

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (3d) 100873-U

Order filed June 12, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
Plaintiff-Appellee,	)	Whiteside County, Illinois,
	)	
v.	)	Appeal No. 3-10-0873
	)	Circuit No. 10-CF-122
	)	
ALTON TUCKER,	)	Honorable
	)	John L. Hauptman,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE O'BRIEN delivered the judgment of the court.  
Presiding Justice Schmidt and Justice Holdridge concurred in the judgment.

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**ORDER**

- ¶ 1 *Held:* Defendant was entitled to a \$650 credit against his drug treatment assessment fine for the 130 days he spent in presentence incarceration.
- ¶ 2 Following a jury trial, the defendant, Alton Tucker, was convicted of unlawful delivery of a controlled substance. 720 ILCS 570/407 (West 2008). He was sentenced to four years of imprisonment and assessed various fines, fees, and costs. The trial court also orally indicated that the defendant would be given 130 days of presentencing credit and a "credit for \$5.00 a day

for those 130 days[.]”

¶ 3 On appeal, the defendant argues that the trial court's written order setting forth the fines and fees be corrected to reflect the \$5-per-day credit of \$650. The State concedes that this court should modify the defendant's written sentencing order to reflect the \$650 credit.

¶ 4 Pursuant to section 110-14 of the Code of Criminal Procedure of 1963, any person who is incarcerated on aailable offense and does not post bail is entitled to a credit of \$5 for each day spent in presentence custody against his fines. 725 ILCS 5/110-14 (West 2010). In this case, the trial court found that the defendant spent 130 days in presentencing custody, which entitled him to a monetary credit of \$650 against his fines. 725 ILCS 5/110-14(a) (West 2010). Accordingly, we modify the mittimus to reflect a \$650 credit against the defendant's fines pursuant to Illinois Supreme Court Rule 615(b)(1) (eff. Aug. 27, 1999) (allowing this court to modify a sentencing order to reflect credit for time served in presentence custody); *People v. Heinz*, 407 Ill. App. 3d 1016 (2011).

¶ 5 The State's request of statutory "fees of \$50" on appeal pursuant to section 4-2002(a) of the Counties Code (55 ILCS 5/4-2002(a) (West 2010)) is denied because the State did not prevail in this appeal. *People v. Thurman*, 104 Ill. 2d 326 (1984), citing *People v. Nicholls*, 71 Ill. 2d 166 (1978).

¶ 6 CONCLUSION

¶ 7 For the foregoing reasons, the judgment of the circuit court of Whiteside County is affirmed as modified.

¶ 8 Affirmed as modified