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FIFTH DIVISION  
April 22, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	No. 08 CR 17765
JEFFREY WATSON,		Honorable
		Rosemary Grant-Higgins,
Defendant-Appellant.		Judge Presiding.

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JUDGE EPSTEIN delivered the judgment of the court.  
Presiding Justice Fitzgerald Smith and Justice Howse concurred in the judgment.

**ORDER**

*Held:* Defendant was not denied a fair trial where a police officer's purportedly inadmissible testimony did not contain hearsay, did not violate defendant's confrontation right, and where the State's purportedly improper rebuttal argument was based on evidence adduced at trial and was invited by remarks made by defense counsel during closing argument. Further, the trial court properly assessed a "Medical Costs Fee" against defendant upon his conviction, but should not have assessed a "Court System Fee" because defendant was not convicted of a violation of the Illinois Vehicle Code or a similar municipal ordinance.

Following a jury trial, defendant Jeffrey Watson was convicted of possession of a controlled substance with intent to deliver and subsequently sentenced to two years of probation. Defendant

1-09-1031

appeals, contending that he was denied a fair trial because the trial court improperly admitted hearsay testimony, denied him the right to confront witnesses against him, and allowed the State to make improper remarks during rebuttal argument. Defendant further contends that the trial court improperly imposed several post-conviction fees. Defendant asks that we reverse his conviction, remand this matter for a new trial, and vacate the complained-of fees. For the reasons stated below, we affirm as modified.

### BACKGROUND

On August 15, 2008, defendant was arrested for and subsequently charged with possession of a controlled substance with intent to deliver in violation of 720 ILCS 570/401(d) (West 2008). The arrest occurred on the 3900 block of West Division Street, near the intersection of West Division and North Springfield Avenue, in Chicago, Illinois, and followed from information received by the police from a confidential undercover informant that a black male with cornrows and a white T-shirt was selling heroin at that location.

At trial, Officer John Frano of the Chicago Police Department testified that at approximately 11 p.m. on August 15, 2008, he was conducting surveillance in a covert vehicle near the intersection of Division and Springfield. He was alone in the vehicle, but working in conjunction with his partner, Officer Steven Laureto, as well as Officers Wayne Frano and Frank Mack, all of whom were positioned out of sight of the intersection. When asked by the State if he was surveilling anyone in particular, Officer Frano replied, over defendant's objection, that he was looking for a "[m]ale black individual wearing a white T shirt with cornrows for a hairstyle." He did not mention the informant, any out-of-court statement, or say why he was looking for someone of that particular description. He

1-09-1031

did, however, state that defendant was the only person then in the area fitting that description.

Although it was nighttime, Officer Frano said the streets in the area were well lit and from his position he could observe defendant clearly. After about ten minutes, Officer Frano saw an unidentified person approach and speak with defendant. The person handed defendant money and defendant then walked west to a partially constructed apartment building at 3913 West Division, approximately 75-100 feet away. Defendant pulled up some aluminum siding from around one of the windows of the building and removed a brown paper bag. He took something from the paper bag and placed the bag back behind the siding. Officer Frano watched defendant walk back east on Division and touch hands with the same person who previously gave him money. The unidentified person then walked away. Approximately ten minutes later, Officer Frano saw another unidentified person approach defendant. That person handed defendant money and defendant once again walked to 3913 West Division, removed the paper bag from behind the siding, took something from that bag, returned the bag, and then walked back to the intersection and touched hands with the person who previously gave him money. This second unidentified person then walked away. Less than two minutes later, Officer Frano watched a third similar transaction take place. After the third unidentified person walked away, Officer Frano radioed his team, described defendant's appearance, and instructed the enforcement officers to detain him, which they did less than a minute later. Officer Frano then drove west on Division, met Officer Laureto, and immediately returned to the intersection of Division and Springfield. He walked with Officer Mack to 3913 West Division and recovered the brown paper bag from behind the siding. In the bag, Officer Frano found four yellow plastic ziplock bags marked with Batman logos. The bags contained a substance he believed to be heroin.

1-09-1031

Officer Mack testified that he was acting as an enforcement officer on Officer Frano's surveillance team on the night of August 15, 2008. Officer Mack said that he first observed defendant when he drove through the intersection of Division and Springfield to attract attention and allow Officer Frano to get in position. He could see that defendant had cornrows and was wearing a white tshirt. When Officer Frano was in position, Officer Mack parked his vehicle out of sight, approximately one block away, and waited there for about half an hour until Officer Frano instructed him to detain defendant. After Mack did so, Officer Frano returned to the intersection with Officer Laureto and confirmed that defendant was the same man he observed in the suspected drug transactions.

