

**State of Michigan
In the Supreme Court**

The People of the State of Michigan

Plaintiff-Appellee,

MSC No. 168814

v.

COA No. 375391

Pamela Jean Taylor

Osceola County Circuit Court

Defendant-Appellant.

Case No. 24-006832-FH

**Pamela Jean Taylor's
Supplemental Brief**

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Statement of the Questions Presented

First Question

Can attorney fees be assessed against an indigent criminal defendant, see the Michigan Indigent Defense Commission Act, MCL 780.981 *et seq*?

Ms. Taylor answers: No.

The trial court answered: The trial court did not answer.

Second Question

Did the trial court in this case make adequate factual findings to support the fees imposed, see *People v Lewis*, 503 Mich 162, 168 (2018)?

Ms. Taylor answers: No.

The trial court answered: The trial court did not answer.

Third Question

Is the trial court required to hold an evidentiary hearing to assess the factual basis for the fee or the defendant's ability to pay, see *People v Jackson*, 483 Mich 271 (2009)?

Ms. Taylor answers: Yes.

The trial court answered: The trial court did not answer.

Introduction

Under the MIDCA, fully indigent people are not required to pay for their appointed lawyer. Pamela Taylor is a fully indigent person and because of her indigency, she received appointed counsel funded through the state by the MIDCA. The trial court thus had no lawful basis to charge Ms. Taylor \$1,420.00 for the cost of her appointed attorney that was already paid for by the state.

This case has implications that go beyond Ms. Taylor. The imposition of court imposed financial penalties against low-income criminal litigants have life-altering consequences, even after a sentence has been served. After release, indigent litigants are often still unable to pay their court-imposed debts, which can result in reincarceration in some cases. In other words, even after a person like Ms. Taylor has served their time for their offense, they can still be subjected to additional penalties, just for being poor.

As Judge Rick pointed out in a recent concurrence:

[A]ssessing financial obligations against indigent individuals is akin to expecting water to flow from the squeezing of a stone. The outcome is neither reasonable nor rational. To suggest that such assessments are justified because a litigant may someday receive a windfall, perhaps through a lottery win or an inheritance from a wealthy relative, is fanciful to the point of absurdity. For most impoverished defendants, the debt is not merely difficult to pay; it is impossible.

People v Weed, unpublished per curiam opinion of the Court of Appeals, issued January 16, 2026 (Docket No. 372136), p 7.

Michigan courts' current practice of charging indigent individuals for the cost of their court appointed attorney "is neither sustainable nor conscionable." *Id.* This Court should address this profoundly unjust practice.

Statement of Facts

Pamela Jean Taylor, a 63-year-old woman, has lived a life shaped by hardship, personal loss, and an ongoing struggle with addiction. Presentence Investigation Report, filed under separate cover. Up until her early 40s, Ms. Taylor had no involvement with the criminal justice system. *Id.* at p. 3. She was a devoted mother and wife who endured profound personal tragedies. In 1996, her first husband died by suicide, leaving her to raise their two children alone. Seeking stability, she remarried in 1999, but suffered another devastating loss when her second husband was killed in a car accident in 2003. *Id.* at p. 11. These losses placed immense emotional and financial strain on Ms. Taylor, which caused her to turn to drugs at the age of 42. *Id.* at p. 12. Her struggles with addiction are what ultimately led to her subsequent encounters with the justice system.

On March 31, 2024, Ms. Taylor was at a residence in Reed City when Officer Collins arrived looking for a suspect with a felony warrant. *Id.* at p. 3. During the search, officers noticed a plastic bag containing what appeared to be methamphetamine on a table in the living room. Declaring it a drug investigation, Officer Collins detained everyone present. *Id.*

Further search of the residence, including the bedroom allegedly shared by Ms. Taylor and her spouse, uncovered additional narcotics and drug paraphernalia. *Id.* Next to the methamphetamine in the bedroom, officers found Ms. Taylor's Bridge Card and wallet. *Id.* Nearby, a folder containing her medical paperwork was discovered on the floor. *Id.* Ms. Taylor was then arrested and charged. *Id.*

