

No. 1-10-1827

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit
)	Court of Cook County.
Plaintiff-Appellee,)	
)	
v.)	No. 09 CR 10636
)	
CHANDRA CRITTENDEN,)	Honorable
)	Stanley J. Sacks,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Karnezis and Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* The defendant's conviction is affirmed, and the amount of the fines imposed against her is modified to \$631, reflecting a reduction of \$4.

¶ 2 Following a jury trial, the defendant, Chandra Crittenden, was convicted of aggravated unlawful use of a weapon (720 ILCS 5/24-1.6(a)(1), (a)(3) (West 2008)). The trial court sentenced her to serve two years' probation and ordered her to pay \$635 in fines, fees and costs. On appeal, the defendant claims that (1) her conviction must be reversed because the trial court erred in denying her motion to quash her arrest and to suppress evidence that was essential to her conviction, (2) this court should review impounded, confidential reports of complaints against the two arresting officers,

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which the trial court considered *in camera* and found were not relevant to the issues at trial, (3) the unlawful use of a weapon statute is unconstitutional, and (4) the order imposing fines and fees must be modified because the trial court improperly ordered her to pay \$20 to the Violent Crime Victims Assistance Fund (725 ILCS 240/10 (c)(2) (West 2008)). For the reasons that follow, we affirm the defendant's conviction and reduce the amount of the fines imposed against the defendant by \$4.

¶ 3 The record reveals that the defendant was arrested on May 27, 2009, when she was found in possession of a firearm. Subsequent to her arrest, she was charged by information with aggravated assault of a police officer with a firearm and aggravated unlawful use of a weapon (720 ILCS 5/12-2(a)(6), 24-1.6(a)(1), (a)(3) (West 2008)). Prior to trial, defense counsel subpoenaed the Chicago police department's Office of Professional Standards (OPS), requesting the disclosure of reports and complaints regarding the two police officers involved in the defendant's arrest. The OPS sent a protective order to defense counsel and produced the records to the trial court, allowing an *in camera* inspection of the records by the trial judge to determine whether any information contained in the documents was relevant to the case. After reviewing the documents, the trial judge found that they were "totally unrelated for any use possible in this case" and that none of the situations described in the documents involved excessive force or illegal arrest. Accordingly, the court ruled that the OPS records were not subject to discovery by the defendant.

¶ 4 At trial, Chicago police officers Kyle Mingari and Ted Jozefczak testified to the following facts. On the evening of May 27, 2009, they were patrolling in the vicinity of 5248 West Chicago Avenue, an area in which they had personally made numerous drug and gun arrests. They were driving an unmarked maroon Ford Crown Victoria with municipal license plates, and emergency

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light bars on the front, rear, and rear side windows of the vehicle. Officer Jozefczak was driving, and Officer Mingari was in the front passenger seat. They were dressed in civilian clothing and had their police badges visibly displayed on chains worn around their necks. At approximately 11:30 p.m., they were traveling westbound on Chicago Avenue and saw the defendant standing on the sidewalk in front of a restaurant. Because the defendant appeared to be "loitering" in an area in which the officers had previously made numerous arrests for narcotics and weapons violations, they decided to conduct a field interview "to see what was going on and why she was there." Officer Jozefczak stopped the car near the place where the defendant was standing, and Officer Mingari rolled down his window and asked her name and where she lived. The defendant did not respond to this question, but she looked east and west and then turned and ran eastbound down Chicago Avenue, while holding her hand to the side of her waistband as she ran.

¶ 5 Officer Mingari exited the vehicle and pursued the defendant on foot, while Officer Jozefczak put the car in reverse and drove east toward the intersection of Chicago and Latrobe Avenues. When the defendant reached the intersection, she turned left, ran north on Latrobe, and then turned left into an alley. Officer Mingari was approximately 15 feet behind the defendant, and identified himself as a police officer as he pursued her. Officer Jozefczak followed them in the police vehicle and turned north onto Latrobe and then west into the alley, where he got out of the car. Officer Mingari again announced his office, but the defendant continued running down the alley until she reached a gate at the rear of the residential building located at 5248 West Chicago Avenue. As she pulled the gate open and proceeded through it, Officer Mingari caught up to her, pushed her to the ground, and then fell on top of her. He then stood up, pulled the defendant up from the

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ground, and grabbed her by the shoulder in order to turn her around so that she was facing him. As the defendant turned around, Officer Mingari saw that she was holding a chrome handgun and was pointing it at his chest. He then punched her in the head with his closed fist, causing her head to hit the fence behind her. The gun fell to the ground, and Officer Mingari yelled "gun" to inform Officer Jozefczak of the weapon, which Officer Mingari recovered as Officer Jozefczak put the defendant in handcuffs. Officer Mingari examined the gun and found that it was loaded with five rounds in the magazine, with one round in the chamber.