Officer Wayne Frano, who was also acting as an enforcement officer, testified similarly to Officer Mack, adding only that he recovered \$146 in cash from defendant when later searching him at the police station.

Finally, Gwendolyn Brister, a forensic scientist with the Illinois State Police Department Crime Lab, testified that she analyzed the contents of one of the plastic ziplock bags recovered by Officer Frano from the apartment building. Brister determined that the bag contained 0.093 grams of heroin. She then estimated the total weight of the contents of all the plastic bags recovered to be 0.2 grams.

On February 10, 2009, a jury found defendant guilty of possession of a controlled substance with intent to deliver. Defendant's subsequent motion for a new trial was denied, and he was sentenced to two years of probation and assessed \$1,645 in various fees and fines. This appeal followed.

## ANALYSIS

### I. Hearsay

Defendant contends that Officer Frano’s testimony that he was looking for a “[m]ale black individual wearing a white T shirt with cornrows for a hairstyle” on the night of defendant’s arrest is inadmissible hearsay. The State argues that because Officer Frano did not refer to an out-of-court statement by a nontestifying third party, he did not relate any hearsay to the jury, and even if an out-of-court statement could be implied, it is nonhearsay because it was not offered for the truth of the matter asserted, but to explain the course of the investigation.

As an initial matter, the parties disagree as to the proper standard of review. Defendant argues that the question presented is purely legal and should be reviewed on a *de novo* basis. The State counters that the abuse of discretion standard applies because the propriety of the trial court’s evidentiary ruling is at issue. “Evidentiary rulings are within the sound discretion of the trial court and will not be reversed unless the trial court has abused that discretion. [Citations.] An abuse of discretion will be found only where the trial court’s ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court.” *People v. Caffey*, 205 Ill. 2d 52, 89 (2002). While “[i]t is true that reviewing courts sometimes review evidentiary rulings *de novo*,” they only do so “where ‘a trial court’s exercise of discretion has been frustrated by an erroneous rule of law.’ ” *Id.* (quoting *People v. Williams*, 188 Ill. 2d 365, 369 (1999)). Here, it is evident from the record that the trial court allowed the officer’s contested testimony based on the specific circumstances of the case, including the perceived lack of prejudice, rather than a broadly applicable rule of law. The abuse of discretion standard therefore applies.

“The hearsay rule generally prohibits the introduction of an out-of-court statement used to prove the truth of the matter asserted.” *People v. Mims*, 403 Ill. App. 3d 884, 897 (2010). “The fundamental purpose of the hearsay rule \*\*\* is to test the real value of testimony by exposing the source of the assertion to cross-examination by the party against whom it is offered.” *Id.* “Generally, ‘a witness may not testify regarding an out-of-court statement made by a witness or a third person which corroborates the witness’ or third person’s testimony at trial.’ ” *People v. Graham*, 206 Ill. 2d 465, 478 (2003) (quoting *People v. Beals*, 162 Ill. 2d 497, 507 (1994)). Further, “[i]nadmissible hearsay exists where a third party testifies to statements made to him by another nontestifying party that identify the accused as the perpetrator of a crime.” *People v. Cox*, 377 Ill. App. 3d 690, 700 (2007).

Defendant contends that Officer Frano’s testimony concerning the description of the person he was looking for was inadmissible hearsay because it conveyed the substance of the confidential informant’s out-of-court statement to the police. In making this argument, defendant relies heavily on a line of cases concerning the investigatory procedure “exception” to the hearsay rule, which holds that a police officer “may recount the steps taken in the investigation of a crime and may describe the events leading up to the defendant’s arrest ‘where such testimony is necessary and important.’ ” *People v. Warlick*, 302 Ill. App. 3d 595, 598-99 (1998) (quoting *People v. Simms*, 143 Ill. 2d 154, 174 (1991)). This includes testimony that the police officer spoke with a victim of or witness to a crime and proceeded to search for, surveil, or arrest the defendant. *See People v. Gacho*, 122 Ill. 2d 221, 248-49 (1988) (police officer may testify he had a conversation with a shooting victim, then set out to find the defendant); *People v. Bell*, 343 Ill. App. 3d 110, 113-14 (2003) (police

