
IN THE SUPREME COURT OF IOWA

**24-0353
POLK COUNTY CASE NOS.
AGCR369554, AGCR375425, AGCR374090, SMAC409228**

**STATE OF IOWA,
Plaintiff-Appellee**

V.

**RONALD RICHARD PAGLIAI
Defendant-Appellant.**

**APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR POLK COUNTY
HONORABLE JUDGE TABITHA TURNER.**

DEFENDANT-APPELLANT'S REPLY BRIEF

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PROOF OF SERVICE

I hereby certify that on March 10, 2025, I did serve two copies of the Reply Brief within on the parties listed below, by mailing a copy thereof to the following:

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CERTIFICATE OF FILING

I, the undersigned, hereby certify that on March 10, 2025, I will file this document by submitting the document via electronic filing with the Clerk of the Supreme Court. Participants in the case who are registered with the EDMS will be served by EDMS.

/s/ Erin M. Carr
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STATEMENT OF ISSUES PRESENTED FOR REVIEW

- I. THE COURT LACKED SUBJECT MATTER JURISDICITON TO ISSUE THE ORDER FOR APPELLANT TO PAY COSTS, AND SUBJECT MATTTER JURIDICITION CANNOT BE WAIVED.**

ARGUMENT

I. THE COURT LACKED SUBJECT MATTER JURISDICITON TO ISSUE THE ORDER FOR APPELLANT TO PAY COSTS, AND SUBJECT MATTTER JURIDICITION CANNOT BE WAIVED.

Although the State concedes that the district court lacked statutory authority to assess costs on a dismissed case, it asserts that because Appellant agreed to pay costs on the dismissed case, he waived any right to challenge the district court's authority to assess the costs. Appellee's Br. at 11. The State seems to conflict jurisdiction to enter an order with mere statutory authority to do so. Appellee's Br. at 11-15. To be clear, Appellant asserts the Court lacked subject matter jurisdiction to assess costs on the dismissed case, and the order requiring Appellant to pay costs on the dismissed case is therefore void. Appellant's Br. at 11, 14, 19, 25, 26. Subject matter jurisdiction cannot be waived: "Unlike personal jurisdiction, a party cannot waive or vest by consent subject matter jurisdiction." *In re Estate of Dull*, 303 N.W.2d 402, 406 (Iowa 1981).

In *State v. T.J.W.*, the Defendant was granted a deferred judgment following a plea to criminal mischief in the fourth degree in August of 2021. 2 N.W.3d 853 (Iowa 2024). On February 15, 2022, at 1:32 p.m., the district court filed an order stating that T.J.W. had completed the terms of her deferred judgment and that the charge would accordingly be expunged upon payment of "all monies owing". *Id.* at 854. Approximately two hours later on February 21, 2022, the district court issued

another order that set a restitution hearing. *Id.* The hearing took place on March 24, 2022, and an order issued on April 8, 2022, that required T.J.W. to pay over \$6,000 in victim restitution. *Id.*

The Court addressed whether the district court in T.J.W. had the subject matter jurisdiction to issue the restitution order after the expungement order. *Id.* at 856-57. “An order is void if the court lacked jurisdiction when the order was entered.” *Id.*, citing, *Ronnfeldt v. Shelby Cnty. Chris A. Myrtue Mem'l Hosp.*, 984 N.W.2d 418, 429 (Iowa 2023). With some exceptions, a court’s jurisdiction ends once a final judgement has been issued. *Id.*, quoting, *State v. Olson*, 794 N.W.2d 285, 287 (Iowa 2011). “Final judgment in a criminal case means sentence.” *State v. Loye*, 670 N.W.2d 141, 146 (Iowa 2003) (citation omitted).

