there could be many defendants whose indigence requires the court to reduce costs at sentencing is no reason to deny Ms. Black the measure of justice that her circumstances, and the law, require. Imposing costs on Ms. Black works an unjustifiable hardship, and Pennsylvania law requires that those costs be waived or reduced. Accordingly, the costs should be vacated and the matter remanded so that the trial court can impose costs based on Ms. Black’s ability to pay.

Request for Publication

Pursuant to Pa.R.A.P. 3519(a), Ms. Black respectfully requests that this Court publish its disposition in this matter because of the substantial public importance of the issues raised in this appeal and because this case involves issues of first impression. In recent years, this Court and our Supreme Court have taken a renewed interest in providing clarification to trial courts on how to lawfully impose and collect fines and costs. For example, this Court has issued three published opinions addressing unlawful collections practices in *Commonwealth v. Mauk*, 185 A.3d 406 (Pa. Super. Ct. 2018), *Commonwealth v. Diaz*, 191 A.3d 850 (Pa. Super. Ct. 2018), and *Commonwealth v. Smetana*, 191 A.3d 867 (Pa. Super. Ct. 2018). Additional cases, such as *Commonwealth v. Hudson*, 611 EDA 2019 and

Commonwealth v. Sneeringer, 1344 MDA 2019 are currently pending before this Court.

The most effective way to avoid unlawful collections practices is to ensure that court costs are properly imposed in the first place, and in an amount that is affordable. Sitting *en banc*, this Court will soon address whether a defendant's ability to pay must be considered at sentencing. *Commonwealth v. Lopez*, 1313 EDA 2018, and *Commonwealth v. Gary-Ravenell*, 2551 EDA 2018. *See also Commonwealth v. Ford*, 217 A.3d 824, 828–29 (Pa. 2019) (trial courts must consider the defendant's ability to pay a fine at sentencing). In light of the substantial number of cases addressing these matter (including additional cases pending before this Court and the Supreme Court), there is rather plainly a substantial public interest in ensuring that court costs are lawfully imposed. As is also addressed by the Public Defender Association of Pennsylvania, serving as *amicus curiae*, the issues raised in Ms. Black's appeal go far beyond this individual case. Trial courts need clear and specific instructions on how to comply with the law governing court costs.

Moreover, this case offers opportunities for this Court to rule on issues of first impression it has not addressed elsewhere. Whether defendants accrue liability for supervision fees in full at the time of sentencing, or on a monthly basis, is an issue of first impression, as is the question of whether the court costs imposed on

Ms. Black have a statutory basis. The Allegheny County courts impose these costs in this manner on every criminal defendant. Thus, resolution of this matter will provide specific—and binding—guidance to the trial court so that it does not repeat the same errors. The clarity and certainty that this Court is likely to shed on these issues weighs heavily in favor of publication.

Conclusion

The trial court made numerous errors when it imposed \$1,500 in court costs on Ms. Black. It did not provide her a list of the costs or the total amount thereof and improperly; it imposed all of her probation supervision fees at once; it imposed illegal costs that have no statutory basis; and it imposed costs without considering her ability to pay. On each of these issues, Ms. Black is entitled to relief. This Court should vacate the court costs imposed by the trial court and remand with instructions so that the trial court can re-impose costs in a manner consistent with Pennsylvania law.³⁵

³⁵ Ms. Black is not requesting that this Court vacate the sentence. Court costs are “a reimbursement to the government for the expenses associated with the criminal prosecution” and are “akin to collateral consequences”; they are “not part of the criminal’s sentence but are merely incident to judgment.” *Commonwealth v. Rivera*, 95 A.3d 913, 916-17 (Pa. Super. Ct. 2014). *See also Commonwealth v. Giaccio*, 202 A.2d 55, 58 (Pa. 1964), *reversed on other grounds*, 382 U.S. 399 (explaining that “the imposition “of costs is not part of any penalty imposed” and not part of the sentence). Thus, this Court can and should vacate the order imposing costs, but it need not vacate the sentence and send this back for resentencing.

Respectfully submitted,

/s/ Andrew Christy

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Date: January 21, 2010

Counsel for Appellant Secada Black

CERTIFICATE OF COMPLIANCE WITH WORD LIMIT

I certify pursuant to Pa.R.A.P. 2135 that this brief does not exceed 14,000 words.

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the parties at the addresses and in the manner listed below:

Via PACFile

Allegheny County District Attorney
401 Allegheny County Courthouse
436 Grant Street
Pittsburgh, PA 15219

Dated: January 21, 2020

/s/ Andrew Christy
Andrew Christy

Appendix A - Trial Court Opinion

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)
vs.)
SECADA BLACK,)
APPELLANT.)

CC No. 02172 of 2019

DEPT. OF CRIMINAL JUSTICE
CRIMINAL DIVISION
ALLEGHENY COUNTY, PA

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OPINION

At CC No. 02172 of 2019, Appellant SECADA BLACK, was charged with two counts of Felony Retail Theft, 18 Pa.C.S.A. § 3929 (a)(1), and two counts of Felony Criminal Conspiracy 18 Pa.C.S.A. § 903. Appellant entered into a plea agreement on May 21, 2019. In exchange for the guilty plea, Appellant would plead guilty to one count of retail theft at a reduced grading from a felony to a misdemeanor, while the second felony retail theft and both counts of felony criminal conspiracy would be withdrawn. The Commonwealth and Appellant agreed to 12 months of probation, no contact with [REDACTED] [REDACTED] in Bethel Park, pay restitution in the amount of \$121 to [REDACTED] [REDACTED] complete any drug and alcohol treatment and any related treatment if deemed appropriate by the probation office, and to pay court costs as the terms of sentencing. Post-Sentence Motions were filed on May 29, 2019. On June 13, 2019 the Appellant was ordered to file a Concise Statement of Matters Claimed of on Appeal. The Appellant filed

her Concise Statement of Matters Complained of on Appeal on July 3, 2019 from which the following was taken verbatim:

- a. The sentencing court imposed court costs on the defendant without making the mandated determination of her ability to pay those costs pursuant to 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2), as well as P.A.R.Crim.P. No. 706 (C);
- b. The sentencing court imposed certain costs that lack a statutory basis, including the costs “Court Technology Fee (Allegheny),” “DCR Civil Judgment Fee (Allegheny),” “Record Management Fee (Allegheny)” (twice), “Use of County (Conviction)(Allegheny),” and “Dept of Records – Conviction (Allegheny)” (twice);”
- c. The sentencing court imposed the costs of probation supervision pursuant to 19 P.S. § 11.1102 in full at the time of sentencing, rather than allowing them to accrue on a monthly basis as the defendant is supervised; and
- d. The sentencing court failed to provide the defendant with a bill of costs at the time of sentencing to which the defendant could file objections.

The facts can be summarized as follows:

On January 26, 2019 at approximately 1434, Bethel Park Police were dispatched to the [REDACTED] store at 5000 Oxford Drive for a report a retail theft. Officer Anibaldi noted that three black females entered the [REDACTED] and while one female made a purchase, the other two females worked together to steal two bottles of liquor, valued at \$121.98.

Soon after, at approximately 1516, officers from the Bethel Police Department were dispatched to the [REDACTED] Department store, located at 100 South Hills Village, for two females concealing merchandise and preparing to exit the store. While en route the Bethel Park Police officers were updated that the two females had been stopped by asset protection, and were causing a disturbance. The two females were detained and escorted to the store’s security office before the police officers arrived. The two females were

positively identified through their Pennsylvania photo identification cards. Three [REDACTED] Store employees and one uniformed mall security officer witnessed the Ms. Hart and Ms. Black select twenty items clothing from a section of the store, divide the articles of clothing between them and attempt to proceed out of the store. The total value of the items recovered was \$1,151.70. The two were stopped after they were observed concealing the items and proceeding past all points of purchase and attempting to exit through the lower level exterior exit.

