

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ronald Jeremy Kirkham,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 13, 2021

Court of Appeals Case No.
21A-CR-497

Appeal from the Tippecanoe
Superior Court

The Honorable Randy J. Williams,
Judge

Trial Court Cause No.
79D01-1907-F2-29

Mathias, Judge.

- [1] Following his convictions for several criminal offenses, Ronald Jeremy Kirkham appeals the Tippecanoe Superior Court's sentencing order requiring

him to reimburse the costs incurred by law enforcement in extraditing him to Indiana.

We affirm.

Facts and Procedural History

- [2] In May 2018, working with a confidential informant, the Tippecanoe County Drug Task Force intercepted a large shipment of controlled substances as Kirkham prepared to deliver the shipment to the informant. Law enforcement arrested Kirkham and, in July 2019, the State charged him with several offenses. Appellant’s App. pp. 208–18. The State also sought a habitual offender enhancement. *Id.* at 219.
- [3] Kirkham was in Florida when his three-day jury trial began in Indiana on September 22, 2020, and he failed to appear for trial. Tr. Vol. II, pp. 221–22. In turn, the trial court issued a no-bond warrant for his arrest, *id.*, and the Tippecanoe County Sheriff arranged to extradite Kirkham to Indiana, Tr. Vol. IV, p. 9. Kirkham was tried in absentia.
- [4] On September 25, a jury found Kirkham guilty of Level 2 felony dealing in a schedule I controlled substance; Level 6 felony possession of a controlled substance; Level 6 felony dealing in a synthetic drug or synthetic drug lookalike substance; Level 6 felony maintaining a common nuisance; Level 6 felony neglect of a dependent; Level 6 felony conspiracy to commit dealing in a synthetic drug or synthetic drug lookalike substance; and Level 6 felony corrupt

business influence. Tr. Vol. III, pp. 235–37. The jury also found Kirkham to be a habitual offender. Tr. Vol. IV, pp. 3–4.

- [5] Three months later, on December 24, Law enforcement finally apprehended Kirkham in Polk County, Florida, and transported him to Indiana. *Id.* at 9; Appellant’s Conf. App. p. 233.
- [6] The trial court held a sentencing hearing on March 15, 2021, after which it sentenced Kirkham to thirty-five years of incarceration, with twenty-eight years executed in the Department of Correction, three years to be served on community corrections, and four years suspended to probation. Appellant’s App. pp. 25–31. As part of his sentence, the court also ordered Kirkham to pay court costs, drug interdiction fees, costs for appointed appellate counsel, and \$2,837.50 of “restitution” for expenses incurred in extraditing him to Indiana. *Id.*
- [7] Kirkham now appeals the portion of the trial court’s order requiring him to pay back the costs of his extradition.

Discussion and Decision

- [8] In sentencing a convicted person, a trial court’s judgment must include the amount of fines, fees, or costs assessed. *See Ind. Code. § 35-38-3-2(b)(3)*. Sentencing decisions, including “decisions to impose restitution, fines, costs, or fees, are generally left to the trial court’s discretion.” *Holder v. State*, 119 N.E.3d 621, 624 (Ind. Ct. App. 2019) (citing *Johnson v. State*, 27 N.E.3d 793, 794 (Ind. Ct. App. 2015)). Accordingly, we review such decisions for an abuse of

discretion. *Id.* A trial court abuses its discretion when it “misinterprets the law,” *Larkin v. State*, 173 N.E.3d 662, 667 (Ind. 2021) (quoting *Yao v. State*, 975 N.E.2d 1273, 1276 (Ind. 2012)), or when its decision “is clearly against the logic and effect of the facts and circumstances before it,” *id.* at 667 (quoting *Hoglund v. State*, 962 N.E.2d 1230, 1237 (Ind. 2012)).

[9] Kirkham claims the trial court abused its discretion in ordering him to pay back the expenses incurred by law enforcement in extraditing him from Polk County, Florida, to Indiana. Those expenses totaled \$2,837.50. Appellant’s App. p. 31. In sentencing Kirkham, the trial court ordered him to pay “\$2,837.50 in restitution.” *Id.* at 29.

[10] Kirkham relies on [Indiana Code section 35-50-5-3\(a\)](#), which provides that a trial court may, “in addition to any sentence imposed . . . order the person to make restitution to the victim of the crime, the victim’s estate, or the family of a victim who is deceased.” He argues that “the Sheriff of Tippecanoe County was not the victim of the crime,” and that, therefore, “the trial erred in ordering restitution for extradition expenses to that office.” Appellant’s Br. at 11. We do not agree.

[11] We have previously rejected identical arguments, and we have held that an order to pay the costs of extradition is considered a reimbursement of costs and not restitution. *See, e.g., Maroney v. State*, 849 N.E.2d 745, 748–49 (Ind. Ct. App. 2006) (“[W]e have previously held that extradition expenses are reimbursement costs that a court may order a defendant to pay at sentencing.”); *Zanders v. State*,

800 N.E.2d 942, 945 (Ind. Ct. App. 2003) (“[E]xtradition expenses are reimbursement costs that a court may order a defendant to pay at sentencing.”).

[12] An argument identical to the one Kirkham asserts here was made by the defendant in *Vestal v. State*, 745 N.E.2d 249, 254 (Ind. Ct. App. 2001), *aff’d in relevant part*, 773 N.E.2d 805 (Ind. 2002). In that case, the defendant argued that the trial court erred in ordering him to pay Clay County for expenses incurred in extraditing him. The defendant claimed, as does Kirkham here, that the county was not a proper recipient of restitution under [Indiana Code section 35-50-5-3](#). *Id.* A panel of this court affirmed the trial court, stating that “we would agree with [the defendant] if the order to pay Clay County for his extradition costs were indeed a restitution cost.” *Id.* However, noting both the existence of the county’s extradition fund and our presumption that money from the fund “was used to offset the costs of extraditing [the defendant] to Indiana,” we rejected the defendant’s argument and concluded that the trial court’s order to pay extradition expenses constituted reimbursement, not restitution. *Id.*

[13] The General Assembly has established an extradition fund in each county to offset the costs of extraditing criminal defendants. *See* [Ind. Code § 35-33-14-2\(1\)](#). Here, we presume that the Tippecanoe County extradition fund was used to offset the costs of extraditing Kirkham to Indiana. While we agree that it would be improper to order Kirkham to pay “restitution” to the Tippecanoe County extradition fund or to the Tippecanoe County Sheriff—given that neither was a victim of Kirkham’s criminal offenses—the trial court’s order requiring Kirkham to pay back extradition expenses is considered a

reimbursement, not restitution.¹ And because trial courts may order a convicted person to reimburse extradition costs, the court did not err in doing so here.

Conclusion

[14] For all of these reasons, we conclude that the trial court did not abuse its discretion in ordering Kirkham to pay back the costs of his extradition.

[15] Affirmed.

Bailey, J., and Altice, J., concur.

¹ We note, moreover, that Kirkham acquiesced to the reimbursement during his sentencing hearing, stating that he had “no legal grounds to object” to the \$2,837.50 requested by the State. Tr. Vol. IV, p. 9.