

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of Alvin Wilson	<b>FINDINGS OF FACT, CONCLUSIONS AND ORDER</b>
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This matter came before Administrative Law Judge Manuel J. Cervantes (“ALJ”) on April 22, 2009 for a contested case hearing pursuant to a Notice for Hearing issued March 26, 2009. The hearing was conducted by telephone.

Krista Guinn Fink, Associate Legal Counsel, appeared telephonically on behalf of the Department of Corrections (“Department”).

Alvin Wilson (“Respondent”), appeared telephonically for himself without counsel.

The ALJ agreed to keep the record open to permit the Department to provide Respondent with DOC Policies 201.013 (effective 11/7/06) and as revised (effective 7/1/08), which serve as the basis for the imposition of the supervision fee in question. The ALJ received the Department’s correspondence on April 27, 2009. Respondent was given until May 4, 2009 to submit a written response. The record closed on May 8, 2009 when no response was received from Respondent.

**STATEMENT OF ISSUE**

Is the Department authorized to collect a supervision fee of \$120.00 from Respondent pursuant to Minn. Stat. § 241.272 through the Minnesota Revenue Recapture System?

Based on the evidence in the record, the ALJ makes the following:

**FINDINGS OF FACT**

1. Respondent was sentenced on September 26, 2005 for a conviction of Assault 2<sup>nd</sup> Degree.
2. Respondent was released on parole on March 17, 2008.<sup>1</sup> A supervision fee in the amount of \$120.00 was imposed, pursuant to Minn. Stat. § 241.272 and Department Policy 201.013 (Supervision Fees – Field Services).<sup>2</sup> It is undisputed that

<sup>1</sup> Steve Olson letter dated January 13, 2009 (“Olson Ltr.”).

<sup>2</sup> *Id.*

upon being paroled, Respondent had more than one year remaining on his sentence which is set to expire in July 2009. He was placed immediately in the Intense Supervised Release program.

3. On January 12, 2009, ten months later, Respondent's parole was revoked.<sup>3</sup> Respondent was then released from confinement on March 30, 2009, and placed under Department supervision again.<sup>4</sup>

4. On January 13, 2009, the Department notified Respondent of its intent to collect the supervision fee through the Minnesota Revenue Recapture Program and of his right to request a hearing.<sup>5</sup> By letter received March 2, 2009, Respondent requested a contested case hearing. Respondent contests three and one half months, or \$35, of the \$120 assessment because he did not receive supervisory services for the balance of the one year period from March 17, 2008 to March 16, 2009 due to his revocation.

5. On March 26, 2009, the Department issued a Notice of and Order for Hearing.

Based on the Findings of Fact, the ALJ makes the following:

### **CONCLUSIONS**

1. The ALJ has jurisdiction in this matter pursuant to Minn. Stat. §§ 241.272, 270A.08, and 270A.09. Pursuant to Minn. Stat. § 270A.09, subd. 3, the decision in the hearing is the final decision in this administratively contested case. The judicial review provisions contained in Minn. Stat. §§ 14.63 to 14.68 apply to this decision.

2. Notice of this hearing was proper and the Department has fulfilled all procedural requirements.

3. The \$120.00 fee is a "correctional fee" within the meaning of Minn. Stat. § 241.272. Under Minn. Stat. § 241.272, subd. 3(a), the Department may impose and collect fees from individuals on supervised release at any time while the offender is under sentence or after the sentence has been discharged. Under subdivision 3(b) of that statute, the Department may use any available civil means of debt collection to collect a correctional fee.

4. The DOC Policy 201.013 at A.10, (effective 11/7/06 and applicable on March 17, 2008) states,

Offenders with less than one year of supervision remaining – if an offender has less than one year remaining on his/her sentence at initial date of supervision or on his/her anniversary date,

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<sup>3</sup> Alvin Wilson letter dated February 25, 2009.

<sup>4</sup> Testimony of Respondent.

<sup>5</sup> Olson Ltr.

MNDOCFS staff will prorate the assessed fee at the rate of \$10/month.

5. This provision does not allow Respondent the relief he wants because he had more than one year remaining on his sentence when he was released on parole on March 17, 2008. At that time, he had 16 months remaining on his sentence.

6. The Department properly imposed a \$120 supervision fee upon Respondent.<sup>6</sup>

7. Respondent's supervision was revoked on January 12, 2009 and he was returned to confinement. A revised DOC Policy 201.013 at B.4, (effective 7/1/08 and applicable on January 12, 2009) states, in relevant part, "... unpaid [fee(s)] will be immediately submitted for revenue recapture upon an offender's revocation of probation and execution of sentence."

8. Respondent owes the Department of Corrections a supervision fee of \$120.00.

9. The Minnesota Revenue Recapture Act authorizes State agencies such as the Department of Corrections to collect debts owed to it by filing a claim with the Minnesota Department of Revenue. The Department of Revenue may collect amounts due to the Department of Corrections by setting off the amount of such debt from refunds due to debtors. Refunds include individual income tax refunds, political contribution refunds, property tax credits or refunds, and lottery prizes of \$600 or more.

10. It is appropriate for the Department of Revenue to collect the supervision fee of \$120.00 from Respondent through the revenue recapture provisions of Minn. Stat. ch. 270A.

Based on the Conclusions, the ALJ makes the following:

**ORDER**

**IT IS ORDERED** that the Department of Corrections may proceed with its request to collect the supervision fee of \$120.00 from Mr. Wilson through the Minnesota Revenue Recapture Program.

Dated: May 20, 2009

s/Manuel J. Cervantes  
MANUEL J. CERVANTES  
Administrative Law Judge

<sup>6</sup> DOC Policy 201.013 (effective 11/7/06), A.5.

## **MEMORANDUM**

Respondent challenges the Department's authority to charge him a full \$120 supervision fee because he only received ten months worth of supervision services. The relevant policy when the fee was imposed on March 17, 2008, DOC Policy 201.013 (effective 11/7/06) precludes the proration requested by Respondent because he had more than one year remaining on his sentence when he was paroled. A revised DOC Policy 201.013 (effective 7/1/08) was in effect when Respondent was revoked on January 12, 2009. This policy permits the Department to recover any unpaid supervision fee(s) by revenue recapture immediately upon the revocation of parole.

**M. J. C.**