Officer Anibaldi also arrived on scene to the [REDACTED] incident and identified the two females detained at Macy's as two of the three suspects from the [REDACTED] theft earlier in the evening.

Appellant's initial claim of error alleges that the trial court erred when it imposed fines and court costs without making the mandatory determination of the Appellant's ability to pay. Appellant was ordered to pay a total of \$1,500.75 in court costs, and \$121 in restitution, for a total itemized balance of \$1621.75. *Itemized Account of Costs, Fees and Restitution at 1*. Appellant, through Defense Counsel, requested the trial court waive court costs and take into consideration Appellant's inability to work due to a disability, and Appellant's financial obligations in providing for her six-year-old daughter and eighteen-year-old sister. *Appellant's Concise Statement of Matters Complained of on Appeal at 1*. A defendant is liable for the costs of his or her prosecution unless the trial court determines otherwise pursuant to Pa.R.Crim.P. 706(c). *42 Pa.C.S.A. §§ 9728(b.2), 9721(c.1)*. Rule 706(c) provides, in relevant part, as follows:

- (A) A court shall not commit the defendant to prison for failure to pay a fine or costs unless it appears after hearing that the defendant is financially able to pay the fine or costs.

(B) When the court determines, after hearing, that the defendant is without the financial means to pay the fine or costs immediately or in a single remittance, the court may provide for payment of the fines or costs in such installments and over such a period of time as it deems to be just and practical, taking into account of the financial resources of the defendant and the nature of the burden its payments will impose, as set forth in paragraph (C) below.

(C) The court, in determining the amount and method of payment of a fine or costs shall, insofar as is just and practicable, consider the burden upon the defendant by reason of the defendant's financial means, including the defendant's ability to make restitution or reparations.

Pa.R.Crim.P 706

Generally, a defendant is not entitled to a pre-sentencing hearing on the basis of his or her ability to pay costs. *Commonwealth v. Childs*, 63 A.3d 323, 326; citing *Commonwealth v. Hernandez*, 917 A.2d 332, 336-337 (*Pa.Super.*2007). While Rule 706 “permits a defendant to demonstrate financial inability either after a default hearing or when costs are initially ordered to be paid in installments,” the Rule only requires such a hearing prior to any order directing incarceration for failure to pay the ordered costs. *Hernandez* at 337.

In the instant case, Appellant was sentenced to pay court costs and fees and not a fine, therefore Appellant was not entitled to a hearing before the sentencing court imposed court costs upon Appellant. Additionally, as part of the plea agreement and through counsel, Appellant agreed to the terms with the understanding that court costs would be imposed. The trial court did not err when imposing court costs as part of the plea agreement without first having a hearing on Appellant's ability to pay.

Appellant's second issue raised on appeal is the court imposed costs that lack a statutory basis. The contested fees are: “Court Technology Fee (Allegheny),” “DCR Civil Judgment Fee (Allegheny),” “Record Management Fee (Allegheny)” (twice), “Use of

County (Conviction)(Allegheny),” and “Dept of Records – Conviction (Allegheny)” (twice);” Pennsylvania statute authorizes all necessary expenses incurred by the district attorney or any office directed by the district attorney in the investigation, apprehension and prosecution of a crime to be paid for by the defendant upon conviction. *16 P.S. §1403*. The costs imposed upon Appellant, including the costs listed above, are allocated to the designated offices which were incurred in prosecution of the Appellant, resulting in a conviction. The county commissioners shall have the power to impose a fee on recorded instruments required to be kept permanently that are filed with the county. ”The county commissioners, with the approval of the president judge, shall have the power to impose a fee on civil or criminal cases filed in the court of common pleas... The fund shall be solely used to help defray the cost of maintaining, administering, preserving and caring for the records of the county.” *16 P.S. Counties § 3405(a.2)*. The costs and fee charged are necessary for the investigation, prosecution and conviction of the Appellant, and the cost of maintaining and preserving the files of the case.

Appellant’s third issue raised on appeal was the court’s imposition of costs associated with probation supervision in full at sentencing, rather than allowing the costs to accrue monthly. Appellant was sentenced to 12 months of probation at \$45 per month, *42 Pa.B.3438 (establishing the monthly cost of supervision)*, for a total of \$540; \$270 being collected for the Pennsylvania Board of Probation and parole, and \$270 collected for Allegheny County Probation. *Act 35 of 1991 (establishing the disbursement of supervision costs.)* Appellant was assessed the total amount pursuant 42 Pa.C.S.A. § 9728(b)(4). The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced or ordered, regardless of

whether the amount has been ordered to be paid in installments. *42 Pa.C.S.A. § 9728(b)(4)*.

The court did not err when assessing the total liability for the period of supervision.

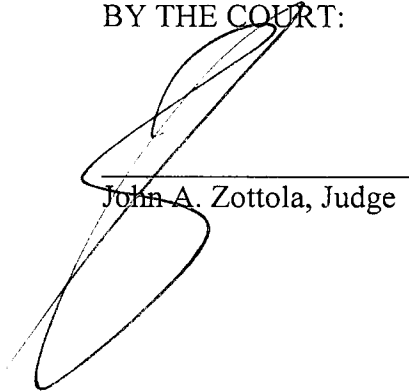
Appellant's fourth issue raised on appeal was the sentencing court's failure to provide a bill of costs which Appellant could file objections. The District Attorney must provide a defendant, who is charged with costs, a reasonably specific bill of costs and show how such costs were necessary to the prosecution. *Commonwealth v. Coder, 415 A.2d 410*. In *Coder*, the district attorney initially submitted a lump sum total of \$10,000 for court approval, which was approved. *Id.* It was only after the defendant objected to the court costs was the Defendant then provided an itemized list of fees submitted to the court for review. *Id.* In the instant case, an order for the payment of court costs was submitted to the clerk of courts for entry into the docket. The clerk of courts entered the itemized court costs into the docket, from which Appellant could file objections to. "[T]he practice of a judge ordering a defendant to pay costs, and leaving the assessment of the amount to the clerk appears to be a common one, as it has been noted in our cases a number of times, though never as a determinative fact. See, e.g., [*Herrschaft v. Dep't of Corr.*, 949 A.2d 976 (Pa.Cmwlth.2008)]; *Commonwealth v. Williams*, 909 A.2d 419 (Pa.Cmwlth.2006); *Fordyce v. Clerk of Courts*, 869 A.2d 1049 (Pa.Cmwlth.2005)." *Richardson v. Pennsylvania Dept. of Corrections, 991 A.2d 394, 397*. Therefore, the trial court did not err when it ordered Appellant to pay court costs as part of the plea agreement and assigned the responsibility of calculating court costs to the clerk of courts following the sentencing orders.

Based on the foregoing, the sentencing court did not err when imposing court costs before holding a hearing on the Appellant's ability to pay, the costs assessed to the

Appellant were necessary for the prosecution and conviction of the Appellant, the court was proper in assessing all liabilities for the period of probation supervision, and the sentencing court provided Appellant with an itemized list of costs before ordering the Appellant to pay. Therefore, Appellant's issues raised as matter complained of on appeal are deemed without merit.

BY THE COURT:

8-20-19
~~8-20-19~~
DATE


John A. Zottola, Judge

Appendix B - Appellant's 1925 Statement of Errors

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ALLEGHENY COUNTY, PA

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JUDGE JOHN A. ZOTTOLA

IN THE COURT OF COMMON PLEAS FOR
THE FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
ALLEGHENY COUNTY - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

VS.

SECADA BLACK,
Defendant.