¶ 6 According to the police officers, as they escorted the defendant to the police vehicle, she looked up at the windows of the apartment building and yelled, "come down here and get your f***ing gun." After placing her in the rear seat of their car, Officer Mingari informed her of her *Miranda* rights, which she stated she understood. She then told them that she had been holding the gun for her boyfriend and that she ran from them because she knew that holding the gun was illegal.

¶ 7 Upon the conclusion of the officers' testimony, the defendant moved to quash her arrest and suppress the evidence pertaining to the gun. In support of this motion, the defendant's attorney argued that, when the officers approached the defendant to question her, there was nothing to indicate that she had done anything illegal and that, at the time Officer Mingari tackled her to the ground, there was no probable cause for arrest because the police officers had not yet seen the gun. The trial court denied the defendant's motion, finding that the defendant's attempt to flee when the officers approached her to conduct a field interview was sufficient to raise a reasonable suspicion that she had been involved in illegal conduct and justified an investigatory stop.

¶ 8 When the prosecution resumed its case, Assistant State's Attorney (ASA) Kathleen Kain

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testified that she interviewed the defendant during the early morning hours after her arrest and that the defendant made a custodial statement in which she admitted that she was holding the gun for her boyfriend. During that statement, the defendant said that she had received a telephone call from her boyfriend, Tyrone, who told her to go to the sidewalk outside the apartment building at 5248 West Chicago Avenue. There, she met Tyrone, who gave her the gun and told her to hold it for him. As she was standing in front of the apartment building, the police officers drove up and asked her where she lived. ASA Kain further testified that the defendant said she ran to the rear of the apartment building because she thought that her boyfriend would be there and would take responsibility for the gun. According to ASA Kain, the defendant said that she did not see her boyfriend and took the gun out of her waistband, intending to throw it over the gate, but she put it down on the ground because the police had caught up with her. The defendant also said that one of the police officers pushed her and then put her in handcuffs. ASA Kain further stated that the defendant denied ever pointing the gun at the police and that she declined to memorialize her statement in a written document.

¶ 9 The defendant presented the testimony of her brother, Rosedell Bowman, who stated that in May 2009, he lived in a four-flat apartment building at 811 N. Lockwood on the corner of Chicago Avenue and Lockwood, which is one street over from Latrobe. However, Bowman acknowledged that he had not had any contact with his sister on the night of her arrest, nor did he see or hear any of the events leading up to her arrest.

¶ 10 Testifying in her own behalf, the defendant stated that she was 19 years old and that she was studying computer engineering in college. She testified that on the night of May 27, 2009, she

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visited her grandmother at her home at 933 North Latrobe Avenue. After leaving her grandmother's house at around 11 p.m., she went to a restaurant on Chicago Avenue and placed an order for some food. While her food was being prepared, she decided to wait outside because a group of young men inside the restaurant were rolling marijuana cigarettes, and she did not want to be associated with or bothered by the boys. As she was standing on the sidewalk, a maroon Ford drove up, and one of the men in the car asked her where she lived. The defendant testified that she responded by telling him the name of her street and then started to walk away. According to the defendant, she did not see the police badges or know who the men were, and she decided to go to her brother's house, where she would be safe, because she felt frightened.

¶ 11 The defendant further testified that, as she turned the corner, she noticed that one of the men was following her and she started to run because she was afraid. The man caught up to her and pushed her, knocking her to the ground, and then fell on top of her. He then pulled her up and struck her in the head, causing her head to hit a fence. As he pulled her up, he said, "spit it out." According to the defendant, she then realized that the man was a police officer and that he suspected that she had drugs in her mouth. The defendant testified that this occurred in the alley behind her brother's apartment building, which was located at 811 North Lockwood, on the opposite end of the block from 5248 West Chicago Avenue.

¶ 12 The defendant denied having a gun in her possession at all on the night of her arrest and also denied that she had made any incriminating statements to either the police officers or to ASA Kain. However, she acknowledged that she knew the area of Chicago Avenue near her brother's apartment building was a high-crime area in which there were lots of drugs. In addition, she admitted that she

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had previously seen cars with municipal plates, which were similar to the vehicle occupied by the two men who approached her on Chicago Avenue, and she knew that the municipal plates designated the vehicles as police cars.