At a final settlement conference on August 16, 2024, Ms. Taylor appeared by Zoom rather than in person because she had trouble finding a ride to court. 8/16/24 Hearing, p. 3. At this point, the trial court revoked Ms. Taylor's bond based on her having "not been in compliance with drug testing." 8/16/24 Hearing, p. 4. The court stated that it would give Ms. Taylor until noon to appear, otherwise it would issue a bench

warrant. 8/16/24 Hearing, p. 4. Ms. Taylor was picked up and placed in jail, ahead of her August 19, 2024 plea hearing. She informed the court that she “d[id]n’t know why” it wasn’t receiving her drug test results, but admitted that it could have been because she was “relying on other people to get the results” to the court. Plea Transcript, p. 10. Ms. Taylor informed the court that from that point forward, she would send the test results in herself, she just had “to find out how” since she had never done it before. Plea Transcript, p. 10.

Ms. Taylor was initially charged with delivery/manufacture of methamphetamine and possession of methamphetamine on school or library property, as a habitual third offender. Amended Felony Information. On August 19, 2024, she pled nolo contendere to a lesser charge of possession of less than 25 grams of a controlled substance. Plea Transcript, p. 3-4, 9. In exchange for her plea, the prosecution dismissed the remaining charges and the habitual offender enhancement. Plea Transcript, p. 4. There was no sentencing agreement. Plea Transcript, p. 4. After pleading nolo contendere, Ms. Taylor was released on a personal recognizance bond pending sentencing. Plea Transcript, p. 14.

On October 25, 2024, despite a recommendation from the Michigan Department of Corrections (MDOC) for a non-custodial sentence of probation with substance abuse treatment, the trial court imposed a prison sentence of one year and one day to four years, with 33 days of credit for time served. PSIR at p. 3, Sentencing Transcript, p. 8. The court also imposed \$250 in court costs and \$1,420 in attorney’s fees. Sentencing Transcript, p. 8-9.

In sentencing Ms. Taylor, the court stated that Ms. Taylor failed to drug test the month prior, and that month she declined to drug test on one occasion saying she was “going to be positive.” Sentencing Transcript, p. 6-7. Ms. Taylor acknowledged this. Sentencing Transcript, p. 6-7. The court felt that based on this, the probation department’s recommendation was insufficient. Sentencing Transcript, p. 7.

Ms. Taylor filed an application for leave to appeal with the Court of Appeals. On May 28, 2025, the Court of Appeals denied leave in her case.

Following an application for leave to appeal in this Court, this Court ordered oral argument on the application to address:

(1) whether attorney fees can be assessed against an indigent criminal defendant, see the Michigan Indigent Defense Commission Act, MCL 780.981 et seq.;

(2) whether the trial court in this case made adequate factual findings to support the fees imposed, see *People v Lewis*, 503 Mich 162, 163, 168 (2018); and

(3) whether the trial court was required to hold an evidentiary hearing to assess the factual basis for the fee or the defendant's ability to pay. *Id.* at 168; see also *People v Jackson*, 483 Mich 271 (2009).

Arguments

- I. The Michigan Indigent Defense Commission Act (MIDCA), MCL 780.981, does not authorize the assessment of attorney fees for fully indigent individuals. Pamela Taylor is fully indigent. The trial court thus had no lawful basis to charge Ms. Taylor \$1,420.00 for the cost of her appointed attorney.**

Discussion

A. MIDCA.

The Michigan Indigent Defense Commission Act (MIDCA) funds local indigent defense systems. MCL 780.985(3). The statute directs the local systems¹ to make an indigency determination at the beginning of every case to determine whether a person is entitled to appointed counsel. MCL 780.983(h); MCL 780.991(3)(a). The system shall consider whether the defendant is indigent and the extent of his or her ability to pay, including factors such as income, employment, property, dependents, and education level. MCL 780.991(3)(a). A person is presumed to be indigent if he “earns an income less than 140% of the federal poverty guideline,” MCL 780.991 (3)(b) which was true of Ms. Taylor at the time of her arrest and arraignment.² MCL 780.991(3)(b); see also PSIR. It is undisputed that Ms. Taylor was indigent.³

¹ Under the MIDCA, each county must identify a “individual or office selected by the local funding unit that determines indigency and approves requests for counsel and/or requests for experts and investigators.” (Appendix A - MIDC, *Standards, Definitions, Appointing Authority*, p 13).

