November 16, 1993

OPINION NO. 93-041

The Honorable William R. Swigart
Fulton County Prosecuting Attorney
123 Courthouse Plaza
Wauseon, Ohio 43567

Dear Prosecutor Swigart:

You have requested an opinion regarding the assessment of fees by a county court. Specifically, you have asked:

> Pursuant to O.R.C. §1907.261(B)(1), may a county court include in its schedule of fees and costs under O.R.C. §1907.24 an additional fee not to exceed $10.00 on the filing of each traffic complaint to raise additional funds to procure and maintain computer systems for the office of the Clerk of the County Court?

Information provided in your letter of request states that the Ohio Uniform Traffic Ticket serves as the complaint in the prosecution of traffic offenses in the county court. Traf. R. 3. This opinion, accordingly, addresses the imposition of the additional fee authorized by R.C. 1907.261(B)(1) in proceedings that are commenced in a county court by the filing of a completed Ohio Uniform Traffic Ticket.

R.C. 1907.261

R.C. 1907.261(B)(1) authorizes the funding of the computerization of county courts:

> A county court may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court and, upon that determination, may include in its schedule of fees and costs under section 1907.24 of the Revised Code an additional fee not to exceed ten dollars *on the filing of each cause of action or appeal,* on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment *that is equivalent to one described in division (A),* (P), (Q), (T), or (U) *of section 2303.20 of the Revised Code.* (Emphasis added.)

R.C. 1907.261(B)(1) explicitly empowers a county court to include in its schedule of fees and costs an

additional fee not to exceed ten dollars on the filing of each cause of action that is equivalent to one described in R.C. 2303.20(A), (P), (Q), (T), or (U). Thus, if the filing of an Ohio Uniform Traffic Ticket with a county court constitutes the filing of a cause of action that is equivalent to one described in R.C. 2303.20(A), (P), (Q), (T), or (U), a county court may include in its schedule of fees and costs an additional fee on the filing of each Ohio Uniform Traffic Ticket.

R.C. 2303.20

R.C. 2303.20 establishes the fees authorized to be charged by the clerk of the court of common pleas. This section provides, in part:

> The clerk of the court of common pleas shall charge the following fees and no more:
> (A) Twenty-five dollars *for each cause of action* which shall include the following:
> (1) Docketing in all dockets;
> (2) Filing necessary documents, noting the filing of the documents, except subpoena, on the dockets;
> (3) Issuing certificate of deposit in foreign writs;
> (4) Indexing pending suits and living judgments;
> (5) Noting on appearance docket all papers mailed;
> (6) Certificate for attorney's fees;
> (7) Certificate for stenographer's fee;
> (8) Preparing cost bill;
> (9) Entering on indictment any plea;
> (10) Entering costs on docket and cash book. (Emphasis added.)

Division (A) of R.C. 2303.20 specifically authorizes a clerk of the court of common pleas to charge a twenty-five dollar fee in connection with the filing of a cause of action.

"Cause of Action" Defined

For the reasons that follow, the phrase "cause of action," as used in R.C. 2303.20(A), includes any proceeding brought to prosecute an individual for the commission of a public offense. First, insofar as the twenty-five dollar fee charged pursuant to R.C. 2303.20(A) includes, *inter alia,* "[e]ntering on indictment any plea," it is clear that the General Assembly intended the phrase "cause of action," as used in R.C. 2303.20(A), to include the prosecution of criminal offenses. *See generally* R. Crim. P. 7(A) (indictments are used to prosecute felonies and misdemeanors). Second, the case law of Ohio indicates that the term "cause of action" includes any proceeding brought to prosecute an individual for a violation of the laws of this state. As stated by the Ohio Supreme Court, the phrase "cause of action is the matter for which an *action* may be brought, and embraces the facts which it is necessary to establish in order to sustain a claim for judicial relief." *Tinker v. Sauer,* 105 Ohio St. 135, 136 N.E. 854 (1922) (syllabus, paragraph one) (emphasis added). The term "action," in turn, is defined to include any proceeding brought to prosecute an individual for the commission of a public offense, which includes criminal proceedings. *See Missionary Soc'y of the M. E. Church v. Ely,* 56 Ohio St. 405, 407, 47 N.E. 537, 538 (1897) ("any ordinary proceedings in a court of justice, by which a party

prosecutes another for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense, involving the process and pleadings, and ending in a judgment, is an action"); *see also Caha v. United States,* 152 U.S. 211, 214 (1894) ("the word _actions_ may include both civil and criminal proceedings"); R.C. 2307.01 ("[a]n action is an ordinary proceeding in a court of justice, involving process, pleadings, and ending in a judgment or decree, by which a party prosecutes another for ... the punishment of a public offense"). Because phrases that have acquired a particular meaning must be construed accordingly, R.C. 1.42, the use of the phrase "cause of action" in R.C. 2303.20(A) indicates that the clerk of the court of common pleas is required to charge twenty-five dollars in any prosecution of an individual for the commission of a public offense. The term "cause of action," as used in R.C. 2303.20(A), thus includes both civil and criminal proceedings.

A Traffic Case Is a Proceeding Brought to Prosecute an Individual for the Commission of a Public Offense

Your specific question concerns proceedings that are commenced in a county court by the filing of an Ohio Uniform Traffic Ticket. Pursuant to Traf. R. 3(A), "[i]n *traffic cases* the complaint and summons shall be the _Ohio Uniform Traffic Ticket._" (Emphasis added.) For purposes of the Ohio Traffic Rules,

> "[t]raffic case" means *all proceedings involving violations of laws, ordinances and regulations* governing the operation and use of vehicles, conduct of pedestrians in relation thereto, and governing weight, dimension, loads or equipment or vehicles drawn or moved on highways and bridges. (Emphasis added.)

Traf. R. 2.

Thus, a traffic case is a proceeding brought to prosecute an individual for the violation of a statute. Because the filing of an Ohio Uniform Traffic Ticket constitutes the filing of a proceeding to prosecute an individual for the violation of a statute, the filing of such a ticket with a county court constitutes the "filing of [a] cause of action ... that is equivalent to one described in [R.C. 2303.20(A)]" within the meaning of R.C. 1907.261(B)(1). Therefore, a county court may include in its schedule of fees and costs an additional fee not to exceed ten dollars on the filing of each such traffic complaint.

Conclusion

Based on the foregoing, it is my opinion, and you are hereby advised, that pursuant to R.C. 1907.261(B)(1), a county court may include in its schedule of fees and costs an additional fee not to exceed ten dollars on the filing of each complaint in the form of an Ohio Uniform Traffic Ticket.

Respectfully,

LEE FISHER

Attorney General

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SYLLABUS: 93-041

Pursuant to R.C. 1907.261(B)(1), a county court may include in its schedule of fees and costs an additional fee not to exceed ten dollars on the filing of each complaint in the form of an Ohio Uniform Traffic Ticket.