



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

October 29, 2001

File No. 01-007

FEES:
State's Attorney's Entitlement
to Conviction Fees Upon
Disposition of Supervision

The Honorable Charles L.P. Flynn
State's Attorney, Pope County
Post Office Box 689
Golconda, Illinois 62938

Dear Mr. Flynn:

I have your letter wherein you inquire whether the State's Attorney of a county with fewer than 3,000,000 inhabitants is entitled to receive a conviction fee pursuant to section 4-2002 of the Counties Code (55 ILCS 5/4-2002 (West 2000)) when a defendant in a criminal case is placed on supervision. For the reasons hereinafter stated, it is my opinion that no conviction fee is payable when the defendant receives a disposition of supervision.

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Section 4-2002 of the Counties Code, which sets the fees for State's Attorneys in counties of under 3,000,000 in population, provides in pertinent part:

" * * *

(a) State's attorneys shall be entitled to the following fees, however, the fee requirement of this subsection does not apply to county boards:

For each conviction in prosecutions on indictments for first degree murder, second degree murder, involuntary manslaughter, criminal sexual assault, aggravated criminal sexual assault, aggravated criminal sexual abuse, kidnapping, arson and forgery, \$30. All other cases punishable by imprisonment in the penitentiary, \$30.

For each conviction in other cases tried before judges of the circuit court, \$15; except that if the conviction is in a case which may be assigned to an associate judge, whether or not it is in fact assigned to an associate judge, the fee shall be \$10.

* * * "

It is well established that the primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly, which is best evidenced by the language used in the statute. (Yang v. City of Chicago (2001), 195 Ill. 2d 96, 103.) Where statutory language is clear and unambiguous, it must be given effect as written. In re Consoli-

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dated Objections to Tax Levies of School District No. 205 (2000),
193 Ill. 2d 490, 496.

Under section 4-2002 of the Counties Code, a State's Attorney is entitled to receive a fee for each conviction entered in a case that he or she prosecutes. Section 4-2002 makes no reference to the payment of a fee when a defendant is placed on supervision. The issue, therefore, is whether the entry of a disposition of supervision constitutes a "conviction". Although the term "conviction" is not defined in section 4-2002 of the Counties Code, it is defined in section 2-5 of the Criminal Code of 1961 (720 ILCS 5/2-5 (West 2000)) and section 5-1-5 of the Unified Code of Corrections (730 ILCS 5/5-1-5 (West 2000)) as follows:

"* * * 'Conviction' means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury."

The term "conviction", when employed with reference to criminal law and procedure, has a technical meaning, as reflected by the definitions quoted above. In the absence of a different definition of the term for purposes of section 4-2002 of the Counties Code, it must be presumed that the General Assembly intended for it to be given its technical meaning. (See Jones v.

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Eagle II (1981), 99 Ill. App. 3d 64, 70; People v. Choate (1974), 71 Ill. App. 3d 267, 274.) A conviction, therefore, means a judgment of conviction or a sentence entered upon a plea of guilty or upon a verdict or other finding that the defendant is guilty of a criminal offense.

Section 5-1-21 of the Unified Code of Corrections (730 ILCS 5/5-1-21 (West 2000)) defines "supervision" as follows:

"* * * 'Supervision' means a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered." (Emphasis added.)

Section 5-6-1 of the Unified Code of Corrections (730 ILCS 5/5-6-1 (West 2000)), which authorizes the disposition of supervision, provides in pertinent part:

" * * *

(c) The court may, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant, if the defendant is not charged with a Class A misdemeanor, as defined by the following provisions of the Criminal Code of 1961: Sections 12-3.2; 12-15; 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph (1) through (5), (8), (10), and (11) of subsection (a) of Section 24-1; and Section 1 of

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the Boarding Aircraft With Weapon Act; or a
felony. * * *

* * *

"

Further, section 5-6-3.1 of the Unified Code of Corrections (730
ILCS 5/5-6-3.1 (West 2000)) provides, in pertinent part:

"Incidents and Conditions of Supervi-
sion.

(a) When a defendant is placed on super-
vision, the court shall enter an order for
supervision specifying the period of such
supervision, and shall defer further proceed-
ings in the case until the conclusion of the
period.

* * *

(d) The court shall defer entering any
judgment on the charges until the conclusion
of the supervision.

(e) At the conclusion of the period of
supervision, if the court determines that the
defendant has successfully complied with all
of the conditions of supervision, the court
shall discharge the defendant and enter a
judgment dismissing the charges.

(f) Discharge and dismissal upon a suc-
cessful conclusion of a disposition of super-
vision shall be deemed without adjudication
of guilt and shall not be termed a conviction
for purposes of disqualification or disabili-
ties imposed by law upon conviction of a
crime. * * *

* * *

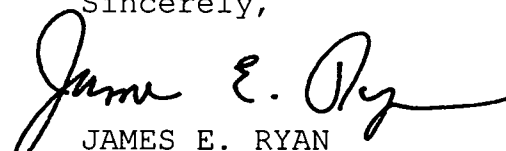
"

(Emphasis added.)

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Based upon the unambiguous language of section 5-6-3.1 of the Unified Code of Corrections, a disposition of supervision is not an adjudication of guilt. To the contrary, if, at the conclusion of the period of supervision, the court determines that the defendant has successfully complied with all of the conditions thereof, it is to discharge the defendant and enter a judgment dismissing the charges. A disposition of supervision, therefore, is not a "conviction". (See 1984 Ill. Att'y Gen. Op. 72, 79; 1982 Ill. Att'y Gen. Op. 69, 72.) Consequently, it is my opinion that a State's Attorney is not entitled to a conviction fee under section 4-2002 of the Counties Code when a defendant he or she prosecutes is placed on supervision.

Sincerely,


JAMES E. RYAN
Attorney General