CP-02-CR-002172-2019

CONCISE STATEMENT OF ERRORS TO BE COMPLAINED OF ON APPEAL

Filed on behalf of the defendant,
Ms. Secada Black

Filed before the Honorable
John A. Zottola
Courtroom 529

Counsel of record for this party:
Melissa R. Ruggiero, Esquire
STATE I.D.# 94710

19 JUL -3 PM 3:03

ALLEGHENY COUNTY
DISTRICT ATTORNEY'S OFFICE

Office of Conflict Counsel
429 Forbes Avenue, Suite 1405
Pittsburgh, Pennsylvania 15219
Phone: 412 - 350 - 4850

IN THE COURT OF COMMON PLEAS FOR
THE FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
ALLEGHENY COUNTY - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

VS.

SECADA BLACK,
Defendant.

CP-02-CR-002127-2019

CONCISE STATEMENT OF ERRORS TO BE COMPLAINED OF ON APPEAL

And now, here comes the defendant, Secada Black, by and through her Attorney Melissa R. Ruggiero of the Allegheny County Office of Conflict Counsel and respectfully avers the following in support of the within motion:

1. The defendant in this matter appeared before this Honorable Court and entered a guilty plea in the above captioned case on May 21, 2019.
2. This Honorable Court honored the plea agreement between the Commonwealth and counsel and sentenced the defendant to twelve months' probation for one count of Retail Theft (18 Pa.C.S. § 3929(a)(1)).
3. This Honorable Court also ordered defendant to pay restitution for \$121 joint and several with co-defendant Shanoya Hart.
4. This Honorable Court imposed court costs.
5. Defense counsel asked this Honorable Court to waive court costs and provided this Honorable Court with Ms. Black's being disabled after suffering injuries from being run over by a vehicle, unable to work and that Ms. Black provides for her six year old daughter and eighteen year old sister. This Honorable Court denied the request to waive court costs.


6. The defendant contends that the Honorable Court's imposition of court costs was illegal.

The defendant plans to raise the following:

- A. The sentencing court imposed court costs on the defendant without making the mandated determination of her ability to pay those costs pursuant to 42 Pa.C.S. §§ 9721(c.1) and 9728(b.2), as well as Pa.R.Crim.P. No. 706(C);
- B. The sentencing court imposed certain costs that lack a statutory basis, including the costs "Court Technology Fee (Allegheny)," "DCR Civil Judgment Fee (Allegheny)," "Record Management Fee (Allegheny)" (twice), "Use of County (Conviction) (Allegheny)," and "Dept of Records - Conviction (Allegheny)" (twice);
- C. The sentencing court imposed the costs of probation supervision pursuant to 18 P.S. § 11.1102 in full at the time of sentencing, rather than allowing them to accrue on a monthly basis as the defendant is supervised; and
- D. The sentencing court failed to provide the defendant with a bill of costs at the time of sentencing to which the defendant could file objections.

WHEREFORE, Ms. Black respectfully requests that this Honorable Court waive Ms. Black's court costs.

Respectfully submitted,


Melissa R. Ruggiero, Esquire

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Contract Counsel

Signature: Melissa R. Russo

Name: Melissa R. Russo

Attorney No.: 94710

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving upon the persons and in the manner indicated below. The manner of service satisfies the requirements of Pa.R.Crim.P. 575.

Department of Court Records – Criminal Division
114 Allegheny County Courthouse
Pittsburgh, Pennsylvania 15219
(via hand delivery)

Mr. Tom McCaffrey, Court Administrator
114 Allegheny County Courthouse
Pittsburgh, Pennsylvania 15219
(via hand delivery)

The District Attorney's Office
401 Allegheny County Courthouse
Pittsburgh, Pennsylvania 15219
(via hand delivery)

The Honorable John A. Zottola
529 Allegheny County Courthouse
Pittsburgh, Pennsylvania 15219
(via hand delivery)

Date: 7-3-19

/s/ Melinda D. Ferguson

**IN THE SUPERIOR COURT OF PENNSYLVANIA
WESTERN DISTRICT**

No. 849 WDA 2019

COMMONWEALTH OF PENNSYLVANIA,

Appellee,

v.

SECADA BLACK,

Appellant.

APPELLANT'S REPRODUCED RECORD

Appeal from Judgment of Sentence of the Court of Common Pleas
of Allegheny County Dated May 21, 2019 in CP-02-CR-2172-2019

Andrew Christy
Pa. I.D. No. 322053
Ali Szemanski
Pa. I.D. No. 327769
AMERICAN CIVIL LIBERTIES UNION
OF PENNSYLVANIA
P.O. Box 60173
Philadelphia, PA 19102
(215) 592-1513 x138
achristy@aclupa.org

Melissa Ruggiero
Pa. I.D. No. 94710
ALLEGHENY COUNTY OFFICE OF
CONFLICT COUNSEL
564 Forbes Avenue
Manor Building, Suite 600
Pittsburgh, PA 15219
(412) 350-4850
MRuggiero@alleghenycourts.us

Counsel for Appellant Secada Black

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1. Docket Entries R. 1a
2. May 21, 2019 Plea Colloquy..... R. 8a
3. May 21, 2019 Sentencing Order R. 22a
4. May 21, 2019 Restitution Order R. 24a
5. May 21, 2019 Plea Hearing Transcript R. 25a
6. May 30, 2019 Itemized Account of Fines, Costs, Fees, and Restitution
..... R. 30a

Certificate of Compliance

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Dated: January 21, 2020

/s/ Andrew Christy
Andrew Christy

COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

DOCKET

Docket Number: CP-02-CR-0002172-2019

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CASE INFORMATION

Cross Court Docket Nos: 849 WDA 2019

Judge Assigned: Zottola, John A.

Date Filed: 02/27/2019

Initiation Date: 01/26/2019

OTN: G 829181-3

LOTN:

Originating Docket No: MJ-05220-CR-0000037-2019

Initial Issuing Authority: Ronald Arnoni

Final Issuing Authority: Ronald Arnoni

Arresting Agency: Bethel Park Police Dept

Arresting Officer: Gorman, Sean P.

Complaint/Incident #: 20190126M6486

Case Local Number Type(s)

Case Local Number(s)

STATUS INFORMATION

<u>Case Status:</u>	<u>Status Date</u>	<u>Processing Status</u>	<u>Arrest Date:</u>
Closed	06/07/2019	Awaiting Appellate Court Decision	01/26/2019
	05/29/2019	Completed	
	05/29/2019	Awaiting Post Sentence Motion Hearing	
	05/21/2019	Sentenced/Penalty Imposed	
	05/21/2019	Awaiting Sentencing	
	04/09/2019	Awaiting Phoenix Conference	
	02/27/2019	Awaiting Formal Arraignment	
	02/27/2019	Awaiting Filing of Information	

Complaint Date: 01/26/2019

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Formal Arraignment	04/09/2019	11:00 am	519 Courthouse		Scheduled
Phoenix Docket Conference	05/21/2019	8:30 am	Courtroom 530	Judge John A. Zottola	Scheduled

DEFENDANT INFORMATION

Date Of Birth: 03/06/1993 City/State/Zip: Pittsburgh, PA 15219

Alias Name

Black, Secada

Black, Secada D.

CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Defendant	Black, Secada Deminica

COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

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BAIL INFORMATION

Black, Secada Deminica

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	01/27/2019	Monetary	10.00%	\$2,500.00	Posted	01/27/2019

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	6	M1	18 § 3929 §§ A1	Retail Theft-Take Mdse	01/26/2019	G 829181-3
2	5	F3	18 § 903	Conspiracy - Retail Theft-Take Mdse	01/26/2019	G 829181-3
3	2	F3	18 § 3929 §§ A1	Retail Theft-Take Mdse	01/26/2019	G 829181-3
4	4	F3	18 § 3929 §§ A1	Retail Theft-Take Mdse	01/26/2019	G 829181-3
5	1	F3	18 § 3929 §§ A1	Retail Theft-Take Mdse	01/26/2019	G 829181-3
999	3	F3	18 § 903	Conspiracy - Retail Theft-Take Mdse	01/26/2019	G 829181-3

DISPOSITION SENTENCING/PENALTIES

Disposition

<u>Case Event</u>	<u>Disposition Date</u>	<u>Final Disposition</u>	
<u>Sequence/Description</u>	<u>Offense Disposition</u>	<u>Grade</u>	<u>Section</u>
<u>Sentencing Judge</u>	<u>Sentence Date</u>	<u>Credit For Time Served</u>	
<u>Sentence/Diversion Program Type</u>	<u>Incarceration/Diversionary Period</u>	<u>Start Date</u>	
<u>Sentence Conditions</u>			

Waived for Court (Lower Court)	Defendant Was Present		
Lower Court Disposition	02/21/2019	Not Final	
3 / Retail Theft-Take Mdse	Waived for Court (Lower Court)	F3	18 § 3929 §§ A1
4 / Retail Theft-Take Mdse	Waived for Court (Lower Court)	F3	18 § 3929 §§ A1
5 / Retail Theft-Take Mdse	Waived for Court (Lower Court)	F3	18 § 3929 §§ A1
999 / Conspiracy - Retail Theft-Take Mdse	Waived for Court (Lower Court)	F3	18 § 903

Proceed to Court	Defendant Was Not Present		
Information Filed	04/08/2019	Not Final	
2 / Conspiracy - Retail Theft-Take Mdse	Replacement by Information	F3	18 § 903
3 / Retail Theft-Take Mdse	Proceed to Court	F3	18 § 3929 §§ A1
4 / Retail Theft-Take Mdse	Proceed to Court	F3	18 § 3929 §§ A1
5 / Retail Theft-Take Mdse	Proceed to Court	F3	18 § 3929 §§ A1
999 / Conspiracy - Retail Theft-Take Mdse	Charge Changed	F3	18 § 903
Replaced by 18 § 903, Conspiracy - Retail Theft-Take Mdse			

Guilty Plea - Negotiated			
Phoenix Docket Conference	05/21/2019	Final Disposition	

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DISPOSITION SENTENCING/PENALTIES

Disposition

<u>Case Event</u>	<u>Disposition Date</u>	<u>Final Disposition</u>	
<u>Sequence/Description</u>	<u>Offense Disposition</u>	<u>Grade</u>	<u>Section</u>
<u>Sentencing Judge</u>	<u>Sentence Date</u>	<u>Credit For Time Served</u>	
<u>Sentence/Diversion Program Type</u>	<u>Incarceration/Diversionary Period</u>	<u>Start Date</u>	
<u>Sentence Conditions</u>			
1 / Retail Theft-Take Mdse Zottola, John A. Probation	Guilty Plea - Negotiated 05/21/2019 Min of 1.00 Years Max of 1.00 Years 1 year	M1	18 § 3929 §§ A1 05/21/2019
2 / Conspiracy - Retail Theft-Take Mdse Zottola, John A.	Withdrawn 05/21/2019	F3	18 § 903
3 / Retail Theft-Take Mdse Zottola, John A.	Withdrawn 05/21/2019	F3	18 § 3929 §§ A1
4 / Retail Theft-Take Mdse Zottola, John A.	Withdrawn 05/21/2019	F3	18 § 3929 §§ A1
5 / Retail Theft-Take Mdse Replaced by 18 § 3929 §§ A1, Retail Theft-Take Mdse Zottola, John A.	Charge Changed 05/21/2019	F3	18 § 3929 §§ A1
999 / Conspiracy - Retail Theft-Take Mdse Replaced by 18 § 903, Conspiracy - Retail Theft-Take Mdse Zottola, John A.	Charge Changed 05/21/2019	F3	18 § 903

COMMONWEALTH INFORMATION

Name: Cassandra Blair Kosmal Barch
Assistant District Attorney

Supreme Court No: 322371

Phone Number(s):
412-350-3148 (Phone)

Address:
Allegheny County District Attorney
436 Grant St 303 Courthouse
Pittsburgh, PA 15219

ATTORNEY INFORMATION

Name: Melissa Rose Ruggiero
Conflict Counsel

Supreme Court No: 094710

Rep. Status: Active

Phone Number(s):
412-350-4850 (Phone)

Address:
1405 Allegheny Building
429 Forbes Ave
Pittsburgh, PA 15219

Representing: Black, Secada Deminica

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
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ENTRIES

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1	01/27/2019		McCune, Russell Edward
Bail Posted - Black, Secada Deminica			
2	01/27/2019		Welsh, Regis C.
Bail Set - Black, Secada Deminica			
1	02/27/2019		Court of Common Pleas - Allegheny County
Original Papers Received from Lower Court			
1	03/18/2019		Ruggiero, Melissa Rose
Entry of Appearance			
1	04/08/2019		Allegheny County District Attorney's Office
Guideline Sentence Form			
3	04/08/2019		Commonwealth of Pennsylvania
Information Filed			
1	05/21/2019		Zottola, John A.
Guilty Plea - Negotiated			
2	05/21/2019		Zottola, John A.
Order - Sentence/Penalty Imposed			
1	05/29/2019		Ruggiero, Melissa Rose
Defendant's Post-Sentence Motion			
2	05/29/2019		Zottola, John A.
Order Denying Post-Sentence Motion			
1	05/30/2019		Court of Common Pleas - Allegheny County
Penalty Assessed			
2	05/30/2019		Unknown Filer
Entry of Civil Judgment			

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ENTRIES

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1	06/07/2019		Ruggiero, Melissa Rose
Notice of Appeal to the Superior Court			

1	06/11/2019		Superior Court of Pennsylvania
Docketing Statement from Superior Court			

1	06/13/2019		Zottola, John A.
Order Directing a Concise Statement of Matters be Filed			

PAYMENT PLAN SUMMARY

<u>Payment Plan No</u>	<u>Payment Plan Freq.</u>	<u>Next Due Date</u>	<u>Active</u>	<u>Overdue Amt</u>
<u>Responsible Participant</u>			<u>Suspended</u>	<u>Next Due Amt</u>
02-2019-P000005715	Monthly	07/01/2019	Yes	\$147.43
Black, Secada Deminica			No	\$147.43
Payment Plan History:				
	<u>Receipt Date</u>	<u>Payor Name</u>	<u>Participant Role</u>	<u>Amount</u>

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CASE FINANCIAL INFORMATION

Last Payment Date:

Total of Last Payment:

