

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).

2013 IL App (4th) 110925-U  
NO. 4-11-0925  
IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

FILED  
July 15, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
ANDTRICE L. VAUGHN,	)	No. 11CF700
Defendant-Appellant.	)	
	)	Honorable
	)	Heidi N. Ladd,
	)	Judge Presiding.

---

JUSTICE POPE delivered the judgment of the court.  
Justices Harris and Holder White concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* (1) The State presented sufficient evidence to convict defendant of residential burglary.
- (2) Defendant could not be assessed two court financing fees, two medical fees, two VCVA fines, two State's Attorney fees, two document storage fees, two automation fees, two circuit clerk fees, two court security fees, and two State Police Operations fines.
- (3) Defendant's \$5 *per diem* presentence custody credit should have been applied against his juvenile expungement fines.
- ¶ 2 On August 16, 2011, a jury convicted defendant, Andtrice L. Vaughn, of residential burglary (720 ILCS 5/19-3 (West 2010)) and aggravated unlawful restraint (720 ILCS 5/10-3.1(a) (West 2010)). On October 7, 2011, the trial court sentenced defendant to concurrent 15- and 5-year prison terms, respectively. Defendant appeals, arguing (1) the State failed to prove him guilty beyond a reasonable doubt of residential burglary and (2) the circuit clerk (a)

erred in imposing duplicate assessments and (b) failed to apply his *per diem* credit against his two juvenile expungement fines. We affirm defendant's conviction but remand for the trial court to (1) vacate duplicate void assessments, (2) determine whether a juvenile expungement fine can be imposed on both counts, (3) impose valid fines improperly imposed by the circuit clerk, and (4) ensure the circuit clerk applies defendant's presentence custody credit against defendant's juvenile expungement fine or fines.

¶ 3

### I. BACKGROUND

¶ 4 Vernessa Hunter testified she began dating defendant in May 2010. According to her testimony, defendant never lived with her in Champaign, did not have a key to her apartment, and did not have permission to come and go from her apartment without her permission. Hunter testified she broke up with defendant over the telephone on the afternoon of May 5, 2011.

Defendant was not happy and tried to change her mind.

¶ 5 That night, Hunter went out with some friends. She arrived home between 12:30 and 1 a.m. She unlocked and opened the door to her apartment. Defendant was inside. He had a knife and said, "Come on in here, because I'm going to kill you." Hunter testified she was afraid when she saw the knife because she thought he had "finally flipped." Defendant was only a few feet from her. She testified she was "stunned" and went inside and sat on a bar stool at the counter. She thought she asked defendant why he was doing this and what was wrong with him. Defendant looked "drunk," "really evil," and "scary." She believed defendant was capable of hurting her with the knife. Defendant kept saying he was going to kill her. At one point, he poked her with the knife. The knife cut her jacket but did not touch her body.

¶ 6 Hunter testified she did not feel free to leave her apartment. Defendant was in her

face the entire time with the knife. He said he planned to kill her and then himself. She tried to talk defendant out of hurting her. When he said he was going to cut her, she told him that would be very painful and asked if she could just take pills instead. She thought she might be able to throw up the pills after defendant killed himself. Defendant did not like the idea of her taking pills so he suggested smothering her with a pillow. She was in the apartment with defendant for two to three hours. Defendant finally decided he could not kill Hunter. He told her to get her phone and call the police. Defendant told Hunter he was going to let the police kill him. Defendant finally let her go. He remained in the apartment, propped open the door, sat on a stool, and waited for the police.

¶ 7           Officer Brian Karbach of the City of Champaign police department testified he was dispatched to Hunter's residence on May 6, 2011, at 4:36 a.m. in response to a domestic disturbance where a suspect was holding a subject with a knife. He briefly spoke to Hunter when she exited the apartment building. He was part of the group of officers who eventually arrested defendant after one of the officers shot defendant with three or four bean bag rounds.

¶ 8           Officer Bradley Krauel of the City of Champaign police department testified defendant was taken to the hospital after he was secured at the scene. Krauel spoke with defendant at the hospital. Defendant was upset the police had not killed him.

¶ 9           Defendant said he and Hunter had broken up on May 5, 2011. Defendant was distraught. He began drinking during the day and became very intoxicated. He became more upset and eventually decided he wanted to kill himself and Hunter. He did not take a weapon with him to Hunter's apartment, stating he was "playing things by ear at that point." Once defendant was in the apartment, he found some alcohol and began drinking, waiting for Hunter to

come home.

¶ 10           Officer Krauel testified defendant told him he heard police officers come to the door of the apartment after he broke in. He went out the screen door until the police officers left and then he re-entered the apartment. Defendant continued to drink and found a knife in the kitchen, which he thought he might use to kill Hunter and himself. Defendant destroyed some of Hunter's things while he waited for her to come home.

