

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

In the Matter of Esteban Trevino

**FINDINGS OF FACT,  
CONCLUSIONS  
AND ORDER**

This matter came on for an evidentiary hearing before Administrative Law Judge Eric L. Lipman on November 9, 2009, at the Saint Paul offices of the Office of Administrative Hearings.

Krista Guinn Fink, Associate Legal Counsel, appeared on behalf of the Minnesota Department of Corrections (Department). Esteban Trevino appeared on his own behalf and without counsel (Respondent).

**STATEMENT OF THE ISSUE**

May the Department collect a supervision fee of \$300 from Mr. Trevino through the Minnesota Revenue Recapture Program?

The Administrative Law Judge concludes that recapture of the supervision fee is appropriate.

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

**FINDINGS OF FACT**

1. On August 21, 2007, Esteban Trevino was committed to the custody of the Commissioner of Corrections. Mr. Trevenio was sentenced to 36 months for Failure to Register as a Predatory Offender.<sup>1</sup>

2. On July 6, 2009, after serving his term of imprisonment (two-thirds of the executed sentence, less any deductions for disciplinary violations), Mr. Trevino was returned the community under Intensive Supervised Release.<sup>2</sup>

3. Pursuant to Minn. Stat. § 241.272, and DOC Policy 201.013, offenders who are released to the community under the supervision of the Commissioner of

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<sup>1</sup> Exhibit 1.

<sup>2</sup> Exs. 1 and 3. See *also*, Minn. Stat. § 244.01 (8) (2008)

Corrections are required to pay supervision fees. A supervision fee of \$300 is imposed upon offenders whose governing offense is a felony.<sup>3</sup>

4. Upon his release on July 6, 2009, a supervision fee of \$300.00 was imposed upon Mr. Trevino.<sup>4</sup>

5. On July 10, 2009, Mr. Trevino signed an acknowledgement regarding the requirement to pay supervision fees.<sup>5</sup>

6. Respondent Trevino failed to adhere to the conditions of his supervised release and was taken into custody on or about July 30, 2009. Following a hearing, Mr. Trevino's supervised release was revoked on August 12, 2009.<sup>6</sup>

7. Pursuant to the Department's policy, upon the revocation of an offender's supervised release, a claim for the unpaid supervision fee is immediately submitted for revenue recapture.<sup>7</sup>

8. Mr. Trevino was advised of the revenue recapture claim, and his right to contest the claim, by way of a letter dated August 13, 2009.<sup>8</sup>

9. On August 21, 2009, Mr. Trevino submitted a timely appeal of the Department's claim.<sup>9</sup>

10. On September 17, 2009, the Commissioner of Corrections issued a Notice of and Order for Hearing.

Based upon the Findings of Fact, and for the reasons explained in the attached Memorandum, 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. The Notice of the Hearing was proper and the Department has fulfilled all of the relevant procedural requirements.

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<sup>3</sup> Exs. 1 and 2; see also, Minn. Stat. § 241.272 (2008) and DOC Policy 201.013 ([http://www.doc.state.mn.us/DOcpolicy2/html/DPW\\_Display.asp?Opt=201.013.htm](http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=201.013.htm)).

<sup>4</sup> *Id.*

<sup>5</sup> Ex. 2.

<sup>6</sup> Exs. 1 and 3.

<sup>7</sup> Ex. 6 at 2; Ex. 7 at 2.

<sup>8</sup> Ex. 4; see also, Minn. Stat. § 270A.08 (2) (2008).

<sup>9</sup> Ex. 5.

3. Mr. Trevino incurred a supervision fee in the amount of \$300 upon his release to community on July 6, 2009.

4. The supervision fee is a “correctional fee” within the meaning of Minn. Stat. § 241.272. Under Minn. Stat. § 241.272, subd. 3(a), the Commissioner of Corrections 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 Commissioner may use any available civil means of debt collection to collect a correctional fee.

5. 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.<sup>10</sup>

6. It is appropriate for the Department of Revenue to collect the correctional fee of \$300 from Mr. Trevino through the revenue recapture provisions of Minn. Stat. Chapter 270A.

Based upon these Conclusions, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

### ORDER

**IT IS ORDERED** that the Department of Corrections may proceed with its request to the Department of Revenue to collect the \$300 supervision fee due from Esteban Trevino through the Minnesota Revenue Recapture Program.

Dated: December 9, 2009

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s/Eric L. Lipman  
ERIC L. LIPMAN  
Administrative Law Judge

Reported: Digital Recording  
No transcript prepared

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<sup>10</sup> See, Minn. Stat. §§ 270A.03 (7) and 349A.08 (8) (2008).

## NOTICE

This Order is the 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. Trevino challenges the recovery of the \$300 supervision fee on the grounds that the services he received from the agents of the Department, during his tenure on supervised release, were of insufficient quality to warrant such a charge. Mr. Trevino argues that he should not be required to pay for services that, in his view, were substandard.

The appeal is not well-taken. Mr. Trevino does not make a claim that is contemplated by either the supervision fee statute or the Revenue Recapture Act. He does not claim, for example, that the sums sought to be recovered are more than the costs of providing correctional services to him or that he is otherwise exempt from having a supervision fee assessed.<sup>11</sup> Mr. Trevino's complaint as to the quality of the services he received is not a basis for avoiding his debt.

**E. L. L.**

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<sup>11</sup> Compare, e.g., Minn. Stat. § 241.272 (2) and (4) (2008).