Black, Secada Deminica Defendant	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary Payments</u>	<u>Total</u>
Costs/Fees					
ATJ	\$6.00	\$0.00	\$0.00	\$0.00	\$6.00
Booking Center Fee (Allegheny)	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00
CJES	\$2.50	\$0.00	\$0.00	\$0.00	\$2.50
Child Care Facility Fee (Allegheny)	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
Commonwealth Cost - HB627 (Act 167 of 1992)	\$10.80	\$0.00	\$0.00	\$0.00	\$10.80
Costs of Prosecution - CJEA	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00
County Court Cost (Act 204 of 1976)	\$35.10	\$0.00	\$0.00	\$0.00	\$35.10
Court Technology Fee (Allegheny)	\$5.50	\$0.00	\$0.00	\$0.00	\$5.50
Crime Victims Compensation (Act 96 of 1984)	\$35.00	\$0.00	\$0.00	\$0.00	\$35.00
OAG - JCP	\$2.50	\$0.00	\$0.00	\$0.00	\$2.50
DCR Civil Judgment Fee (Allegheny)	\$45.00	\$0.00	\$0.00	\$0.00	\$45.00
District Attorney (Conviction) (Allegheny)	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00
Domestic Violence Compensation (Act 44 of 1988)	\$10.00	\$0.00	\$0.00	\$0.00	\$10.00
Firearm Education and Training Fund	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
JCPS	\$21.25	\$0.00	\$0.00	\$0.00	\$21.25
Judicial Computer Project	\$8.00	\$0.00	\$0.00	\$0.00	\$8.00
Law Library User Fee (Allegheny)	\$7.00	\$0.00	\$0.00	\$0.00	\$7.00
OSP (Allegheny/State) (Act 35 of 1991)	\$270.00	\$0.00	\$0.00	\$0.00	\$270.00
OSP (Allegheny/State) (Act 35 of 1991)	\$270.00	\$0.00	\$0.00	\$0.00	\$270.00
Record Management Fee (Allegheny)	\$2.20	\$0.00	\$0.00	\$0.00	\$2.20
Record Management Fee (Allegheny)	\$3.30	\$0.00	\$0.00	\$0.00	\$3.30
State Court Costs (Act 204 of 1976)	\$12.60	\$0.00	\$0.00	\$0.00	\$12.60
Use of County (Conviction) (Allegheny)	\$4.00	\$0.00	\$0.00	\$0.00	\$4.00
Victim Witness Service (Act 111 of 1998)	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00
Dept of Records - Conviction (Allegheny)	\$20.00	\$0.00	\$0.00	\$0.00	\$20.00
Dept of Records - Conviction (Allegheny)	\$180.00	\$0.00	\$0.00	\$0.00	\$180.00
Prob/Parole Admin Fee (Allegheny)	\$240.00	\$0.00	\$0.00	\$0.00	\$240.00
Costs/Fees Totals:	\$1,500.75	\$0.00	\$0.00	\$0.00	\$1,500.75
Restitution					
Business Entity Restitution	\$121.00	\$0.00	\$0.00	\$0.00	\$121.00

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CASE FINANCIAL INFORMATION

Black, Secada Deminica	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary</u>	<u>Total</u>
Defendant				<u>Payments</u>	
Restitution Totals:	\$121.00	\$0.00	\$0.00	\$0.00	\$121.00
Grand Totals:	\$1,621.75	\$0.00	\$0.00	\$0.00	\$1,621.75

** - Indicates assessment is subrogated

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : CRIMINAL DIVISION
vs. :
Secada Black : CC No. 2019-2172

**GUILTY PLEA
EXPLANATION OF DEFENDANT'S RIGHTS**

You or your attorney have indicated to the officers of this Court that you wish to plead guilty to certain specific criminal charges which the Commonwealth of Pennsylvania has brought against you.

In order to have your plea accepted by this Court here today, you must waive your right to confront the prosecution witnesses against you and agree to permit the Attorney for the Commonwealth to summarize the Commonwealth's evidence against you. You must agree to stipulate to the authenticity and accuracy of any Crime Laboratory reports presented by the Commonwealth and to the chain of custody of any of the Commonwealth's evidence involved in your case.

You must fully understand that your plea must be voluntary and no clemency is being promised in exchange for your plea, with the exception of any plea bargain or arrangement previously agreed to between your attorney and the Assistant District Attorney assigned to your case.

By pleading guilty to any charge, you are admitting that you committed that offense. The Commonwealth would not have to prove *beyond a reasonable doubt* each and every element of the offenses with which you are charged as would be required in a jury or non-jury trial.

Please be advised that you must fully understand that the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give to you an absolute right to have a trial by judge or by jury.

SB
Defendant's initials

If you intend to waive your Constitutional right to a trial by judge or by jury, please answer all the questions on this form. Most of the questions are designed to be answered "yes" or "no." Where general information is requested, please answer the question as fully as possible.

If you do not understand the question, you should say so in writing on this form. You should also tell your lawyer and the judge who hears your case so they can explain it to you. You must fully understand all of your rights before the judge can accept your plea.

You should initial each page at the bottom after you have read, understood, and completed your answers to the questions on that page. When you have finished all of the questions, you must sign the form at the end.

1. What is your full name? Secada Black
2. How old are you today? 26
3. What is the highest grade that you have completed in school? 12 / High school

Answer either "Yes" or "No" to the following questions:

4. Do you read, write, and understand the English language? Yes
5. Do you understand that if you have been charged with more than one offense, the Court may impose a separate, or consecutive, sentence for each offense? yes
6. Have you discussed with your attorney the elements of each charged offense? yes
7. Have you discussed with your attorney the factual basis of each charged offense?
yes
8. Have you discussed with your attorney how the facts in your case prove the elements of each charged offense? yes
9. Do you understand that both the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give you an absolute right to a trial by jury? yes

SB
Defendant's initials

10. Do you understand that if you want a jury trial, you could take part in the selection of the jury under Court supervision along with your attorney and with the Assistant District Attorney assigned to prosecute your case? Yes
11. Do you understand that you and your attorney and the Assistant District Attorney assigned to prosecute your case would select a jury from a panel of jurors randomly selected by computer from the voter registration lists and other legally approved lists of citizens of Allegheny County? Yes
12. Do you understand that both the defense and prosecution would have the right to "challenge" members of the jury panel and that this means you and the prosecution would have the right to cause certain persons on the jury panel from being a member of the jury in your case? Yes
13. Both you and the prosecution would have as many challenges "for cause" as the court would approve. "For cause" means a good reason why the challenged person could not be a fair and impartial juror in your case. Do you fully understand this? Yes
14. Both you and the prosecution would each also have a number of peremptory challenges. A peremptory challenge is one in which no reason has to be given to prevent a prospective juror from being a member of your jury. If you are charged with felonies, both you and the prosecution each have seven peremptory challenges. If you are charged only with misdemeanors, both you and the prosecution each have five peremptory challenges. Do you fully understand this? Yes
15. All twelve members of the jury finally selected would have to be satisfied that the Commonwealth had proven your guilt beyond a reasonable doubt on each and every element of the charges; that is, the vote of all twelve must be unanimous before you could be found guilty. Do you fully understand this? Yes
16. You also may choose to be tried before a judge without a jury in what is called a non-jury or bench trial and that the judge, in addition to ruling on legal questions and defining the law as in jury trials would also sit as the trier of fact, the same as a jury in a jury trial; and it would be the judge who determines from the evidence presented whether the Commonwealth has proven you guilty beyond a reasonable doubt. Do you fully understand this? Yes

17. In either the jury trial or non-jury trial before a judge, you enter the courtroom clothed with the presumption of innocence and that presumption remains with you until such time that all the members of the jury or the judge in a non-jury trial, would find you guilty beyond a reasonable doubt. Do you fully understand this? yes
18. In either a jury trial or non-jury trial, it is the burden of the Commonwealth to prove you guilty "beyond a reasonable doubt," and to do this the Commonwealth must prove each and every element of the crime or crimes with which you are charged "beyond a reasonable doubt" to the satisfaction of all twelve jurors or to the satisfaction of the judge. Do you fully understand this? yes
19. A reasonable doubt is an honest doubt arising from the evidence presented or from the lack of evidence, and it is the kind of doubt that would cause a reasonable, prudent person to pause and hesitate before acting in a matter of importance in their own affairs. Do you fully understand this? yes
20. In either a jury trial or a non-jury trial, you have the absolute right to remain silent and need not present any evidence in your own behalf and there is no burden placed on you to prove your own innocence or, for that matter to prove anything since the burden is always on the Commonwealth to prove you guilty beyond a reasonable doubt. Do you fully understand this? yes
21. However, in either a jury trial or a non-jury trial before a judge, you have the right, if you so desire, to testify and present evidence on your behalf. You also would have the right, either yourself or through your attorney, to cross-examine or question any witnesses presented by the Commonwealth in order to test their credibility and the truthfulness of their testimony. Do you fully understand this? yes
22. By pleading guilty, you are giving up all of these rights described in the previous questions. Do you fully understand this? yes
23. Do you understand that if you are not a citizen of the United States, whether or not you have lawful immigration status, your plea or admission of guilt may result in detention, deportation, exclusion from the United States, or denial of naturalization or other immigration benefits? You have the right to seek advice from a lawyer about these issues before you admit guilt to any offense. You are not entitled to an immigration lawyer at public expense. Upon request, the court may allow you additional time to consult with an immigration attorney. Do you understand this? yes