¶ 11           According to Officer Krauel, defendant said he intended to kill Hunter prior to going to Hunter's apartment. He also said he intended to kill Hunter once he was inside. Defendant said Hunter was surprised when she entered the apartment and found defendant. He ordered her inside. Defendant told Hunter he was upset about their separation, did not want to live any longer, and was going to kill her too. Hunter tried to convince defendant to leave the apartment. Defendant said he and Hunter went into the bedroom and had consensual sexual intercourse. After that, defendant again told Hunter he was going to kill her and then himself. Defendant said Hunter began to try to convince him not to cut her with the knife. She said she would rather use pills. Defendant told Krauel he then realized he could not harm Hunter, retrieved Hunter's cellular phone, called 911, and gave the phone to Hunter. Defendant said he wanted the police to come up to the apartment and kill him. He then allowed Hunter to leave the apartment.

¶ 12           The jury found defendant guilty of both charges. At defendant's sentencing hearing, defense counsel and the State agreed defendant was entitled to \$775 in presentence incarceration credit for the 155 days he spent in custody. The court sentenced defendant to concurrent 15- and 5-year terms of imprisonment for residential burglary and aggravated

unlawful restraint, respectively. The court gave defendant credit for 155 days previously served and \$775 in presentence custody credit. The court ordered defendant to pay a Violent Crime Victims Assistance Act (VCVA) fine and "all fines, fees, and costs and obligations incurred by these proceedings to the Circuit Clerk."

¶ 13 After the trial court sentenced defendant, defense counsel stated defendant had requested counsel not to file a motion to reconsider sentence. This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 A. Sufficiency of Evidence

¶ 16 Defendant first argues the State failed to prove him guilty of residential burglary as charged. The residential burglary charge against defendant was predicated on defendant's intent to commit an aggravated battery inside of Hunter's apartment at the time he entered the apartment without Hunter's permission. According to defendant, the State failed to prove beyond a reasonable doubt he intended to cause great bodily harm to Hunter when he broke into her apartment.

¶ 17 We will reject a challenge to the sufficiency of the evidence if any rational trier of fact could have found the essential elements of the charged offense beyond a reasonable doubt. *People v. Wheeler*, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007). An appellate court will not retry a defendant when considering a challenge to the sufficiency of the evidence. *Wheeler*, 226 Ill. 2d at 114, 871 N.E.2d at 740. The State is given the benefit of all reasonable inferences, and the evidence is considered in the light most favorable to the prosecution. *Wheeler*, 226 Ill. 2d at 116, 871 N.E.2d at 741.

¶ 18 "The trier of fact is best equipped to judge the credibility of witnesses, and due

consideration must be given to the fact that it was the trial court and jury that saw and heard the witnesses." *Wheeler*, 226 Ill. 2d at 114-15, 871 N.E.2d at 740. That being said, "a conviction will be reversed where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt." *Wheeler*, 226 Ill. 2d at 115, 871 N.E.2d at 740. Our review "must include consideration of all the evidence, not just the evidence convenient to the State's theory of the case." *Wheeler*, 226 Ill. 2d at 117, 871 N.E.2d at 742. However, this does not require "a point-by-point discussion of every piece of evidence as well as every possible inference that could be drawn therefrom." *Wheeler*, 226 Ill. 2d at 117, 871 N.E.2d at 742.

¶ 19 A defendant's intent is judged by the totality of the circumstances, including the defendant's actions, words, violence, and other conduct. *People v. Cabrera*, 116 Ill. 2d 474, 492, 508 N.E.2d 708, 715 (1987). The State presented sufficient evidence for a rational trier of fact to have found defendant intended to cause great bodily harm to Hunter when he entered her apartment.

¶ 20 Defendant told Officer Krauel he was distraught about Hunter breaking up with him and decided to kill himself and Hunter before walking to Hunter's apartment. Defendant told Krauel he walked across town to Hunter's apartment. He entered the apartment by climbing onto a balcony and breaking a glass door. Defendant said he found a knife in Hunter's apartment which he planned to use to kill Hunter and then himself. Defendant also admitted to Krauel he told Hunter he was going to kill her after she came home. This was consistent with Hunter's testimony defendant told her numerous times after she arrived home he was going to kill her. Based on the evidence in this case, a rational trier of fact could have easily determined defendant had the intent to cause great bodily harm to Hunter when he broke into her apartment.

¶ 21 B. Fines and Fees

¶ 22 1. *Duplicate Fees*

¶ 23 Defendant next argues the trial court imposed nine duplicate fees. According to defendant, the duplicate fees were void. Defendant also points out the court did not specify any fee or fine defendant was to pay other than the VCVA fine. At the sentencing hearing, the court stated defendant "must pay all fines, fees, and costs and obligations incurred by these proceedings to the Circuit Clerk with credit of \$775 towards all fines for time served and pay a [VCVA] fee."

