

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWIGHT McCLAMMY,

Defendant-Appellant.

UNPUBLISHED

June 26, 2008

No. 278242

Wayne Circuit Court

LC No. 07-003871-01

Before: Meter, P.J., and Smolenski and Servitto, JJ.

MEMORANDUM.

Defendant was convicted by a jury of felon in possession of a firearm, MCL 750.224f, possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v), and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced as a third habitual offender, MCL 769.11, to concurrent prison terms of one to ten years for the felon in possession conviction and one to eight years for the possession of cocaine conviction, to be served consecutive to a two-year term of imprisonment for the felony-firearm conviction. Additionally, the trial court ordered him to reimburse the county \$1,020 in attorney fees. Defendant now appeals as of right. We affirm defendant's convictions and sentences, but vacate the order of reimbursement and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In his sole issue on appeal, defendant argues that the trial court erred by ordering him to reimburse the county for attorney fees without considering his ability to pay.

The trial court is authorized to order a defendant to reimburse the county for the cost of court-appointed counsel. *People v Nowicki*, 213 Mich App 383, 388; 539 NW2d 590 (1995). In *People v Dunbar*, 264 Mich App 240; 690 NW2d 476 (2004), this Court held that absent an objection, the trial court is not required to make a specific finding on the record regarding a defendant's ability to pay, but it "does need to provide some indication of consideration, such as noting that it reviewed the financial and employment sections of the defendant's presentence investigation report or, even more generally, a statement that it considered the defendant's ability to pay." *Id.* at 254-255. In this case, the court made no mention of reimbursement or of defendant's ability to pay. Accordingly, we vacate the order of reimbursement and remand this matter to the trial court for consideration of defendant's foreseeable ability to pay in light of his current and future financial circumstances. *Id.* at 255.

Affirmed in part, vacated in part, and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Patrick M. Meter

/s/ Michael R. Smolenski

/s/ Deborah A. Servitto