1-09-1031

officer may testify he surveilled defendant because police “received complaints of narcotics sales with a description of the seller and the description of the auto where the narcotics were from.”). As our courts have repeatedly stated, the “ ‘arresting or investigating officer should not be put in the false position of seeming just to have happened upon the scene; he should be allowed some explanation of his presence and conduct.’ ” *People v. Cameron*, 189 Ill. App. 3d 998, 1004 (1989) (quoting McCormick, Evidence § 249, at 734 (3d ed. 1984)). Police officers may even testify to the substance of an out-of-court statement provided that it is offered for some valid nonhearsay purpose (*Warlick*, 302 Ill. App. 3d at 599) and the officers do not “gratuitously reveal the substance of their statements and so inform the jury that [the declarant] told the police that the defendant was responsible for the crime.” *Cox*, 377 Ill. App. 3d at 703. Even then, trial courts “must weigh the relevance of the words for the declared nonhearsay purpose against the risk of unfair prejudice and possible misuse by the jury.” *People v. Sample*, 326 Ill. App. 3d 914, 921 (2001). “Police procedure or not, when words go to ‘the very essence of the dispute’ [citation], the scale tips against admissibility.” *Warlick*, 302 Ill. App. 3d at 600 (quoting *People v. Jones*, 153 Ill. 2d 155, 160 (1992)). Words go the very essence of the dispute where they identify the defendant as the person that committed the crime at issue. *Id.* In those circumstances, the Supreme Court has said that the substance of the conversation “inevitably go[es] to prove the matter asserted,” and is therefore objectionable as hearsay. *Jones*, 153 Ill. 2d at 160. It should be noted that although often referred to as an “exception” to the hearsay rule, an out-of-court statement properly offered to explain the course of an investigation does not go to the truth of the matter asserted and thus, strictly speaking, is not hearsay. *People v. Hunter*, 124 Ill. App. 3d 516, 529 (1984) (“where the testimony of an out-of-court

1-09-1031

statement is offered, not for the truth thereof, but for the limited purpose of explaining the reason the police conducted their investigation as they did, the testimony is not hearsay.”).

In the case *sub judice*, defendant specifically objects to the following line of questions during the State’s direct examination of Officer Frano:

“[State] Q: Were you looking for someone in particular when you went to conduct that surveillance?

[Officer Frano] A: Yes.

Q: Could you please describe?

[Defense Counsel]: Objection.

The Court: Sustained.

Q: Could you please state who you were looking for?

[Defense Counsel]: Objection.

The Court: Sustained. Form of the question.

Q: When you went out to conduct surveillance, were you looking for someone in particular?

A: Yes.

Q: Please tell us what [*sic*] that was?

A: I was looking for a male black individual.

[Defense Counsel]: Objection.

The Court: Overruled.

A: Male black individual wearing a white T shirt with cornrows for a

1-09-1031

hairstyle.”

This is not hearsay. There is no reference to an out-of-court declarant, an out-of-court conversation, or an out-of-court statement, nor a statement that an informant told the police someone fitting defendant’s description was selling heroin. Defendant has not cited, nor are we aware of, any case in which a court has found hearsay by inferring the occurrence, source, and content of an out-of-court statement. Moreover, Officer Frano testified to matter within his personal knowledge; specifically, that he was looking for a “[m]ale black individual wearing a white T shirt with cornrows for a hairstyle,” and information within a police officer’s personal knowledge is not hearsay. *People v. Jordan*, 282 Ill. App. 3d 301, 306 (1996).

The cases relied on by defendant in arguing to the contrary are readily distinguishable. For instance, in *People v. Jura*, where the defendant was convicted of unlawful use of a weapon by a felon, he argued on appeal that the trial court erred in allowing three police officers to testify that they responded to a radio call of “a man with a gun,” described by the dispatcher as “a male White with a tattoo with teardrop on his face.” 352 Ill. App. 3d 1080, 1082-84 (2004). Two of the officers further testified that when they arrived on the scene, they observed the defendant, who matched the dispatcher’s description. *Id.* at 1086. The State argued that these statements were offered to explain police procedure. This court disagreed, concluding that they were in fact offered to place a corroborating identification into evidence and constituted inadmissible hearsay. *Id.* at 1086-87, 1094. Unlike in *Jura*, the testifying police officer here did not reference an out-of-court declarant, did not repeat an out-of-court statement to the jury, and did not directly tie the description to the illegal activity at issue. Further, the description he did provide was less specific than that at issue in *Jura*.