¶ 13 The jury acquitted the defendant on the charge of aggravated assault of a police officer, but found her guilty of aggravated unlawful use of a weapon. After trial, the defendant moved for reconsideration of the denial of her motion to quash arrest and suppress evidence, arguing that the police officers did not have reasonable suspicion to perform a *Terry* stop and that the intrusion amounted to an arrest without probable cause. The trial court denied the defendant's motion, finding that the tackle was the least intrusive means to effectuate a lawful *Terry* stop. The court also denied the defendant's post-trial motion, sentenced her to serve a term of two years' probation, and ordered her to pay a total of \$635 in fines, fees and costs, including \$20 for the Violent Crime Victims Assistance Fund, \$30 for the Children's Advocacy Center, and \$100 for the Trauma Center Fund. This appeal followed.

¶ 14 We initially consider the defendant's assertion that her conviction must be reversed because the trial court erred in denying her motion to quash her arrest and to suppress evidence that she claims was improperly obtained. In reviewing a ruling on a motion to suppress, we employ a two-part standard of review. *People v. Hopkins*, 235 Ill. 2d 453, 471, 922 N.E.2d 1042 (2009); *People v. Cosby*, 231 Ill. 2d 262, 271, 898 N.E.2d 603 (2008) (citing *Ornelas v. United States*, 517 U.S. 690, 699 (1996)). Under this bifurcated standard of review, the trial court's factual findings are accorded great deference and will be reversed only if they are against the manifest weight of the evidence, but the trial court's ultimate decision to grant or deny the motion is subject to *de novo*

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review. *Cosby*, 231 Ill. 2d at 271.

¶ 15 The fourth amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const., amends. IV, XIV; see also *People v. Flowers*, 179 Ill. 2d 257, 262, 688 N.E.2d 626 (1997). Yet, "not every encounter between the police and a private citizen results in a seizure." *People v. Luedemann*, 222 Ill. 2d 530, 544, 857 N.E.2d 187 (2006). Illinois courts employ a three-tiered analysis to examine interactions between law-enforcement officials with private citizens: (1) arrests, which must be supported by probable cause; (2) brief investigative detentions, or "Terry stops," which must be supported by reasonable, articulable suspicion of criminal activity; and (3) encounters that do not involve any coercion or detention, also referred to as "consensual encounters," which do not implicate the fourth amendment. *Hopkins*, 235 Ill. 2d at 471; *People v. Luedemann*, 222 Ill. 2d 530, 544, 857 N.E.2d 187 (2006).

¶ 16 Consensual encounters falling within the third, and least intrusive, tier of interactions includes circumstances in which a police officer approaches a person in public to ask questions. *Luedemann*, 222 Ill. 2d at 549. If the person approached is willing to listen, the fourth amendment is not violated, even where the police officer's questions seek potentially incriminating information. *Luedemann*, 222 Ill. 2d at 549. As long as the person being questioned remains free to disregard the questions and walk away, there is no intrusion upon that person's liberty or privacy that would require some particularized and objective justification. *United States v. Mendenhall*, 446 U.S. 544, 553-54 (1980). A person has been seized within the meaning of the fourth amendment only when, in view of all the circumstances surrounding the incident, a reasonable person would have believed

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that he or she was not free to leave. *Mendenhall*, 446 U.S. at 554. Such interactions amount to a seizure “when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen.” *Terry*, 392 U.S. at 19, n. 16. Courts consider four factors in determining whether a seizure has occurred: (1) the threatening presence of several officers, (2) an officer’s display of a weapon, (3) the physical touching of the individual’s person, or (4) the use of language or tone of voice indicating that compliance with the officer’s request might be compelled. *Mendenhall*, 446 U.S. at 554. Although the totality of the circumstances must be examined to determine whether a seizure has occurred, the complete absence of these four factors negates a finding of a seizure. *Cosby*, 231 Ill.2d at 281–82.

¶ 17 Here, the record demonstrates that, when Officers Mingari and Jozefczak first approached the defendant, she was standing alone on the sidewalk outside the restaurant at approximately 11 p.m. The officers testified that they perceived her to be “loitering” on the street, but they did not have any reason to believe that she was involved in criminal conduct. The officers decided to conduct a field interview to determine what, if anything, was happening. Officer Mingari asked the defendant’s name and where she lived. There is no evidence to support the existence of any of the four *Mendenhall* factors, and the absence of those factors precludes a finding that the defendant was seized at that point. Therefore, this initial interaction constituted a consensual encounter and did not require either reasonable suspicion or probable cause because the fourth amendment is not implicated in such circumstances. See *Hopkins*, 235 Ill. 2d at 471; *Luedemann*, 222 Ill. 2d at 544.

