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DISTRICT IV

February 20, 2017

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You are hereby notified that the Court has entered the following opinion and order:

2016AP743-CR

State of Wisconsin v. Charles Andrew Slaght, III (L.C. # 2015CF1)

Before Lundsten, Sherman, and Blanchard, JJ.

A jury found Charles Andrew Slaght, III, guilty of possession of a narcotic drug. When sentencing Slaght, the circuit court ordered that Slaght pay the cost of a psychological examination of Slaght performed after he pled not guilty by reason of mental disease or defect. The only issue on appeal is the correctness of that order. Based upon our review of the briefs

and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).¹ We affirm.

After his initial not guilty plea, Slaght sought to enter a not guilty plea by reason of mental disease or defect (NGI). The circuit court appointed an expert to perform a psychological examination pursuant to WIS. STAT. § 971.16(2). The court advised Slaght that the cost of the examination may be assessed against him. The examination was conducted, and after review of the report, Slaght withdrew his NGI plea. A jury found Slaght guilty. As part of his sentence, Slaght was ordered to pay the cost of the psychological examination. Slaght's postconviction motion to vacate the ordered cost was denied.

This appeal involves the interplay of two statutes: WIS. STAT. §§ 971.16(2) and 973.06(1). The former concerns the appointment and compensation of experts when a defendant enters an NGI plea and the latter is the statute enumerating what costs may be taxed against a convicted defendant. Slaght argues that the statutes are ambiguous and conflict. More specifically, Slaght argues that permitting the taxation of the expert's fee as an item of costs under § 973.06(1)(c) renders § 971.16(2) meaningless. We see no ambiguity in either statute and no conflict between them.

WISCONSIN STAT. § 971.16(2) authorizes the court to appoint an expert to examine a defendant who has entered an NGI plea. The statute further provides that the cost of that examination shall be "paid by the county upon the order of the court as part of the costs of the

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

action.” No part of that statute is ambiguous. The court appoints the expert and the county pays the expert’s fee. The county’s payment is deemed “part of the costs of the action.”

WISCONSIN STAT. § 973.06(1) address what costs, fees or surcharges may be taxed against a defendant upon conviction. Subsection (1)(c) identifies “[f]ees and disbursements allowed by the court to expert witnesses.” The statute authorizes a court to tax the “fixed charge for a professional service rendered by an expert,” so long as the expert is not employed by the state. *State v. Ferguson*, 202 Wis. 2d 233, 241, 549 N.W.2d 718 (1996). That statute is also not ambiguous.

The statutes do not conflict. Under WIS. STAT. § 971.16(2), the initial cost of the expert is borne by the county. Then, under WIS. STAT. § 973.06(1)(c), the cost of the expert is passed on to the defendant as an item of costs taxed upon conviction. No part of either statute conflicts with the other. Slaght’s argument is meritless.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order are summarily affirmed.

Diane M. Fremgen
Clerk of Court of Appeals