1-09-1031

The same distinctions can be drawn from the other cases relied on by defendant, including *People v. Johnson*, 202 Ill. App. 3d 417 (1990), and *People v. Edgcombe*, 317 Ill. App. 3d 615 (2000).

We are not unmindful of the danger that the reflexive invocation of “police procedure” sometimes leads to the admission of evidence without a focused examination of the relevance of that evidence to the case at hand. We are also aware that this testimony, while admitted for one purpose, sometimes is argued for the improper purpose that the hearsay rule is designed to prevent.

“The reality is that it will almost always be possible to describe testimony revealing the content of conversation with the police as evidence offered to shed light on the investigation of a crime rather than on the crime itself. If reviewing courts allowed the mere invocation of the words ‘police procedure’ to preclude further analysis, this limited exception would effectively swallow the hearsay rule with regard to police officers. The compelling protections that gave rise to the hearsay rules must not be so easily discarded.” *People v. Rice*, 321 Ill. App. 3d 475, 482 (2001).

Nonetheless, under the facts of this case, we cannot say that the trial court abused its discretion in admitting the testimony at issue.

Even if the testimony at issue was inadmissible hearsay, the “[e]rroneous admission of hearsay will not be held reversible if there is no reasonable probability the jury would have acquitted the defendant had the hearsay been excluded.” *Warlick*, 302 Ill. App. 3d at 601. Although the prejudice inflicted by an out-of-court identification is palpable, where, as here, hearsay identification testimony “is merely cumulative [citations], or is supported by a positive identification and by other corroborative circumstances [citations], it constitutes harmless error.” *People v. Coleman*, 17 Ill.

1-09-1031

App. 3d 421, 428 (1974). On this record, where the police observed defendant engage in three separate drug transactions and recovered the unsold heroin at the scene, we do not see how the admission of the disputed testimony significantly affected the outcome of the trial.

## II. The Confrontation Clause

The United States and Illinois Constitutions guarantee the criminally accused the right to confront the witnesses against them. U.S. Const. amends. VI, XIV; Ill. Const. 1970, art. I, § 8. This is a fundamental right that bars the admission of “testimonial hearsay” against a defendant unless the declarant is “unavailable to testify [at trial], and the defendant had a prior opportunity for cross-examination.” *Crawford v. Washington*, 541 U.S. 36, 53-54 (2004). Subjecting adverse witnesses to “the crucible of cross-examination” (*Crawford*, 541 U.S. at 61) is “the principle means by which the believability of a witness and the truth of his testimony are tested.” *Davis v. Alaska*, 415 U.S. 308, 317 (1974). Whether a defendant’s confrontation right has been violated is a question of law, which we review *de novo*. *People v. Williams*, 238 Ill. 2d 125, 142 (2010).

Defendant contends that the trial court denied him the right to confront the confidential informant. However, defendant’s argument relies entirely on his contention that the testimony addressed above is hearsay. As we have stated, that testimony is not hearsay. Neither the existence of the informant nor the informant’s statement to the police was presented to the jury, and Officer Frano’s testimony was limited to information within his personal knowledge. Therefore, defendant’s confrontation right was not violated. *United States v. York*, 572 F.3d 415, 427 (7th Cir. 2009) (“*Crawford* applies only to hearsay”); accord *People v. Williams*, 238 Ill. 2d at 142.

### III. The State's Rebuttal Argument

Defendant also maintains that he was denied a fair trial by improper and prejudicial remarks made by the State during its rebuttal argument.

“It is well settled that great latitude is afforded a prosecutor during closing argument (*People v. Weatherspoon* (1978), 63 Ill. App. 3d 315), and that the propriety of the prosecution's remarks is generally left to the discretion of the trial court, which determination shall be followed absent a showing of abuse of discretion. (*People v. Smothers* (1973), 55 Ill. 2d 172). In closing argument, the prosecution may base its argument on the evidence presented or reasonable inferences therefrom (*People v. Hairston* (1970), 46 Ill. 2d 348); respond to those comments by defense counsel which clearly invite or provoke a response (*People v. Vriner* (1978), 74 Ill. 2d 329); comment on the credibility of the defense witnesses (*People v. Roman* (1981), 98 Ill. App. 3d 703); denounce the activities of defendants and urge that justice be administered (*People v. Galloway* (1979), 74 Ill. App. 3d 624); highlight inconsistencies in defendant's argument (*People v. Washington* (1981), 101 Ill. App. 3d 409); and comment on defendant's absence at trial (*People v. Zielinski* (1979), 77 Ill. App. 3d 157).” *People v. Morrison*, 137 Ill. App. 3d 171, 184 (1985); see also *People v. Phillips*, 392 Ill. App. 3d 243, 274-75 (2009) (recognizing that while there is a split in authority between appellate courts, the First District Appellate Court consistently applies an abuse of discretion standard). The State may also “(1) urge the jury to do its sworn duty, (2) to promote the fearless administration of the law, and (3) to comment on the adverse impact of crime

