

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2023-1758

JEFFREY H. McELWAIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Petition for Writ of Mandamus—Original Jurisdiction.

February 26, 2025

PER CURIAM.

The Court grants Petitioner's petition for writ of mandamus.

On June 19, 2015, Petitioner pleaded guilty and was sentenced as to count 1 a \$50,000.00 fine. No fine was administered for the remainder of the counts but the order also imposed a \$519 mandatory court cost and a \$2,500.00 surcharge. However, in 2018, Petitioner's probation was revoked, and he was resentenced with the lower court failing to re-impose the fine reducing Petitioner's prior financial obligations to a lien. Thereafter on appeal, this Court reversed and remanded because the record failed to show if a violation of probation affidavit was filed. The trial court on remand entered an order vacating the violation of probation and the order regarding the civil liens.

Petitioner was restored to probation. As well, the circuit court issued an order vacating the final judgment for fines, cost, and additional charges.

In September of 2020, petitioner filed a Motion to Correct Fine Amounts, which the trial court denied as moot because the lien was vacated.

More recently, in 2023, the trial court found Petitioner in violation of some of the conditions of his probation and resentenced him without imposing a fine, only \$100 for cost of prosecution, which was reduced to a civil lien. Thus, the only lien against Petitioner is the \$100.00 cost of prosecution imposed in 2023. The circuit court clerk's response to this Court's order indicates fines, surcharges, and prosecution costs exceeding \$100,000 effective June 19, 2015.

In accordance with the lower tribunal orders vacating those fines and charges, this Court directs the lower tribunal clerk to correct their records to reflect the lower tribunal's vacation of the 2015 liens and charges against Petitioner in case 2014-CF-000840C and to show no other costs to Petitioner beyond the \$100 cost of prosecution imposed in 2023.

B.L. THOMAS, ROWE, and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jeffrey H. McElwain, pro se, Petitioner.

James Uthmeier, Attorney General, Tallahassee, for Respondent.