¶ 18 The second tier of interactions consists of brief investigative detentions under *Terry v. Ohio*, 392 U.S. 1 (1968), during which a police officer, under appropriate circumstances, may briefly stop

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a person for temporary questioning, if the officer reasonably believes that the person has committed, or is about to commit, a crime. *People v. Thomas*, 198 Ill. 2d 103, 109, 759 N.E.2d 899 (2001) (citing *Terry*, 392 U.S. at 22). The police officer "must be able to point to specific and articulable facts which, taken together with rational inferences therefrom, reasonably warrant that intrusion." *Thomas*, 198 Ill. 2d at 109 (citing *Terry*, 392 U.S. at 20-21). A person's presence in a high-crime area is recognized to be a relevant factor in deciding whether the circumstances are sufficiently suspicious to warrant further investigation. *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000). In addition, evasive behavior is a pertinent factor in determining whether a reasonable suspicion exists, and unprovoked, headlong flight is the consummate act of evasion, regardless of where it occurs. *Wardlow*, 528 U.S. at 124. Where both of these factors are present, the police are justified in suspecting that the person is involved in criminal activity, and that further investigation, in accordance with *Terry*, is warranted. *Wardlow*, 528 U.S. at 124–25.

¶ 19 The defendant contends that the trial court erred in denying her motion to suppress because the police lacked a reasonable suspicion to believe that she was involved in unlawful activity and, therefore, their pursuit and detention of her was unwarranted and illegal. We disagree.

¶ 20 Both police officers testified that the defendant did not respond to the inquiry, but looked from side to side and then immediately began running eastbound down Chicago Avenue toward Latrobe Street, an area in which the officers had previously made numerous arrests for narcotics and weapons violations and in which they had responded to a shooting incident earlier that evening. Though the defendant contradicted this description of her conduct, the trial court found the officers' testimony to be credible, and that factual determination must be accepted where it is not against the

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manifest weight of the evidence. See *Cosby*, 231 Ill. 2d at 271. In addition, the defendant's assertion that she did not know the two men in the car were police officers was contradicted by her testimony that she had previously seen similar cars with municipal plates and knew that those plates designated them as police cars. The fact that the defendant immediately ran from the police while "loitering" in a high-crime area was sufficient to create a reasonable suspicion that she was involved in criminal activity and that further investigation, pursuant to *Terry*, was warranted. See *Wardlow*, 528 U.S. at 124–25.

¶21 In reaching this conclusion, we find that the cases relied upon by the defendant do not govern our analysis because they are premised on drastically different facts. In particular, the defendant cites *People v. Harris*, 2011 IL App (1st) 103382. There, the court held that a conclusory statement, without any supporting evidence, that the location at which the defendant was stopped, and then fled from police, was in a "high crime area" was insufficient to establish that factor for purposes of justifying a *Terry* stop. *Harris*, at ¶¶ 13-15. In this case, Officers Mingari and Jozefczak both testified that they had made numerous arrests for narcotics and weapons violations in the vicinity of Chicago Avenue and Latrobe Street, and the defendant herself acknowledged at trial that the vicinity was known to be a high-crime area.

¶22 In *People v. Marchel*, 348 Ill. App. 3d 78, 810 N.E.2d 85 (2004), the court held that the defendant's presence in a "highly drug infested" area of Chicago and his "furtive movement" toward his mouth upon observing the police was not sufficient to justify a *Terry* stop. *Marchel*, 348 Ill. App. 3d at 80. Here, the defendant's behavior is markedly different from the "furtive movement" present in *Marchel*. Rather, her unprovoked flight, which continued even after Officer Mingari

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twice identified himself as a police officer, was "the consummate act of evasion." See *Wardlow*, 528 U.S. at 124. The defendant's conduct was not ambiguous, and there was nothing to suggest that she was merely exercising her right to continue on her way, nor was there anything about her actions that would cause confusion between the exercise of that right and a pure act of evasion. See *Thomas*, 198 Ill. 2d at 114. Given these significant factual distinctions, *Harris* and *Marchel* do not compel the conclusion that the officers lacked a reasonable suspicion to conduct a *Terry* stop of the defendant. In addition, the remaining cases cited by the defendant do not support his argument that the suppression of evidence was warranted here. See *United States v. Saro euth*, 2011 WL 1457168 (E.D. Pa. April 21, 2011); *State v. Nicholson*, 188 S.W.3d 649 (Tenn. 2006); *Smith v. State*, 245 Ga. App. 613 (2000). Accordingly, we reject the defendant's assertion that her conviction should be reversed on that ground.