Defendant's initials

24. When you plead guilty, the Commonwealth would not have to prove each and every element of the crime or crimes with which you are charged by the presentation of witnesses and/or other evidence but the Assistant District Attorney could simply present a summary of the evidence against you. Do you fully understand this? yes

25. By pleading guilty, you are admitting you committed the crimes charged. You are stating that you do not challenge or dispute the charges against you. Do you fully understand this? yes

26. By pleading guilty, you give up the right not only to file pretrial motions, but also you abandon or give up any pretrial motions already filed and not yet decided and any pretrial motions in which decisions were already made. Do you fully understand this? yes

27. Do you understand that by pleading guilty, you also give up the right to present or assert any defenses on your behalf? yes

These defenses might include alibi, self-defense, mental infirmity, or insanity. Have you discussed with your attorney why these defenses are not available in your case? yes

28. If you were convicted after a jury trial or non-jury trial, you could appeal the verdict to the appellate courts and raise any errors that were committed in the trial court, and this could result in a new trial or a dismissal. By pleading guilty, you are giving up this right. Do you fully understand this?

yes

29. Do you fully understand that if you were convicted after a jury trial or a non-jury trial before a judge, you could challenge in this Court and in the appellate courts whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? yes

30. By pleading guilty, you give up certain rights of appeal; in a jury trial or a non-jury trial, you would have the right to appeal any errors that might arise in your case to the appellate courts. However, when you plead guilty, you limit the grounds for those appeals to four specific reasons:

1. that this Court did not have jurisdiction in your case. With rare exception, this Court only has jurisdiction where the crime was committed in Allegheny County;

SB

Defendant's initials

2. that the sentence or probation imposed by this Court is illegal;
3. that your plea was not knowingly, intelligently, and voluntarily made; and
4. Challenge the competence or effectiveness of the attorney who represents you.

All other grounds for appeal are given up. Do you fully understand this? Yes

31. In order to raise a claim on direct appeal that your attorney was ineffective or incompetent, it is necessary for you to first raise that claim in a post sentence motion, filed within ten (10) days of your sentencing. Otherwise, you cannot challenge the competence of your attorney until the post conviction stage. Do you fully understand this? Yes
32. Do you understand that you have the right to file a motion seeking to withdraw your guilty plea at any time prior to the date of sentencing? Yes
33. Do you understand that you must be sentenced within ninety (90) days of the date of the entry of your plea of guilty? Yes
34. Do you understand you have the right within ten (10) days after you have been sentenced to file a motion seeking to withdraw your guilty plea? Yes
35. If you were to file a motion seeking to withdraw your plea of guilty, either prior to sentencing or within ten (10) days after sentencing, that motion must be filed in writing. If you would fail to do so within these time periods, you would give up those rights. Do you fully understand this? Yes
36. In order to appeal your conviction that results from your plea of guilty, you must file in writing your motion seeking to withdraw your plea, either prior to sentencing or within ten (10) days after sentencing and state one or more of the four (4) grounds listed below as the basis for a motion seeking to withdraw your plea:
 - (a) Your plea was not knowing, intelligent and voluntary;
 - (b) That your crime was not committed within the jurisdiction of this Court, i.e. not committed within Allegheny County;

SB
Defendant's initials

- (c) That the sentence of this Court is illegal; and/or,
- (d) That your attorney was ineffective and incompetent.

If you do not file this motion within the proscribed time limits, you will have given up this right. Do you fully understand this? yes

37. If your motion seeking to withdraw your plea of guilty, which is filed prior to sentencing, is denied you would have ten (10) days from the date of sentencing to file with this Court a post-sentencing motion challenging the denial of your motion to withdraw your plea of guilty. Do you fully understand this?

yes

38. Following the imposition of sentence upon you for your entry of a plea of guilty, you have the right to file post-sentencing motions with this Court which include:

- (a) a motion challenging the validity of a plea of guilty;
- (b) a motion challenging the denial of a motion seeking withdrawal of a plea of guilty;
- (c) a motion to modify sentence.

Do you fully understand these rights? yes

39. If you would file any post-sentencing motions, those motions must be decided by this Court within one hundred twenty (120) days of the date of filing of said motions, or within one hundred fifty (150) days of the date of filing of those motions if you sought and were granted a thirty (30) day extension, which extension only you can request. Do you fully understand this? yes

40. If your post-sentencing motions are not decided within one hundred twenty (120) days of the date of filing, or within one hundred fifty (150) days of the date of filing, if you sought and received a thirty (30) day extension, then said motions are deemed to have been denied by operation of law and cannot be reconsidered by the trial Court. Do you fully understand this? yes

41. Should your post-sentencing motion be denied by this Court or by operation of law, you will receive, either from the trial Court or from the Department of Court Records, an order of court advising you of your appellate rights, the right to assistance of counsel, if indigent, the right to proceed *in forma pauperis*, and the qualified right to bail. Any appeal to the Superior Court must be filed within thirty (30) days of the denial of your post-sentencing motion. Do you fully understand this? yes

JB

Defendant's initials

42. If you wish to file any of these motions with this Court or an appeal to the Superior Court of Pennsylvania and cannot afford an attorney to assist you to do so, the trial Court will appoint an attorney for you at no cost to you. Do you fully understand this? yes
43. When you plead guilty, and your plea is accepted by this Court, all that remains is for the judge to sentence you on the charges to which you are pleading; but if your plea is rejected, you have the right to proceed with a trial. Do you fully understand this? yes
44. Have you and your attorney discussed the maximum possible sentences which this Court could impose? yes
45. If there is a mandatory minimum sentence applicable and this mandatory sentence is sought by the Commonwealth, then this Court has no discretion to impose a lesser sentence and must impose at least the minimum sentence that is required by law. Do you fully understand this? yes
46. Are you aware that if the offenses with which you are charged do not require a mandatory sentence under the statutory law of Pennsylvania, this Court is not bound by the sentencing guidelines and may deviate from the guidelines; however, if the Court does so, both the District Attorney and you would have a right to appeal such deviation? yes
47. Do you understand that if you are entering a plea of guilty to the charge of Violation of the Controlled Substance, Drug, Device, and Cosmetic Act, that independent of any sentence this Court might impose, the Department of Transportation has the right, upon receipt of notice of this conviction, to impose an additional penalty upon you, in the form of the suspension of your driver's license for a period of time which would be six (6) months / first offense, one (1) year/ second offense, and two (2) years / third offense? yes
48. Do you understand that if you are entering a plea of guilty to the charge of Violation of the Vehicle Code: Driving Under the Influence of Alcohol, a Controlled Substance or both that independent of any sentence this Court might impose, the Department of Transportation has the right, upon receipt of notice of this conviction, to impose an additional penalty upon you? yes

JB

Defendant's initials

49. Do you understand that any term of imprisonment imposed as a result of your plea may be imposed separately or consecutively, with any other sentence you are currently serving? yes

50. Do you understand that your plea of guilty or nolo contendere violates any period of parole or probation that you are currently serving, either state or federal, as long as the crime or crimes you were convicted of or plead to occurred during those periods of probation or parole? yes

51. Do you understand that if your plea of guilty or nolo contendere violates a period of parole or probation, either state or federal, you would be subjecting yourself to an additional penalty for the violation of those periods of parole and/or probation and a new sentence could be issued for each violation and those sentences could be imposed consecutively to the sentence imposed upon you for your plea of guilty or nolo contendere in this case? yes

52. Are you eligible for a RRRRI sentence? yes

53. Your plea must be voluntary and your rights must be voluntarily, knowingly, and intelligently waived. If anyone has promised you anything other than the terms of a plea bargain, your plea will be rejected. If anyone has forced you or attempted to force you in any way to plead guilty, your plea will be rejected. Do you fully understand this? yes

54. Has anybody forced you to enter this plea? ~~yes~~ no SB

55. Are you doing this of your own free will? yes

56. Have any threats been made to you to enter a plea? ~~yes~~ no SB

57. Has anyone (including your attorney) promised you anything in exchange for the guilty plea other than the terms of any plea bargain? ~~yes~~ no SB

SB
Defendant's initials

58. Do you understand that if there is a plea bargain in this case, the terms of the plea bargain will be stated on the record before the judge and that you will be bound by the terms of the plea bargain as they appear of record? YES

59. Do you understand that the Court is not bound by any plea bargain entered into by you and the District Attorney? YES

60. If the Court rejects the plea bargain after hearing a summary of the evidence, you would then have a right to withdraw your plea and you would have the option of entering a straight plea with no plea bargain involved or, have a trial by jury if you so desire. Do you fully understand this? YES

61. Is there a plea bargain in this case? yes

62. Are you satisfied with the legal advice and legal representation of your attorney? yes

63. Have you had ample opportunity to consult with your attorney before entering your plea, and are you satisfied that your attorney knows all of the facts of your case and has had enough time within which to check any questions of fact or law which either you or your attorney may have about the case?
YES

64. Has your attorney gone over with you the meaning of the terms of this document? yes

65. Do you have any physical or mental illness that affects your ability to understand these rights or the voluntary nature of your plea? ~~YES~~ NO SB

66. Are you presently taking any medication which affects your thinking or your free will? ~~YES~~ NO SB

67. Have you had any drugs or alcohol in the past forty-eight (48) hours? ~~YES~~ NO SB

SB
Defendant's initials

68. If you are entering a plea of guilty, you admit that you committed the crime(s) with which you are charged. Do you fully understand this? yes

69. Do you understand your rights? yes

I AFFIRM THAT I HAVE READ THE ABOVE DOCUMENT IN ITS ENTIRETY, I UNDERSTAND ITS FULL MEANING, AND I AM STILL NEVERTHELESS WILLING TO ENTER A PLEA TO THE OFFENSES SPECIFIED. I FURTHER AFFIRM THAT MY SIGNATURE AND INITIALS ON EACH PAGE OF THIS DOCUMENT ARE TRUE AND CORRECT.

DATE: May 21, 2019 Serena Block
Signature of Defendant

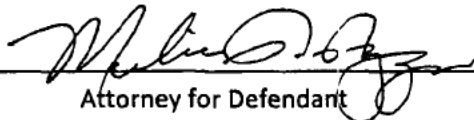
SB
Defendant's initials

CERTIFICATION OF DEFENSE COUNSEL

I certify that:

- (1) I am an attorney admitted to the Supreme Court of Pennsylvania.
- (2) I represent the defendant herein.
- (3) I know no reason why the defendant does not fully understand everything that is being said and done here today.
- (4) The defendant read the above form in my presence and fully understands it; I have gone over the form completely with the defendant, explained all of the items on the form and answered any questions he or she had.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently, and voluntarily giving up his or her rights to trial and pleading guilty.
- (6) I made no promises to the defendant other than any that appear of record in this case.

DATE: 5-21-19



Attorney for Defendant



Defendant's initials

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Secada Black
Signature: Melissa Ruggiero
Name: Melissa Ruggiero
Attorney No. (if applicable): 94710



Defendant's initials

Z. H. H. H. H. H.
5/21

COMMONWEALTH OF PENNSYLVANIA
V.
SECADA BLACK

CC201902172
OTN G 829181-3

Prior Record Score: 3
of Prior Retail Thefts: 2

PHOENIX DOCKET PLEA OFFER

Plead guilty: 18-3929 (F-3).
All other charges are withdrawn.

Sentence

- 18-3929 – 3-6 months Allegheny County Jail with permission for Alternative Housing (parole at minimum as appropriate, report within 45 days as appropriate, work/medical/education release as appropriate for Alt. Hsg.)
- 12 months probation effective at sentencing date and concurrent to confinement
- No contact with [REDACTED] in Bethel Park
- Pay restitution of \$121 to [REDACTED] joint and several with Shatoia Hart at CC 201902171
- If deemed appropriate by probation office – Drug and Alcohol evaluation and any related treatment
- Pay court costs

The Commonwealth has no objection to any probation being transferred to any other appropriate jurisdiction willing to supervise the sentence.

The Phoenix sentence may be concurrent with any other sentence the defendant is currently serving if that sentencing authority consents to the Phoenix sentence's concurrency.

This offer is valid until the conclusion of the Phoenix Docket Case Management Conference but may be rescinded anytime prior to the entry of a guilty plea if there is a material change in circumstances (e.g. new charges are filed against the defendant).

[Signature] 7/8/2019
Attorney for the Commonwealth, Date

The Defendant's copy of this packet includes:
Plea Offer; Program Notice; Sentencing Guidelines; 19 pages of discovery

Commonwealth of Pennsylvania
v.
Secada Deminica Black

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

DOCKET NO: CP-02-CR-0002172-2019
DATE OF ARREST: 01/26/2019
OTN: G 829181-3
SID: [REDACTED]
DOB: 03/06/1993

ORDER OF SENTENCE

AND NOW, this 21st day of May, 2019, the defendant having been convicted in the above-captioned case is hereby sentenced by this Court as follows. The defendant is to pay all applicable fees and costs unless otherwise noted below:

Count 1 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (M1)

To be placed on Probation - County Regular Probation - for a minimum period of 1 Year(s) and a maximum period of 1 Year(s) to be supervised by ALLEGHENY COUNTY ADULT PROBATION.

The following conditions are imposed:

Restitution Ordered - Restitution owed: Amount of restitution owed: \$121.00

Restitution will be disbursed to victim: [REDACTED] in Bethal Park, PA

Restitution Ordered - Restitution payment 30 days: The responsible party shall make payment to: Department of Court Records - Allegheny County. The court has established a payment plan in which the case payments will begin 30 days from the date of this order with first payment due on the first day of the following month. This Restitution is imposed as a part of the sentence.

This sentence shall commence on 05/21/2019.

Count 2 - 18 § 903 - Conspiracy - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 3 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 4 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Withdrawn

Count 5 - 18 § 3929 §§ A1 - Retail Theft-Take Mdse (F3)

Offense Disposition: Charge Changed

Count 999 - 18 § 903 - Conspiracy - Retail Theft-Take Mdse (F3)

Offense Disposition: Charge Changed

Commonwealth of Pennsylvania


v.

Secada Deminica Black

Order of Sentence

Docket No: CP-02-CR-0002172-2019

BY THE COURT:



Judge John A. Zottola

IN THE COURT OF COMMON PLEAS, FIFTH JUDICIAL DISTRICT, ALLEGHENY COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

CR# 201902172 OTN# G 829181-3

vs.

Trial Date: 5-21-19

SECADA BROWN

Sentencing Date: 5-21-19

DEFENDANT

JUDGE: Zottola

COMMONWEALTH: Joyce

TOTAL RESTITUTION: \$ 121.00

DEFENSE: Ruggerio

Months to Pay: _____

RESTITUTION COURT ORDER

AND NOW, to-wit, this 21 day of May, 20 19, it is hereby ORDERED, ADJUDGED and DECREED that the defendant in the above-captioned case pay restitution through the Department of Court Records-Criminal Division, to the individuals or entities, and in the amounts listed as follows:

RESTITUTION AMOUNT \$ 121.00

Name [REDACTED]
Address [REDACTED]

City BETHEL PARK State PA Zip 15102

Phone ([REDACTED]) _____

Memo _____

RESTITUTION AMOUNT \$ _____

Name _____

Address _____

City _____ State _____ Zip _____

Phone () _____

Memo _____

JOINT & SEVERAL WITH
SHATOIA HART
201902171
Crim.Div. Form #1106

RESTITUTION AMOUNT \$ _____

Name _____

Address _____

City _____ State _____ Zip _____

Phone () _____

Memo _____

RESTITUTION AMOUNT \$ _____

Name _____

Address _____

City _____ State _____ Zip _____

Phone () _____

Memo _____

BY THE COURT:

[Signature]

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

COMMONWEALTH OF
PENNSYLVANIA

CRIMINAL DIVISION

CC NO: 201902172

VS.

