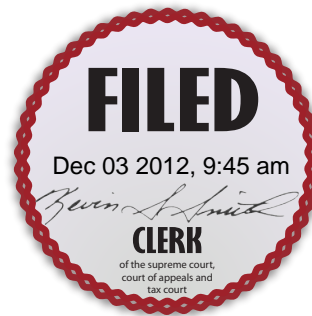


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

SUZY ST. JOHN
Marion County Public Defender
Appellate Division
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

AARON J. SPOLARICH
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

MARK GRABER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)
)
)

No. 49A02-1205-CR-365

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Valerie Horvath, Commissioner
Cause No. 49G17-1201-CM-117

December 3, 2012

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Following his conviction for Domestic Battery as a Class A misdemeanor,¹ Mark Graber appeals his sentence contending that the trial court erred by imposing a fifty dollar (\$50.00) Public Defender fee. Graber contends that imposing such a fee after finding him indigent was error pursuant to Ind. Code § 33-37-2-3 and that the fee exceeded that authorized by Ind. Code § 35-33-7-6 because the court had previously imposed a fifty dollar (\$50.00) Public Defender's fee at the initial hearing. The State contends that the trial court imposed only a single fee of fifty dollars, but concedes that "the record is unclear," *Appellee's Br.* at 7, and if it did impose a second fifty dollar fee, the trial court erred in doing so.

To remedy any confusion in the trial court's order, we vacate that part of the Chronological Case Summary stating that a fifty dollar (\$50.00) fee was assessed as part of Graber's sentence and remand with instructions to enter an order confirming that a single Public Defender's fee of fifty dollars (\$50.00) was imposed at the initial hearing and that order remains in full force and effect with all sums previously paid credited against that amount due and owing thereunder.

Vacated and remanded.

MATHIAS, J., and CRONE, J., concur.

¹ Ind. Code § 35-42-2-1.3