¶ 23 The defendant also claims that the aggravated unlawful use of a weapon statute (AUUW) (720 ILCS 5/24-1.6 (West 2008)) is facially unconstitutional because it infringes on the exercise of her right to bear arms, as guaranteed by the second amendment to the United States Constitution. (U.S. Const. Amend. 2). Although the defendant did not raise this argument in the trial court, a constitutional challenge to a statute may be asserted at any time and is not subject to forfeiture. See *People v. Bryant*, 128 Ill. 2d 448, 454, 539 N.E.2d 1221 (1989). The determination of whether a statute is constitutional presents a question of law, which we review *de novo*. *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 200, 909 N.E.2d 783 (2009).

¶ 24 In support of her argument that the relevant statutory provisions are unconstitutional, the defendant relies on the decisions in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and

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McDonald v. City of Chicago, 561 U.S. ___, ___, 130 S. Ct. 3020, 3036, 177 L. Ed. 2d 894 (2010), in which the Supreme Court interpreted the second amendment as an individual right to possess a handgun in the home for self defense. See *Heller*, 554 U.S. at 628-29; *McDonald*, 561 U.S. at ___, 130 S. Ct. at 3050. The defendant asserts that the AUUW statute impermissibly infringes on her second amendment right by creating a blanket prohibition against the possession of a weapon outside the home, without regard to the purpose of the bearer of the firearm and whether that purpose is for self-defense or some other innocent reason.

¶25 This argument has been considered and rejected in several cases. See *People v. Dawson*, 403 Ill. App. 3d 499, 508-10, 934 N.E.2d 598 (2010) (holding that *Heller* and *McDonald* applied only to statutes prohibiting possession of a handgun in the home and did not extend the protections under the second amendment to possession of a firearm outside the home); see also *People v. Williams*, 405 Ill. App. 3d 958, 963, 940 N.E.2d 95 (2010); *People v. Aguilar*, 408 Ill. App. 3d 136, 143-46, 944 N.E.2d 816 (2011), *leave to appeal allowed*, 949 N.E.2d 1099 (2011).

¶26 Most recently, in *People v. Mimes*, 2011 IL App (1st) 082747, this court applied intermediate scrutiny in assessing the constitutionality of the AUUW statute. *Mimes*, at ¶ 74. The court noted that the purpose of the statute is to advance the safety of the public and police officers by eliminating the inherent threats posed by loaded and immediately accessible firearms in public on the street. *Mimes*, at ¶ 80. The court held that promoting the safety of the general public and police officers by limiting the accessibility of loaded firearms in public places and on public streets constitutes a substantial or important interest. *Mimes*, at ¶ 76. The court also held that this limitation on the location and manner in which a firearm may be carried is justified by the potential deadly

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consequences to innocent members of the general public. *Mimes*, at ¶ 78-79. In considering these circumstances, the court concluded that the fit between the challenged provisions of the aggravated unlawful use of a weapon statute and the statute's substantial and important goal is reasonable. *Mimes*, at ¶ 82. We agree. Consequently, we find that the AUUW statute under which the defendant was convicted is not facially unconstitutional.

¶ 27 We also note that the defendant has forfeited any argument that the statute is unconstitutional as applied to her because she failed to raise that argument in the trial court (see *People v. Enoch*, 122 Ill. 2d 176, 186-87, 522 N.E.2d 1124 (1988)) and did not present a developed argument regarding that issue or citation to relevant authority in her brief on appeal (see Ill. S. Ct. R. 341(h)(7) (eff. Sept. 1, 2006); *People v. Lantz*, 186 Ill. 2d 243, 261-62, 712 N.E.2d 314 (1999)).

¶ 28 We next address the defendant's argument that we should review the impounded, confidential OPS reports of complaints against Officers Mingari and Jozefczak, which the trial court considered *in camera* and found were not relevant to the issues at trial. As the State points out, this issue has been forfeited by the defendant's failure to object to the trial court's ruling at trial and by her failure to include it in her motion for a new trial. See *Enoch*, 122 Ill. 2d at 186-87. Moreover, the defendant has not argued that the trial court's pretrial ruling regarding the OPS reports constituted plain error. See *People v. Herron*, 215 Ill. 2d 167, 175-76, 830 N.E.2d 467 (2005); Ill. S. Ct. R. 451(c) (eff. July 1, 2006); Ill. S. Ct. R. 615(a) (eff. Aug. 27, 1999)). Consequently, any argument that the court abused its discretion in refusing to order disclosure of the OPS documents has been forfeited on appeal. See Ill. S. Ct. R. 341(h)(7) (eff. Sept. 1, 2006); *Lantz*, 186 Ill. 2d at 261-62.

