

**IN THE COURT OF APPEALS OF IOWA**

No. 1-802 / 10-1156  
Filed December 21, 2011

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**JOHN ANTHONY BOGDAN,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Pottawattamie County, Jeffrey L. Larson, Judge.

John Anthony Bogdan appeals the district court's denial of his motion challenging the sheriff's claim for reimbursement for the costs of room and board while in county jail. **AFFIRMED.**

John Anthony Bogdan, Council Bluffs, appellant pro se.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney General, Matthew D. Wilber, County Attorney, and Leanne Gifford, Assistant County Attorney, for appellee.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

**MULLINS, J.**

John Anthony Bogdan appeals the district court's order denying his challenge to the sheriff's notice of claim for reimbursement under Iowa Code section 356.7 (2009). We affirm.

On February 4, 2010, Bogdan was arrested and booked into the Pottawattamie County Jail for the municipal simple misdemeanor offenses of fifth-degree theft and eluding. Shortly after being booked, Bogdan bonded out of jail. Bogdan was subsequently found guilty of the two offenses after a bench trial held March 9, 2010. Bogdan was sentenced to time served and court costs.

The Pottawattamie County Sheriff through the County Attorney subsequently filed an application for reimbursement in the district court. See Iowa Code § 356.7(2). The application sought fifty dollars for one day of room and board in the county jail, and requested the claim be included as a part of a restitution plan. *Id.* § 356.7(2)(f), (i). On March 29, 2010, the district court approved the application after finding fifty dollars to be a fair and reasonable amount. *Id.* § 356.7(3).

On April 23, 2010, Bogdan filed a motion in resistance to the sheriff's claim for reimbursement. Bogdan's motion was heard before the district court on June 1, 2010. Following the hearing, the district court entered an order denying Bogdan's resistance.

Bogdan appeals. He argues the reimbursement order violates the federal constitutional clauses pertaining to due process, equal protection, excessive

fines, and involuntary servitude.<sup>1</sup> See U.S. Const. amends. V, VIII, XIII, XIV. He further argues the reimbursement order was impermissible double taxation. We review his constitutional claims de novo. *State v. Dudley*, 766 N.W.2d 606, 612 (Iowa 2009).

Bogdan first asserts the language “the court shall approve the claim in favor of the sheriff” under section 356.7(3) violates his due process and equal protection rights. In *State v. Abrahamson*, 696 N.W.2d 589, 592 (Iowa 2005), our supreme court addressed this exact due process argument. The court determined:

[T]his language does not mean that the court must rubber-stamp a claim. That is so because, despite the lack of an express provision for judicial scrutiny, we have “inherent discretionary authority to review any order . . . for substantive, as well as procedural, irregularity, and to set the matter for hearing where necessary.”

*Abrahamson*, 696 N.W.2d at 592 (quoting *State ex rel. Allee v. Gocha*, 555 N.W.2d 683, 686 (Iowa 1996)). Accordingly, the supreme court held that the “shall approve” language was a “grant of authority to the court to resolve the merits of the claim-not a mandate that it simply sign the order as a ministerial function.” *Id.* at 593.

Here, the court entered an order finding fifty dollars to be a fair and reasonable amount. In addition, when Bogdan filed his challenge to the reimbursement order, the court held a hearing on his claims. Bogdan’s due process rights were not violated.

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<sup>1</sup> Bogdan only cites and argues the United States Constitution. He did not raise the Iowa Constitution to the district court or on appeal. Accordingly, we will only proceed under the United States Constitution. See *State v. Griffin*, 691 N.W.2d 734, 736 (Iowa 2005); *State v. Wilkins*, 687 N.W.2d 263, 265 (Iowa 2004).

We also reject Bogdan's assertion that the statute violates his constitutional right of equal protection under the law. The class of convicted persons is a legitimate classification upon which to impose reimbursement in view of the fact that it is this class that causes public bodies to incur the additional financial burden. *See Ilkanic v. City of Fort Lauderdale*, 705 So. 2d 1371, 1373 (Fla. 1998).

Bogdan next asserts that charging him for room and board amounted to an "excessive fine" under the Eighth Amendment to the United States Constitution. Although one may question whether a claim for reimbursement is a "fine" such to fall within the Excessive Fines Clause, *see State v. Izzolena*, 609 N.W.2d 541, 549 (Iowa 2000) ("The idea [for the Excessive Fines Clause] was to limit government power to punish an individual, not necessarily limit its power to raise revenue."), we need not address this issue. Even if we assume reimbursement is a "fine," the fine must still be excessive. *Id.* The test to determine whether a fine is excessive is whether the penalty is "grossly disproportional to the gravity of the defendant's offense." *Id.* (quoting *United States v. Bajakajian*, 524 U.S. 321, 337, 118 S.Ct. 2028, 2038, 141 L.ed.2d 314, 331 (1998)). We do not find fifty dollars to be grossly disproportional in the particular circumstances of this case.

Bogdan also asserts the reimbursement order results in him becoming an involuntary servant of the State. However, no issue of involuntary servitude arises when a person is duly tried, convicted, sentenced, and imprisoned for a crime according to the law. 45 Am. Jur. 2d *Involuntary Servitude* § 8, at 543-44

(2007). Bogdan was convicted of two misdemeanor offenses, and the county followed the proper procedures for obtaining reimbursement for his room and board while in the county jail. The fifty dollars reimbursement order does not result in Bogdan becoming an involuntary servant of the State.

Bogdan's final claim is that because he pays his taxes to support the government and its jails, the reimbursement order is impermissible double taxation. The purpose of the reimbursement statute is to hold persons convicted of crimes accountable for the costs incurred by the taxpayers in housing prisoners during jail stays. *State v. Jackson*, 601 N.W.2d 354, 356 (Iowa 1999). The statute is simply not impermissible double taxation. Bogdan is charged under the reimbursement statute his share of his jail stay. He is then taxed along with the rest of the citizens of the State to pay for any inmates that are unable to pay reimbursement for their stays. See generally S.P. Conboy, *Prison Reimbursement Statutes: The Trend Toward Requiring Inmates to Pay their Own Way*, 44 Drake L. Rev. 325, 327 (1996).

Because we find Bogdan's constitutional claims fail, we affirm the district court's reimbursement order of fifty dollars.

**AFFIRMED.**