SECADA BLACK

PROCEEDINGS:

Plea

FILED BY:

Michelle Lee Maglicco
Official Court Reporter

DATE:

May 21, 2019

BEFORE THE HONORABLE:

John Zottola

A P P E A R A N C E S

On behalf of the Commonwealth:

Joseph Joyce, ADA

On behalf of the Defendant:

Melissa Ruggerio, Esquire

1 P R O C E E D I N G S

2 - - -

3 (In Open Court)

4 - - -

5 May 21, 2019

6 - - -

7 (Witnesses were sworn.)

8 THE COURT: How old are you?

9 THE DEFENDANT: 26.

10 THE COURT: How far have you gone in
11 school?

12 THE DEFENDANT: Graduated.

13 THE COURT: Were you on probation or
14 parole when you committed this crime?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand this
17 would constitute a violation of your
18 probation or parole and subject you to a
19 sentence above and beyond what happens
20 today? And knowing that, do you still
21 wish to plead guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: Any amendments,
24 Mr. Joyce?

25 MR. JOYCE: Yes, Your Honor. As the

1 defendant has agreed to plead guilty to
2 Count -- pardon me. The Commonwealth
3 moves to amend Count 1 retail theft to a
4 misdemeanor in the first degree. The
5 defendant has agreed to plead guilty to
6 the amended Count 1.

7 Commonwealth moves to withdraw
8 Counts 2, 3 and 4. And there is a
9 proposed sentencing agreement of
10 probation to be set by Your Honor.

11 THE COURT: All right? Which judge
12 has you on probation?

13 THE DEFENDANT: I can't remember --

14 THE COURT: I couldn't hear you.

15 THE DEFENDANT: I can't remember the
16 judge.

17 THE COURT: All right. They're
18 recommending 12 months' probation,
19 restitution in the amount of \$121, joint
20 and several with respect to you and
21 Shanoya Hart and responsible for cost
22 costs. Good luck.

23 MS. RUGGERIO: Your Honor, did you
24 waive court costs?

25 THE COURT: No, I did not.

1 MS. RUGGERIO: If I may just add
2 something on the record. So Ms. Black
3 takes care of her 6-year-old daughter
4 and her 18-year-old sister.

5 She was run over by a car and is now
6 seeking disability. She's unable to
7 work. She also has fines from her DUI
8 case that she had. It is very difficult
9 for her to even come up with payments
10 for that. I would ask the Court to
11 consider, because of her circumstances
12 of not being able to work, to consider
13 waiving court cost.

14 THE COURT: It's a slippery slope.
15 Nope. I'd have to hear every hard luck
16 story. I'm not going to do it. I made
17 a determination early on I don't waive
18 court costs.

19 (Proceedings concluded.)
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C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA)

) SS:

COUNTY OF ALLEGHENY)

I, Michelle Lee Maglicco, do hereby certify that the evidence and proceedings are contained accurately in the machine shorthand notes taken by me at the trial of the within cause, and that the same were transcribed under my supervision and direction, and that this is a correct transcript of the same.

Michelle Lee Maglicco
Official Court Reporter
Court of Common Pleas

Commonwealth of Pennsylvania
 Court of Common Pleas
 County of Allegheny
 5th Judicial District



**Itemized Account of Fines, Costs, Fees,
 and Restitution**

Commonwealth of Pennsylvania
 v.
 Secada Deminica Black

Secada Deminica Black
 3311 Milwaukee St
 Pittsburgh, PA 15219

Docket No: CP-02-CR-0002172-2019

Assessments to be paid by Secada Deminica Black

Costs/Fees

	Distribution Account	Assessment Balance
Dept of Records - Conviction (Allegheny)	ALLEGHENY CO TREASURER - 10%	\$20.00
Costs of Prosecution - CJEA	COMM - CJEA	\$50.00
Judicial Computer Project	COMM - JCP	\$8.00
ATJ	COMM - ATJ	\$6.00
DCR Civil Judgment Fee (Allegheny)	ALLEGHENY COUNTY PROTHY	\$45.00
Record Management Fee (Allegheny)	ALLEGHENY CO TREASURER - RM	\$2.20
Crime Victims Compensation (Act 96 of 1984)	COMM - CVC	\$35.00
Dept of Records - Conviction (Allegheny)	ALLEGHENY CO TREASURER - CC	\$180.00
JCPS	COMM - JCPS	\$21.25
District Attorney (Conviction) (Allegheny)	CTY - 02	\$25.00
State Court Costs (Act 204 of 1976)	COMM - COST	\$12.60
Record Management Fee (Allegheny)	ALLEGHENY CO TREASURER - CO	\$3.30
OSP (Allegheny/State) (Act 35 of 1991)	COMM - PROB	\$270.00
Commonwealth Cost - HB627 (Act 167 of 1992)	COMM - CST1	\$10.80
Booking Center Fee (Allegheny)	ALLEGHENY CO TREASURER - CENTRAL	\$200.00
	BOOKING FEE	
OSP (Allegheny/State) (Act 35 of 1991)	ALLEGHENY CO TREASURER - SUP	\$270.00
Court Technology Fee (Allegheny)	ALLEGHENY CO TREASURER - CTF	\$5.50
Law Library User Fee (Allegheny)	CTY - 02	\$7.00
Use of County (Conviction) (Allegheny)	CTY - 02	\$4.00
Child Care Facility Fee (Allegheny)	ALLEGHENY CO TREASURER - DC	\$5.00
CJES	COMM - CJES	\$2.50
Victim Witness Service (Act 111 of 1998)	COMM - VWS	\$25.00
OAG - JCP	COMM - OAG	\$2.50
Domestic Violence Compensation (Act 44 of 1988)	COMM - DVC	\$10.00
Firearm Education and Training Fund	COMM - FETA	\$5.00
Prob/Parole Admin Fee (Allegheny)	ALLEGHENY CTY TREASURER -	\$240.00
	PROB_PAROLE	
County Court Cost (Act 204 of 1976)	CTY	\$35.10
		\$1,500.75

Restitution

Business Entity Restitution	ESCR - REST	\$121.00
		\$121.00

Balance Due: \$1,621.75

Department of Court Records - Criminal Division
 115 Courthouse
 436 Grant Street
 Pittsburgh, PA 15219

You can now make case payments online through Pennsylvania's Unified Judicial System web portal. Visit the portal at <http://ujportal.pacourts.us/epay> to make a payment and learn more.



Commonwealth of Pennsylvania
v.
Secada Deminica Black

Itemized Account of Fines, Costs, Fees, and
Restitution

Docket No: CP-02-CR-0002172-2019

I hereby certify that as of the date indicated below Secada Deminica Black is indebted to the County of Allegheny for the sum of \$1,621.75 which is the balance due of all fines, costs, fees, and restitution that have accrued as of this date in the above-captioned case. You are obligated to notify the Clerk of Courts Office within 48 hours of any address change. Failure to change your address could result in additional cost being assessed to your account.

View your case on-line at ujportal.pacourts.us

Original Case Balance: \$1,621.75

Date

(Signature of Issuing Authority)

Department of Court Records - Criminal Division
115 Courthouse
436 Grant Street
Pittsburgh, PA 15219

You can now make case payments online through Pennsylvania's Unified Judicial System web portal. Visit the portal at <http://ujportal.pacourts.us/epay> to make a payment and learn more.