² The federal poverty guideline for a one-person household in 2022 was an annual income of \$13,590.00. See <https://www.thebalancemoney.com/federal-poverty-level-definition-guidelines-chart-3305843>

³ She was represented by appointed counsel at her plea and sentencing and submitted an affidavit of indigency when requesting appointed

The MIDCA creates a distinction between indigency and *partial* indigency. The MIDCA does not authorize the assessment of attorney fees for a fully indigent defendant. Rather, the Act provides that, “if a person is not presumed to be fully indigent, the system must conduct “a more rigorous screening process.” MCL 780.991(3)(c). This screening process may result in a finding of partial indigency. If an indigent criminal defense system determines that a defendant is *partially* indigent, the indigent criminal defense system shall determine the amount of money the defendant must contribute to his or her defense.” MCL 780.991(3)(a) (emphasis added).

The Act also provides that the Michigan Indigent Defense Commission shall promulgate objective standards for determining “the amount a *partially* indigent defendant must contribute to his or her defense,” but makes no such provision for fully indigent people. MCL 780.991(3)(f)(emphasis added). “A determination that a defendant is partially indigent *may only be made* if the indigent criminal defense system determines that a defendant *is not fully indigent*.” MCL 780.991(3)(d) (emphasis added). The MIDCA contains no similar provision permitting a court to assess attorney fees for a fully indigent defendant like Ms. Taylor.

Consistent with the statute, the Michigan Department of Licensing and Regulatory Affairs’ standards provide that the indigent defense system cannot require a fully indigent person to contribute to the cost of their defense. (Appendix A- MIDC, *Standards, Definitions, “Appointing Authority*, pg 16). Additionally, an “appointing authority cannot require a partially indigent defendant” to pay attorney fees “if doing so would cause [a] defendant a substantial financial hardship.” Thus, the indigent defense system could not require Ms. Taylor to contribute to the cost of her defense.

appellate counsel. See Notice of Right to Appellate Review and Request for Appointment of Attorney (Appendix B).

B. MIDCA and MCL 769.1k(1)(b)(iv).

MCL 769.1k(1)(b)(iv) must be read in harmony with the MIDCA. Both statutes deal with compensation for appointed lawyers. See *People v Sedgeman*, unpublished per curiam opinion of the Court of Appeals issued November 3, 2022 (Docket No. 356351), p 7 n 3. See also *People v Mazur*, 497 Mich 302, 313 (2015) (“statutes that relate to the same subject or that share a common purpose should, if possible, be read together to create a harmonious body of law”). As the Court of Appeals has observed: “While not explicit, it should be obvious that reading the MIDCA *in pari materia* with MCL 769.1k(1)(b)(iv), as we are required to do, ... that when an indigent criminal defense system determines a litigant is totally indigent, *neither the system nor the trial court ought to include an assessment of attorney’s fees.*” *Sedgeman, supra*, at 9 n 3 (emphasis added).

Because the MIDCA distinguishes between fully and partially indigent defendants and authorizes indigent defense systems to assess attorney fees only to those who are partially indigent, a court cannot assess attorney fees under MCL 769.1k(1)(b)(iv) for a fully indigent defendant. As referenced above, before a person can be required to pay the cost of appointed counsel, “a more rigorous screening process” must occur. MCL 780.991(3)(c). Such a process did not occur here because the indigent defense system correctly determined that Ms. Taylor was fully indigent.