The Court in *T.J.W.* compared a court’s jurisdiction on a charge dismissed following a deferred judgment with a court’s jurisdiction on a case where an individual was merely discharged after probation. *T.J.W.*, 2 N.W.3d at 859. Per Iowa Code section 907.9(4)(a), “[a] person who has been discharged from probation shall no longer be held to answer for the person's offense.” Iowa Code §907.9(4)(a). Similarly, a charge dismissed after a deferred judgment “signals the end of a court’s power to impose further obligations on a defendant.” *T.J.W.* at 859. “There must be a time when the court's jurisdiction over defendant's person by way of punishment ceases.” *Smith v. Dist. Ct.*, 132 Iowa 603, 109 N.W. 1085, 1087 (1906). The Court

in *T.J.W.* concluded the district court was without jurisdiction to enter the restitution order after dismissal:

“Stated simply, no statutory or constitutional provision empowers the district court to retain jurisdiction to order restitution *after* dismissing and expunging criminal charges”

T.J.W. at 859.

Here, Appellant is similarly situated to *T.J.W.* *See Id.* A case was dismissed by the district court, but without the jurisdiction to do so, the court attempted to impose further obligations on Appellant. *See T.J.W.* at 859, *see also, Smith*, 109 N.W. at 1087. The district court’s jurisdiction over Appellant’s dismissed case ended upon its dismissal, and the order requiring him to pay costs is thereby void. *See T.J.W.* at 859, *see also, Smith*, 109 N.W. at 1087.

State v. Rassmussen is also comparable to Appellant’s case, 7 N.W.3d 357, 365 (Iowa 2024). In *Rassmussen*, one of the defendant’s charges was dismissed pursuant to a plea agreement. *Id.* at 360-63. However, without resistance from the defendant, the district court entered a no-contact order (NCO) for the victim in the dismissed case. *Id.* at 365. *Rassmussen* challenged the no-contact order as an illegal sentence, and raised the court’s lack of jurisdiction to enter the NCO. *Id.* The Court held that much like the restitution order in *T.J.W.*, the district court was without jurisdiction to enter the NCO in the dismissed case. *Id.* The NCO was accordingly

illegal and void, and the Court reversed the district court's judgment with instructions to strike the NCO in the dismissed case from the sentencing order. *Id.*

Rasmussen is analogous to Appellant's case in a crucial way: Rasmussen entered a plea agreement that included the NCO in the dismissed case and did not challenge it at sentencing. *See Id.* at 360-63, 365. Here, the payment of costs on a dismissed case was a part of Appellant's plea agreement. D0051 Dispo Order 3 (02/15/2024). The Court in *Rasmussen* nonetheless found that the NCO in the dismissed case was an illegal sentence, and that it was void for lack of jurisdiction. *Id.* Here, although Appellant agreed to pay costs in the dismissed case, the district court similarly lack either jurisdiction to enter the order. *See Id., see also, T.J.W.* at 859.

Also, similar to how Iowa Code section 815.9(5-6) does not allow costs in a dismissed case, the code section controlling no-contact orders does not authorize courts to enter no contact orders a in dismissed case. *See* Iowa Code section 815.9(5-6); *see also*, Iowa Code section 664A; *Rasmussen* at 366.

In summary, the district court's jurisdiction over Appellant's case ended upon the dismissal of the charge. *See T.J.W.* at 859. The district court lacked subject matter jurisdiction to assess costs in the dismissed case. It therefore could not continue to impose obligations upon Appellant after dismissal in the form of court costs. *See*

T.J.W. at 859. The district court's order is accordingly void. *See Id., see also, Rasmussen* at 365; *T.J.W.* at 859.

CONCLUSION

For the aforementioned reasons, Appellant respectfully requests this court vacate Appellant's sentence, and that this case be remanded with directions to the district court to resentence Appellant without requiring him to pay court costs and court appointed attorney's fees.

RESPECTFULLY SUBMITTED,

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ATTORNEY'S COST CERTIFICATE

I hereby certify that the cost of printing the foregoing Appellant's Proof Brief and Argument was the sum of \$ 0.00.

/s/ Erin M. Carr
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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE
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/s/ Erin M. Carr
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3/10/2025
Date