

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

In the Matter of Daniel Weets

**FINDINGS OF FACT,
CONCLUSIONS AND
ORDER**

This matter was heard by telephone conference call before Administrative Law Judge Richard C. Luis on June 2, 2009. The hearing record closed on June 5, 2009.

Krista Guinn Fink, Associate Legal Counsel, Minnesota Department of Corrections, and Corrections Agent Rindy Filzen appeared on behalf of the Department of Corrections (DOC). Daniel M. Weets (Appellant) appeared on his own behalf.

STATEMENT OF ISSUE

Whether the \$100.00 balance in supervision fees owed to the Department by Daniel Weets may be collected through the Minnesota Revenue Recapture program?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On October 16, 2008, the Appellant was sentenced for the offense of a Misdemeanor Violation of an Order for Protection, pursuant to Minn. Stat. § 518B.01, subd. 14(b). In connection with his sentence on the misdemeanor, Mr. Weets was placed under supervision of the Minnesota Department of Corrections.

2. On November 13, 2008, Mr. Weets met with his corrections agent, Rindy Filzen. During the course of that meeting, Mr. Weets was advised, orally and in writing, that he was liable for a supervision fee of \$100.00, which debt accrued at the start of his supervision by the Department of Corrections (DOC). On that same date, Mr. Weets signed an acknowledgement that he had read and understood that he was obligated to pay the supervision fee "as indicated".

3. Part of the sentence imposed by Lyon County District Judge Michelle Dietrich on Mr. Weets for his Misdemeanor Violation of an Order for Protection was that he had to serve four days in jail, commencing November 15, 2008. Mr. Weets

requested that his jail term be postponed until he was sentenced on another offense in Kandiyohi County, but his request was refused, and he was ordered to report for jail on November 15. Mr. Weets failed to report to jail as directed.

4. On November 19, 2008, Judge Dietrich signed an order for the apprehension of the Appellant, ordering the Lyon County sheriff to take him into custody and bring him before her court.

5. When Mr. Weets appeared before Judge Dietrich after his arrest for probation violation, he admitted the violation, and, on January 6, 2009, Judge Dietrich revoked his probation and sentenced the Appellant to serve the remainder of his 90-day jail sentence, to be “served concurrent with his other open files.”

6. Pursuant to Division Directive 201.013 of the Minnesota Department of Corrections (Supervision Fees - Field Services, effective July 1, 2008), Procedure B.4., DOC staff is authorized to submit any unpaid balance for supervision fees for revenue recapture to the Minnesota Department of Revenue “immediately...upon an offender’s revocation of probation and execution of sentence.” In accordance with that Directive, the Department submitted Mr. Weets’s \$100.00 debt (none of which has been paid) for revenue recapture.

7. On February 9, 2009, the Department informed Mr. Weets in writing that the \$100.00 balance of supervision fees he owes to the DOC “has been submitted to the State of Minnesota Revenue Recapture Program.” The February 9 letter informed him also “If you wish to contest this claim, you must notify this office **in writing** within 45 days of this mailing. A hearing will then be initiated.” (Emphasis original)

8. On March 24, 2009, the Department received a letter from Mr. Weets contesting the revenue recapture proceeding described in the previous Finding. After mentioning that he was contesting the fee, Mr. Weets noted “I was never supervised on the file mentioned as I requested execution.”

Based on the Findings, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. §§ 241.272, 270A.08 and 270A.09.

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

3. Daniel Weets became liable for supervision fees of \$100.00 due to the Department for a period of one year commencing October 16, 2008, when he was placed under supervision of the Department for the offense of a Misdemeanor Violation of an Order for Protection. Minn. Stat. §§ 241.272 and 609.102, taken together, authorize the Department of Corrections to collect a correctional fee for supervision

services. Mr. Weets also acknowledged the existence of the obligation to pay the fee in question, by way of a signed acknowledgment of his debt on November 13, 2008.

4. Effective January 6, 2009, after Mr. Weets's probation was revoked, it was appropriate for the Department to follow Procedure B.4. of the Department's Division Directive 201.013, and submit the Appellant's \$100.00 balance of unpaid supervision fees immediately to the Department of Revenue's Revenue Recapture Program.

5. It is appropriate for the Department of Revenue to collect the correctional (supervision) fee of \$100.00 owed by Daniel Weets by means of revenue recapture in accordance with Minn. Stat. ch. 270A, and to remit the collected fees to the Minnesota Department of Corrections.

Based on the Conclusions, the Administrative Law Judge makes the following:

ORDER

IT IS ORDERED that the Department of Corrections may continue with its request to the Department of Revenue to collect the \$100.00 due from Daniel Weets for supervised release fees for the period beginning October 16, 2008, through the Department of Revenue's Revenue Recapture Program.

Dated: July 2nd, 2009

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

Reported: Taped
No Transcript Prepared

NOTICE

This Order is a Final Decision in this matter pursuant to Minn. Stat. § 270A.09, subd. 3. Any person aggrieved by this Decision may seek judicial review pursuant to Minn. Stat. §§ 14.63 to 14.68.

MEMORANDUM

Mr. Weets contends that he does not owe a supervision fee to the Department of Corrections because his Corrections Agent based in Lyon County, Ms. Filzen, never actually exercised any supervision over him during his period of probation. That argument is misplaced.

First, Judge Dietrich's Sentencing Order of October 16, 2008, placed the Appellant under DOC supervision. Mr. Weets also acknowledged, by way of a signed acknowledgment that he had read and understood that he was obligated to pay the

supervision fee, that he owed the Department of Corrections \$100.00 in supervision fees. The fact that Mr. Weets met with Ms. Filzen and discussed the terms of his probation on November 13, 2008, is further evidence that actual supervision was exercised over the Appellant in connection with the sentence he received for his conviction for Misdemeanor Violation of an Order for Protection in Lyon County.

Mr. Weets reasons that, because he “requested execution” of his Lyon County sentence, that he was “never supervised on the file”. However, in elaborating on that situation when he testified, Mr. Weets admitted that his request for immediate execution of his jail sentence was made conditional, by him, that the execution of that jail time not commence until he was sentenced under a separate matter in Kandiyohi County, and that he be allowed to serve both sentences concurrently. Both Mr. Weets and Ms. Filzen testified that the Department rejected Mr. Weets’s proposal, and informed him that he could only proceed with “immediate execution” of his Lyon County jail sentence by reporting for incarceration there immediately. The Administrative Law Judge views the involvement by the Department of Corrections Agent(s) during this last course of events as further evidence of actual supervision of Mr. Weets’s probation.

R. C. L.