The People argue in their brief that the trial court “had the authority to impose attorney fees” and “authority to determine indigency[,]” “both of which it did.” People’s Supplemental Brief, pg 13. The People’s analysis fails to address the specific question posed by this Court, which was whether a trial court can assess attorney fees against an indigent person as it relates to MCL 780.981. Here, where the trial court determined Ms. Taylor was indigent, the court was precluded by statute from assessing attorney fees.

The status of Ms. Taylor’s indigency is not in dispute. The People concede as much in their brief. *Id.* at 13. Thus, the relevant inquiry here

is whether her indigency precluded the trial court from assessing attorney fees, where the MIDCA does not authorize the assessment of attorney fees for fully indigent individuals like Ms. Taylor. While the People’s brief references the trial court’s authority to impose attorney fees as set forth in MCL 769.1k(1)(b)(iv), there is no discussion of this statute as it relates to the MIDCA, which provides that when an indigent criminal defense system determines a litigant is totally indigent, “*neither the system nor the trial court ought to include an assessment of attorney’s fees.*” *Sedgeman*, supra, at 9 n 3 (emphasis added).

Because of Ms. Taylor’s indigency, she received appointed counsel funded by the state, through the MIDCA. Thus, the trial court had no lawful basis to charge Ms. Taylor for the cost of her appointed attorney, which was paid for by the state⁴. This Court must vacate the attorney fees.

II. Before a trial court can impose attorney fees it must make factual findings to support the fees imposed under *People v Lewis*, 503 Mich 162 (2018). The trial court imposed attorney fees on Ms. Taylor without making any factual findings.

Discussion

Before a trial court imposes attorney fees under MCL 769.1k(1)(b)(iv), the court is “required to determine the cost of providing legal assistance” for that particular person. *People v Lewis*, 503 Mich

⁴ In a recent unpublished opinion, *People v Blank*, unpublished opinion of the Court of Appeals, issued January 28, 2025 (Docket No. 368474), the Court of Appeals acknowledged the issue of a “double recovery”, stating that “this case exposes a potential conflict between the traditional statutory framework for assessing attorney fees, MCL 769.1k, and the MIDCA, MCL 780.981 et seq. As *Blank* argues, if these two statutes are not reconciled, they pose the potential for a trial court to collect attorney fees that a defendant does not owe because the MIDCA appointing authority or funding unit has already paid for them. This might result in a windfall to the trial court or a double recovery.

162, 168 (2018). The court must evaluate: (1) the cost of providing legal assistance under the circumstances of the particular case, (2) whether the cost of legal representation was already reimbursed under the Michigan Indigent Defense Commission Act, and (3) the effect of the court's indigency determination on the defendant's ability to pay. See *Sedgeman, supra*, at 9.

Here, as the People concede in their response, attorney fees were imposed in Ms. Taylor's case without the trial court making any factual findings. See People's Supplemental Brief, p 19.

A recent unpublished opinion suggests that a trial court's factual findings on this issue need not be extensive. See *People v Williams*, unpublished per curiam opinion of the Court of Appeals, issued April 11, 2024 (Docket No. 362305), p. 8. 3.

In *Williams*, an indigent defendant filed a postconviction motion challenging the trial court's assessment of \$2,000 in attorney fees. *Id.* at 6. The trial court stated that, because the defendant's trial attorneys never submitted an invoice for their estimated fees, the court “‘picked a rate that [it] felt was representatively fair.’” *Id.* at 7. Despite estimating that defense counsel probably earned “‘\$15,000 to \$20,000’” during the defendant's six-day trial, the trial court assessed the defendant \$2,000 in attorney fees. *Id.* The Court of Appeals concluded that the trial court's explanation was adequate, stating that although it was “minimal,” it was still “sufficient.” *Id.* at 8.

