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## I. BACKGROUND

¶ 5 In July 2009, the State charged defendant by information with two counts of aggravated battery arising out of a July 2, 2009, incident where defendant hit a Greyhound bus driver. In March 2010, defendant entered an open guilty plea (negotiated as to charge) to one count of aggravated battery (720 ILCS 5/12-4(b)(9) (West 2008)) (count I). In exchange for defendant's guilty plea, the State agreed to dismiss the remaining aggravated-battery charge (720 ILCS 5/12-4(b)(8) (West 2008)) (count II).

¶ 6 Prior to accepting defendant's guilty plea, the trial court considered the State's factual basis in which it explained on July 2, 2009, while traveling on a Greyhound bus, defendant was noticeably intoxicated and harassing and threatening other passengers. Because defendant was disturbing the other passengers, the bus driver ordered defendant off the bus. Defendant and the bus driver were standing outside the bus when another Greyhound bus driver approached. Defendant threatened the approaching bus driver and punched him in the side of the head.

¶ 7 In April 2010, the trial court sentenced defendant to four years' imprisonment to be followed by a one-year period of mandatory supervised release. Additionally, the court ordered defendant to pay costs. The following exchange occurred between the court and the attorneys regarding sentencing credit:

"[THE COURT]: Is there any good time credit today?

[(DEFENDANT'S ATTORNEY)]: I don't believe there was any,

Judge.

[THE STATE]: He bonded out the same day.

THE COURT: So both parties stipulate no credit?

[(DEFENDANT'S ATTORNEY)]: That's my understanding.

[THE STATE]: Yes."

Accordingly, defendant was given no credit for time spent in custody prior to sentencing.

¶ 8 In May 2010, defendant *pro se* filed a motion for reduction of sentence and motion to withdraw guilty plea, stating his attorney and the State had agreed he would be sentenced to a term of probation rather than four years' imprisonment. In July 2010, defendant's appointed counsel filed an amended motion to withdraw guilty plea, arguing the plea was invalid because the trial court erroneously stated his aggravated-battery conviction had a sentencing range of three to seven years in prison. Shortly thereafter, the State filed a reply to the amended motion to withdraw guilty plea, admitting the court erred in admonishing defendant regarding the applicable sentencing range because defendant was eligible for an extended-term sentence on the Class 3 felony, with the term ranging from 5 to 10 years. However, the State argued defendant suffered no prejudice from the error.

¶ 9 In September 2010, the trial court denied defendant's motion to withdraw guilty plea. Defendant appealed, and this court remanded the case to the trial court because defense counsel failed to file a certificate satisfying the requirements of Illinois Supreme Court Rule 604(d) (eff. July 1, 2006). *People v. Jackson*, No. 4-10-0763 (Jan. 3, 2011) (unpublished order under Supreme Court Rule 23). In January 2011, defense counsel filed an amended Rule 604(d) certificate, satisfying the requirements of Rule 604(d). Thereafter, the trial court reaffirmed its previous order denying defendant's motion to withdraw guilty plea.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 Defendant argues he is entitled to one day of sentencing credit for time spent in custody prior to sentencing. The State concedes defendant is entitled to the one day of sentencing credit, and we accept the State's concession.

¶ 13 Section 5-4.5-100(b) of the Unified Code of Corrections (730 ILCS 5/5-4.5-100(b) (West 2010)) governs the issuance of sentencing credit and provides as follows:

"[T]he offender shall be given credit on the determinate sentence  
\*\*\* for time spent in custody as a result of the offense for which  
the sentence was imposed."

Defendant is entitled to one day of sentencing credit for any part of the day held in custody. *People v. Hutchcraft*, 215 Ill. App. 3d 533, 534, 574 N.E.2d 1337, 1337-38 (1991). Further, "defendant's statutory right to receive credit for time served is mandatory and forfeiture rules do not apply." *People v. Dieu*, 298 Ill. App. 3d 245, 249, 698 N.E.2d 663, 666 (1998).

¶ 14 In the present case, the record indicates defendant was arrested and taken into custody on July 2, 2009. Shortly thereafter on July 2, he posted bond and was released. During sentencing, the State and defendant's counsel stipulated defendant was not entitled to any sentencing credit because he posted bond the same day he was taken into custody. Based on this stipulation, the trial court determined defendant was entitled to "0 days" of sentence credit. Because defendant was in custody for part of July 2, the court erred by determining defendant was not entitled to any sentence credit. Accordingly, defendant is entitled to one day of credit on the sentence imposed for this offense. Further, if the trial court assessed any fines during

sentencing, defendant is entitled to \$5-per-day credit against the assessed fines pursuant to section 110-14(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-14(a) (West 2010)).

¶ 15

### III. CONCLUSION

¶ 16 For the reasons stated, we affirm the trial court's judgment as modified and remand with directions for issuance of an amended sentencing judgment so reflecting, which should include \$5-per-day credit against any imposed fines.

¶ 17 Affirmed as modified and remanded with directions.