¶ 29 Finally, the defendant contends that the order requiring her to pay \$635 in fines, fees, and

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costs must be modified because the circuit court improperly ordered her to pay \$20 to the Violent Crime Victims Assistance Fund, despite the fact that other fines had been imposed. See 725 ILCS 240/10(b), (c)(2) (West 2008). According to the defendant, she should have been required to pay only \$4 into that fund, and the amount of the fines imposed against her must be reduced by \$16.

¶ 30 The State concedes that the amount of the fines imposed against the defendant must be modified, but argues that she is entitled to a reduction of only \$4 because her mathematical calculations erroneously do not include the trial court's imposition of a \$100 payment to the Trauma Center Fund (see 730 ILCS 5/5-9-1.10 (West 2008)). The defendant counters this argument by asserting that the payment to the Trauma Center Fund is not a fine, but is a fee because the statute under which it was imposed provides that such payment is an "additional fee *** [that] shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing." See 730 ILCS 5/5-9-1.10 (West 2008)).

¶ 31 Contrary to the defendant's assertion, this statutory provision specifically provides that the \$100 to be paid to the Trauma Center Fund is an "additional fine." 730 ILCS 5/5-9-1.10 (West 2008). In addition, the supreme court has held that "[t]here is no question that the \$100 Trauma Center Fund charge is a fine" where "it is clearly not intended to reimburse the state for any expense of prosecution or investigation." See *People v. Jones*, 223 Ill. 2d 569, 593, 861 N.E.2d 967 (2006); *People v. Lee*, 379 Ill. App. 3d 533, 541, 884 N.E.2d 776 (2008). The supreme court's characterization of the Trauma Center Fund assessment as a fine is not altered by the fact that it is exempt from sentencing credit. See *Jones*, 223 Ill. 2d at 582 (explaining that a "fee" is a charge that seeks to recoup expenses incurred by the state to compensate for some expenditure incurred in

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prosecuting the defendant, and a "fine" is punitive and is a pecuniary punishment imposed as part of a sentence on a person convicted of a criminal offense); see also *People v. Graves*, 235 Ill. 2d 244, 250, 919 N.E.2d 906 (2009) (same). The mere fact that the Trauma Center Fund fine is exempt from the calculation of a sentencing-credit offset does not mean that such payment does not constitute a fine when assessing the proper amount to be paid into the Violent Crime Victims Assistance Fund. Indeed, the defendant's argument in this regard is internally inconsistent because the statutory language, which exempts the Trauma Center Fund assessment from sentencing-credit calculations, would be entirely superfluous if that assessment constituted a fee rather than a fine. See 725 ILCS 5/110–14 (West 2008) (providing that sentencing credit applies to a "fine" imposed pursuant to a conviction); see also *People v. Tolliver*, 363 Ill. App. 3d 94, 96, 842 N.E.2d 1173 (2006) (construing the plain language of the sentencing-credit provision to apply only to fines and not to any other court costs or fees); *People v. Littlejohn*, 338 Ill. App. 3d 281, 283, 788 N.E.2d 339 (2003) (same).

¶ 32 Because the total amount of the fines imposed against the defendant was \$130 (\$100 for the Trauma Center Fund (730 ILCS 5/5-9-1.10 (West 2008)) and \$30 for the Children's Advocacy Center (55 ILCS 5/5-1101(f-5) (West 2008)), the defendant is required to pay \$16 into the Violent Crime Victims Assistance Fund. See 725 ILCS 240/10(b) (West 2008) (requiring an additional penalty of \$4 for each \$40, or fraction thereof, of fine imposed). Therefore, pursuant to Supreme Court Rule 615(b)(2) (eff. Jan. 1, 1967), we reduce the amount of the fine for the Violent Crime Victims Assistance Fund to \$16 and modify the order imposing fines and fees accordingly.

¶ 33 For the foregoing reasons, we affirm the defendant's conviction and modify to amount of the

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finer imposed against her to require the payment of \$631.

¶ 34 Affirmed as modified.