

[Cite as *State v. Peoples*, 2003-Ohio-2794.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-02-1048

Appellee

Trial Court No. CR-01-2951

v.

Samuel A. Peoples

DECISION AND JUDGMENT ENTRY

Appellant

Decided: May 30, 2003

* * * * *

Julia R. Bates, Prosecuting Attorney, and Michael J. Loisel, Assistant
Prosecuting Attorney, for appellee.

Carol L. Damrauer, attorney for appellant.

* * * * *

PIETRYKOWSKI, J.

{¶1} Pursuant to 6th Dist.Loc.App.R. 12(C), we sua sponte place this case on our accelerated calendar and hereby render our decision. This case is before the court following the Lucas County Court of Common Pleas' February 25, 2002 judgment entry which sentenced appellant, Samuel Peoples, to consecutive sentences of three years and one year and ordered appellant "to pay any restitution, all prosecution costs and any fees permitted pursuant to R.C. 2929.18(A)(4)." Appellant raises the following assignment of error:

{¶2} “The trial court erred when it ordered the defendant-appellant to pay court-appointed attorney fees, court costs, and to make an unspecified, unsubstantiated sum of restitution.”

{¶3} Appellant argues that the trial court erred when it ordered him to pay costs and make restitution without first determining his ability to pay fees and make the appropriate findings as to restitution. Based on the authority of this court’s decision in *State v. Dearing*, 6th Dist.No. L-02-1050, 2003-Ohio-2524, we find appellant’s sole assignment of error well-taken.

{¶4} On consideration whereof, we find that appellant was prejudiced from having a fair proceeding, and the judgment of the Lucas County Court of Common Pleas is reversed as to the trial court’s order that appellant pay restitution and fees pursuant to R.C. 2929.18(A)(4).¹ The cause is remanded for proceedings consistent with this decision. Costs of this appeal are assessed to appellee.

JUDGMENT REVERSED.

HANDWORK, P.J., and KNEPPER, J., concur.

¹ We note that, as in *Dearing*, the trial court properly charged appellant with the prosecution costs pursuant to R.C. 2947.23.