1-09-1031

on the community.” *People v. Wilson*, 257 Ill. App. 3d 670, 685 (1993). “In reviewing allegations of prosecutorial misconduct, the closing arguments of both the State and the defendant must be examined in their entirety and the complained-of comments must be placed in their proper context.” *People v. Cisewski*, 118 Ill. 2d 163, 175-76 (1987). “To constitute reversible error, the complained-of remarks must have resulted in substantial prejudice to the accused, such that absent those remarks the verdict would have been different.” *Id.* at 175.

Defendant objects to the following remark made in the State’s rebuttal argument: “Ladies and gentlemen, that’s how drugs get dealt in your community.” He argues that the use of “your community” was an attempt to excite the prejudices of the jury by “invit[ing] them to consider the impact of the alleged crime on their own community.” Defendant further argues that the remark “fostered an ‘us-versus-them’ mentality” that “implied that jury members were victims of the crime.” While we do not approve of the use of “your community” in arguments and note that it may improperly suggest that jurors look at the evidence with something less than an objective perspective, we do not find its use sufficient to warrant reversal. There was sufficient evidence in the record for the State to argue that the occurrence was “how drugs are dealt” in the community without use of the word “your.” Officer Frano testified that he has conducted over 200 similar surveillance operations in his nine years as a police officer and those operations have almost always resulted in the recovery of narcotics. Based on that experience, he believed defendant was selling narcotics on the night of his arrest. The State’s comment was directed at that testimony and was not so improper as to require reversal. Additionally, the State’s comment was invited by defense counsel’s closing argument that questioned whether the interactions witnessed by Officer Frano

1-09-1031

were, in fact, drug transactions. The trial court did not abuse its discretion in allowing the State's remark. Given the testimony of the police officers and the recovery of the heroin, it cannot reasonably be said that the State's remark was so prejudicial that it would have changed the outcome of the verdict. The claimed error was harmless.

#### IV. Fees

Finally, defendant contends that the trial court improperly imposed on him several fees that we should vacate. First, defendant objects to the imposition of a \$5 "Court System Fee" assessed pursuant to section 5-1101(a) of the Counties Code, which provides that a \$5 fee may be levied against a person for a judgment of guilt or grant of supervision in violation of the Illinois Vehicle Code or a similar municipal ordinance. 55 ILCS 5/5-1101(a) (West 2008). There is nothing in the record here to suggest that defendant was convicted of any crime or violation relating to the Vehicle Code or a similar municipal ordinance. Accordingly, the \$5 Court System Fee is vacated pursuant to Supreme Court Rule 615(b)(2).

Second, defendant contends that we should vacate the \$10 "Medical Costs Fee" imposed by the trial court pursuant to section 17 of the County Jail Act, which reads, in pertinent part:

"An arresting authority shall be responsible for any qualified medical expenses relating to the arrestee until such time as the arrestee is placed in the custody of the sheriff. However, the arresting authority shall not be so responsible if the arrest was made pursuant to a request by the sheriff. When medical expenses are required by any person held in custody, the county shall be entitled to obtain reimbursement from the County Jail Medical Costs Fund to the extent moneys are available from the

1-09-1031

Fund. To the extent that the person is reasonably able to pay for that care, including reimbursement from any insurance program or from other medical benefit programs available to the person, he or she shall reimburse the county.

The county shall be entitled to a \$ 10 fee for each conviction or order of supervision for a criminal violation, other than a petty offense or business offense. The fee shall be taxed as costs to be collected from the defendant, if possible, upon conviction or entry of an order of supervision. The fee shall not be considered a part of the fine for purposes of any reduction in the fine.

All such fees collected shall be deposited by the county in a fund to be established and known as the County Jail Medical Costs Fund. Moneys in the Fund shall be used solely for reimbursement to the county of costs for medical expenses and administration of the Fund. 730 ILCS 125/17 (West 2008).

