

**IN THE COURT OF APPEALS OF IOWA**

No. 7-128 / 06-0048  
Filed July 12, 2007

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**PAUL RAY ANDERSON, JR.,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Wayne County, David L. Christensen, Judge.

Paul Ray Anderson Jr. appeals the district court's order for reimbursement of the cost of his legal assistance. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Martha Lucey, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas Andrews, Assistant Attorney General, Alan M. Wilson, County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**MAHAN, J.**

Paul Ray Anderson, Jr. appeals the district court's order for reimbursement of the cost of his legal assistance. He argues (1) Iowa Code section 815.9 (2005) is unconstitutional and (2) he was denied effective assistance of counsel at the reimbursement hearing. We affirm.

**I. Background Facts and Proceedings**

Anderson was charged on October 29, 2004, with operating while intoxicated (OWI), first offense. He filed a financial affidavit indicating he received disability benefits of \$735 per month. The district court determined he was indigent and appointed the attorney Anderson requested to represent him. The attorney was contracted with the state public defender to provide indigent defense.<sup>1</sup> During the representation, the attorney filed motions to exceed the attorney fee limitation of \$600 set by the public defender. See Iowa Admin. Code r. 493-12.6(1).

The jury found Anderson not guilty on October 31, 2005. On November 22, 2005, the court ordered Anderson to reimburse the State for the total costs of his legal assistance pursuant to Iowa Code section 815.9. Defense counsel filed a motion challenging the constitutionality of section 815.9. After granting a hearing on the motion, the district court dismissed the constitutional challenges and ordered a payment plan of thirty-five dollars per month. Anderson appeals.

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<sup>1</sup> There is no state public defender's office in Wayne County, where Anderson was tried.

## II. Standard of Review

We review constitutional challenges to statutes de novo. *State v. Hernandez-Lopez*, 639 N.W.2d 226, 233 (Iowa 2002). Statutes are cloaked with a presumption of constitutionality. *Id.* Anderson must prove section 815.9 is unconstitutional beyond a reasonable doubt. *Id.* If it is possible to construe the statute in more than one manner, we must adopt the construction that does not violate the constitution. *In re Detention of Selby*, 710 N.W.2d 249, 250 (Iowa Ct. App. 2005).

## III. Merits

This is a similar case to *State v. Dudley*, No. 7-129 (Iowa Ct. App. June 27, 2007). The issues here were fully discussed and decided in that case. We find the reasoning in *Dudley* persuasive and the authority cited in the case controlling. Therefore, we will not address the same issues here. We affirm the judgment of the district court.

**AFFIRMED.**