In another more recent unpublished per curiam opinion of the Court of Appeals, *People v Moore*, ___ Mich App ___ (2025) (Docket No. 371556), when imposing attorney fees on the accused in that case, the trial court explained that the attorney fees covered meetings, court appearances, plea negotiations, and motion practice, and opined that \$400 was “substantially less” than the actual costs incurred, considering defendant “also had bond and tether hearings and attempted to withdraw her no contest plea.” *Id.*

By contrast, in *Lewis*, the trial court did not make *any* findings regarding the cost of providing legal fees to that defendant. *Lewis*, 503 Mich. at 164-165. Like *Lewis*, here there was no discussion at all regarding the imposition of Ms. Taylor's attorney fees at sentencing. The only mention of the assessment of attorney fees comes on pages 8 and 9 of a 9-page sentencing transcript, where the sentencing judge merely stated what Ms. Taylor's financial obligations would be. ST at 8-9. Therefore, the trial court in this case did not make *any* findings, let alone adequate factual findings to support the fees imposed in this case.

Again, for the reasons argued in section I, no attorney fees should have been imposed. However, if this court disagrees, it must vacate the imposition of attorney fees and remand the case to the trial court to hold an evidentiary hearing to find the necessary facts. See *Lewis*, 503 Mich. at 168 (remanding for evidentiary hearing on the cost of assistance provided to defendant).

III. Enforcement against Ms. Taylor for payment of attorney fees has commenced. She is therefore entitled to an evidentiary hearing where the trial court must assess her ability to pay. See *People v Jackson*, 483 Mich 271 (2009).

Discussion

For the reasons discussed in Issues I and II, the attorney fees assessed to Ms. Taylor must be vacated. If this Court disagrees, Ms. Taylor is nevertheless entitled to a hearing on her (in)ability to pay, where the trial court must consider Ms. Taylor's financial circumstances. Given that attorneys fees are already being enforced in this case, see Appendix C - Order to Remit, Ms. Taylor is entitled to challenge the assessment of attorney's fees based on a lack of "ability to pay" them. For imposition of appointed attorney fees against a criminal defendant to comport with due process, that defendant must be afforded an indigency hearing. *People v Jackson*, 483 Mich 271, 292 (2009). However, this Supreme Court has held that defendants are not entitled to bring "ability-to-pay-based challenges to the imposition of fees until enforcement of that imposition has begun." *Id.* In other words, under

Jackson, a person's challenge to the assessment of attorney fees is not ripe until enforcement has commenced.

Ms. Taylor's challenge to the assessment of her attorney fees is ripe: the trial court entered its Order to Remit on October 25, 2024, to collect these funds. (Appendix C – Order to Remit Prisoner Funds). Thus, Ms. Taylor is entitled to an ability-to-pay hearing, where the court must consider Ms. Taylor's financial circumstances.

The People agree that an evidentiary hearing is necessary to determine one's ability to pay once the imposition of the fee is enforced. See People's Supplemental Brief, p 21. However, they argue that remittance orders of prisoner's fund "generally obviate the need for an ability to pay assessment" because MCL 769.11 creates a statutory presumption of non-indigency for prisoners. *Jackson*, 438 Mich at 295. This portion of *Jackson* is superseded by statute. Per MCL 780.991(3)(b), a person is presumed to have a substantial financial hardship while serving a sentence in a correctional institution. However, this Court need not reach this issue, since Ms. Taylor is no longer incarcerated.

Ms. Taylor was sentenced to a minimum of one year and one day in prison on October 25, 2024, with credit for 33 days. ST at 8. She was released on September 23, 2025, so *Jackson's* presumption of non-indigency no longer applies to Ms. Taylor. Moreover, given Ms. Taylor's complete indigency as supported by the record, a hearing to assess her ability to pay the unlawfully-imposed attorney fees is not warranted under the circumstances.

However, if this Court disagrees, Ms. Taylor is entitled to an ability to pay hearing where the trial court must consider Ms. Taylor's indigency and whether repayment would cause a manifest hardship. *Id* at 292.

Conclusion and Relief Requested

For the reasons stated above, Ms. Taylor respectfully requests that this Honorable Court reverse and remand with instructions to vacate attorney fees.

Respectfully submitted,

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Certificate of Compliance

I hereby certify that this application contains
3320 countable words.

Date: August 19, 2026