

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD STETSON CURTIS,

Defendant-Appellant.

UNPUBLISHED

July 25, 2006

No. 260404

Washtenaw Circuit Court

LC No. 98-010160-FH

Before: Neff, P.J., and Bandstra and Zahra, JJ.

MEMORANDUM.

Defendant pleaded guilty to uttering and publishing, MCL 750.249. In addition to sentencing defendant to serve forty-eight months' to fourteen years' imprisonment for this offense, the trial court recommended that defendant pay \$1,280 in costs, and \$500 toward his attorney fees, as conditions of parole. Defendant appeals by delayed leave granted, challenging only those assessments. We affirm the provision for attorney fees, but remand for clarification concerning the costs. We decide this appeal is without oral argument pursuant to MCR 7.214(E).

A trial court may require a convicted defendant to pay costs only to the extent authorized by statute or court rule. *People v Jones*, 182 Mich App 125, 126-127; 451 NW2d 525 (1989) (citations omitted). We review an award of costs and fees for an abuse of discretion. *In re Condemnation of Private Property for Highway Purposes (Dep't of Transportation v Curis)*, 221 Mich App 136, 139-140; 561 NW2d 459 (1997). However, a defendant pressing an unpreserved claim of error must show a plain error that affected substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

The statute criminalizing uttering and publishing does not itself authorize an award of costs. Plaintiff posits that the \$1,280 in costs may relate to forfeiture of defendant's bail bond upon his initial failure to appear for sentencing, see MCL 780.66, or to parole supervision, see MCL 780.766a, but admits that the record indicates neither the bases for the costs, nor who is to recover them. Plaintiff accordingly recommends that this Court remand this case to the trial court for clarification in this regard. We accept plaintiff's suggestion. On remand, the trial court should articulate the factual and legal bases for the costs assessed.

That a court may order a criminal defendant to provide partial reimbursement for the costs of his or her defense is not in doubt, however. MCR 6.005(C). See also *People v Nowicki*, 213 Mich App 383, 387; 539 NW2d 590 (1995). Defendant nowhere suggests that his own plea-

based conviction was tainted by the specter of his having to bear some of the costs of his defense. See *People v Washburn*, 66 Mich App 622, 623-624; 239 NW2d 430 (1976). Instead, defendant simply asks this Court to vacate the provision for attorney fees, or to remand for a hearing on his ability to pay. But defendant cites no authority for the proposition that the constitutional guarantee of effective assistance of counsel extends beyond criminal proceedings and punishments and obligates counsel to defend against a criminal defendant's assuming responsibility for part of his legal expenses.

Defendant nowhere suggests that his case did not generate legal expenses of at least \$500. Because the guarantee of effective assistance of counsel does not extend to shielding criminal defendants from assuming responsibility for legitimate debts actually incurred, we reject this claim of error.

Affirmed in part, and remanded in part. We do not retain jurisdiction.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra