

No. 1-08-3154

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 07 CR 14940
)	
ALVIN SMITH,)	Honorable
)	Sharon M. Sullivan,
Defendant-Appellant.)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.
Presiding Justice Epstein and Justice Howse concurred in the judgment.

S U M M A R Y O R D E R

¶ 1 Following a bench trial, defendant Alvin Smith was convicted of delivery of a controlled substance within 1,000 feet of a school. Defendant was sentenced to seven years in prison and assessed various fines and fees. On appeal, defendant challenges several of those assessments.

¶ 2 Defendant first contends the trial court erred in charging \$10 for the Arrestee's Medical Costs Fund (730 ILCS 125/17 (West 2006)) because there was no evidence he received medical treatment after his arrest. The Illinois Supreme Court has held this fund is not designed to cover the medical expenses of an individual defendant but, rather, is intended to be used for the benefit

of all arrestees. *People v. Jackson*, 2011 IL 110615, ¶ 24. Therefore, the imposition of the \$10 Arrestee's Medical Costs Fund fee is affirmed. Furthermore, defendant is not entitled to apply credit earned for each day spent in custody before sentencing to the amount of this fee because the statute that creates the fee expressly forbids such a reduction. See 730 ILCS 125/17 (West 2006).

¶ 3 Defendant next asserts, and the State correctly concedes, that the \$5 Court System fee (55 ILCS 5/5-1101(a) (West 2006)) should be vacated because defendant was not charged with or convicted of a violation of the Illinois Vehicle Code or similar county or municipal ordinance. See *People v. Willis*, 409 Ill. App. 3d 804, 818 (2011). Defendant also asserts, and the State correctly concedes, that he was erroneously assessed the \$30 Children's Advocacy Center fine (55 ILCS 5/5-1101(f-5) (West 2008)) because the statutory provision authorizing the fine was not in effect on July 3, 2007, when defendant committed this offense. Therefore, those charges are vacated.

¶ 4 Lastly, defendant contends the trial court erred by failing to apply credit for time spent in custody prior to sentencing toward the \$10 Mental Health Court assessment (55 ILCS 5/5-1101(d-5) (West 2006)). A defendant is entitled to a \$5 credit for each day spent in custody before sentencing to be applied to any fines imposed upon conviction. 725 ILCS 5/110-14(a) (West 2006). The supreme court has held the Mental Health Court assessment, though labeled a fee, is actually a fine because it is not intended to reimburse the State for costs incurred in prosecution but instead may be viewed as a criminal penalty or form of punishment. *People v. Graves*, 235 Ill. 2d 244, 255 (2009). Because this charge is a fine, defendant is entitled to have the \$10 Mental Health fine offset by his presentencing credit.

¶ 5 In conclusion, we vacate the \$5 Court System fee and the \$30 Children's Advocacy Center fine. We also order the clerk of the circuit court of Cook County to apply \$10 of

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defendant's remaining presentencing credit toward the Mental Health Court fine. The trial court's judgment is affirmed in all other respects. This order is entered pursuant to Supreme Court Rules 23(c)(2), (4) (eff. Jan. 1, 2011).

¶ 6 Affirmed in part and vacated in part.