Defendant argues, in relevant part, that his \$10 fee should be vacated because he did not receive medical treatment while in custody. The State responds that the statute does not place such a condition on the county's right to collect the fee. We agree, having previously addressed this same issue in *People v. Jones*, stating:

“[T]he statute does not place any conditions on the county's right to the fee. The statute clearly states: ‘The county shall be entitled to a \$ 10 fee for each conviction or order of supervision for a criminal violation, other than a petty offense or business offense.’ 730 ILCS 125/17 (West 2006). The statute does not state that the county shall only be entitled to a \$ 10 fee so long as the county incurs costs for medical

1-09-1031

expenses for the care of the defendant. By excluding defendants convicted of ‘a petty offense or business offense’ (730 ILCS 125/17 (West 2006)), the legislature demonstrated that it was capable of drawing exceptions to the broad statement that the county is entitled to a fee from each conviction, and the legislature did not choose to exclude the convictions of defendants who did not incur medical expenses from the reach of the statute.

Furthermore, the last sentence quoted above indicates that the moneys in the fund may be used for something other than medical expenses incurred by the arrestee. The statute states: ‘Moneys in the fund shall be used solely for reimbursement of costs for medical expenses to the arrestee while he or she is in the custody of the sheriff *and administration of the fund.*’ \*\*\* 730 ILCS 125/17 (West 2006). Therefore, the county may use the \$ 10 fee charged to defendant for reimbursement of either costs for medical expenses incurred by the defendant while under arrest or costs for administration of the fund. In essence, the fund functioned as a health insurance policy for the defendant while incarcerated, and thus he received a benefit even though he required no medical services. Although defendant in the instant case incurred no medical expenses while under arrest, the county may still use the \$ 10 fee to pay for the administration of the Arrestee’s Medical Costs Fund.” (Emphasis in original.) 397 Ill. App. 3d 651, 662 (Dec. 24, 2009).

Defendant argues that *Jones* is inapplicable because the name of medical fund has been changed since that case was decided. Prior to August 15, 2008, the fourth paragraph of the statute

1-09-1031

provided:

“All such fees collected shall be deposited by the county in a fund to be established and known as the Arrestee’s Medical Costs Fund. Moneys in the Fund shall be used solely for reimbursement of costs for medical expenses relating to the arrestee while he or she is in the custody of the sheriff and administration of the Fund.” 735 ILCS 125/17 (2006).

This language was amended by P.A. 95-842 (Pub. Act 95-842, § 5, eff. August 15, 2008) to read:

“All such fees collected shall be deposited by the county in a fund to be established and known as the *County Jail Medical Costs Fund*. Moneys in the Fund shall be used solely for reimbursement *to the county of costs for medical expenses and administration of the Fund.*” (Emphasis added.) 730 ILCS 125/17 (West 2008).

Defendant argues that this amendment indicates that the statute is not intended to provide an insurance benefit to arrestees who do not receive medical treatment. We are not persuaded. To the contrary, “the amendment makes clear the legislature’s intention that the fee be collected regardless of whether a defendant incurs any injury.” *People v. Unander*, 404 Ill. App. 3d 884, 890 (2010). The amendment emphasizes that the fund is meant to be a standing, collective resource and not an individual medical account.

Defendant alternatively urges us to reconsider *Jones* and readopt the prior ruling in *People v. Cleveland* (393 Ill. App. 3d 700 (Aug. 3, 2009)). In *Cleveland*, the court interpreted the statute as prohibiting the assessment of the medical costs fee where there was no evidence that a defendant incurred medical expenses while in custody. *Id.* at 714. This interpretation of the statute was

1-09-1031

specifically rejected in *Jones* and in all subsequent decisions of which this court is aware. *Jones*, 397 Ill. App. 3d at 662; *People v. Coleman*, 404 Ill. App. 3d 750, 752-54 (2010); *People v. Hubbard*, 404 Ill. App. 3d 100, 104-06 (2010); *Unander*, 404 Ill. App. 3d at 888-90. For the reasons stated in *Jones*, we decline to follow the court's analysis in *Cleveland*, which we do not believe looked to the meaning of the statute as a whole. The trial court did not err in assessing the \$10 Medical Costs Fee.

#### CONCLUSION

For the forgoing reasons, the \$5 Court System Fee is vacated and the judgment of the circuit court is affirmed in all other respects.

Affirmed as modified.