¶ 24 Defendant takes issue with the following assessments, which were imposed twice: \$5 document storage fee; \$10 automation fee; \$100 circuit clerk fee; \$25 court security fee; \$10 arrestee's medical fee; \$50 court-finance fee; \$40 State's Attorney fee; \$4 VCVA fine; and \$10 State Police Operations fine. Defendant did not challenge any of these duplicate assessments in a motion to reconsider sentence. However, defendant argues these duplicate assessments are void and can therefore be attacked at any time. *People v. Thompson*, 209 Ill. 2d 19, 25, 805 N.E.2d 1200, 1203 (2004). We agree.

¶ 25 The State concedes one of the document storage fees, one of the automation fees, one of the circuit clerk fees, and one of the court security fees should be vacated as duplicative. We accept the State's concession. However, the State also asks this court to reconsider its decision in *People v. Alghadi*, 2011 IL App (4th) 100012, 960 N.E.2d 612, with respect to the court financing fee, the medical fee, the VCVA charges, and the State's Attorneys fees.

¶ 26 In *Alghadi*, this court stated:

"Although a defendant may be charged with multiple counts within

the same case number, the defendant may only be assessed (1) *one* document-storage fee, (2) *one* automation fee, (3) *one* circuit-clerk fee, (4) *one* court-security fee, (5) *one* arrestee's-medical assessment, (6) *one* court-finance fee, (7) *one* State's Attorney assessment, (8) *one* VCVA fine, and (9) *one* drug-court fee. The severance of the residential-burglary charge and the robbery charge within the same case number is of no moment." (Emphases in original.) *Alghadi*, 2011 IL App (4th) 100012, ¶ 22, 960 N.E.2d 612.

According to the State, the plain language of the statutes providing for these assessments "states that the fees or costs are imposed on a per conviction basis." Relying on the Second District's decisions in *People v. Martino*, 2012 IL App (2d) 101244, ¶¶ 38, 43-44, 970 N.E.2d 1236, and *People v. Pohl*, 2012 IL App (2d) 100629, ¶¶ 19-20, 969 N.E.2d 508, the State argues "[d]uplicative assessments for court financing fees, medical fees, the VCVA charges, and the State's Attorneys fees are not only authorized but mandatory and were properly imposed on each of defendant's convictions."

¶ 27 We continue to follow the prior precedent of this court and hold only one court financing fee, one medical fee, one VCVA charge, and one State's Attorney fee may be imposed per case. As a result, we agree with defendant he should have only been assessed one document storage fee, one automation fee, one circuit clerk fee, one court security fee, one arrestee's medical fee, one court finance fee, one State's Attorney fee, and one VCVA fine. See *People v. Alghadi*, 2011 IL App (4th) 100012, ¶ 22, 960 N.E.2d 612.

¶ 28 Defendant also argues only one State Police Operations assessment should have been imposed. Like the assessments discussed above, defendant was assessed two State Police Operations fines. According to defendant:

"Subsection 1 of 705 ILCS 105/27.3a (West 2010) authorizes the collection of one automation fee per case. 705 ILCS 105/27.3a(1) (West 2010); *Alghadi*, 2011 IL App (4th) 100012, ¶ 22[, 960 N.E.2d 612]. Subsections 1.5 and 5 of section 27.3a authorize the clerk to collect 'an additional fee in an amount equal of [*sic*] the fee imposed pursuant to subsection 1 of this Section,' for deposit into the State Police Operations Assistance Fund. 705 ILCS 105/27.3a(1.5) (West 2010); 705 ILCS 105/27.3a(5) (West 2010). Thus, the subsection 1.5 fee is in an amount equal to the automation fee, and is only authorized when an automation fee is also collected."

According to defendant, because only one automation fee may be imposed per case, only one State Police Operations fine can be imposed in an amount equal to the automation fee.

¶ 29 We agree with defendant. Section 27.3a(1.5) of the Clerk of Courts Act (705 ILCS 105/27.3a(1.5) (West 2010)) states in relevant part: "a clerk of the circuit court in any county that imposes a fee pursuant to subsection 1 of this Section [(automation fee)], shall charge and collect an additional *fee* in an amount equal to the amount of the fee imposed pursuant to subsection 1 of this Section." (Emphasis added.) One of the two State Police Operations assessments must be vacated. Further, a State Police Operations assessment is a fine and can

only be imposed by the trial court. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31, 979 N.E.2d 1030. On remand, the trial court must impose this fine.

¶ 30 *2. Presentence Custody Credit*

¶ 31 Defendant also argues his \$5 per day presentence custody credit pursuant to section 110-14 of the Code of Criminal Procedure of 1963 (Criminal Code) (725 ILCS 5/110-14 (West 2010)) should have been applied against both of the \$30 juvenile expungement fines imposed on him pursuant to section 5-9-1.17(a) of the Unified Code of Corrections (Unified Code) (730 ILCS 5/5-9-1.17(a) (West 2010)). *People v. Woodard*, 175 Ill. 2d 435, 457, 677 N.E.2d 935, 945-46 (1997).

¶ 32 The trial court granted defendant \$775 in presentence custody credit toward his fines. However, defendant argues the circuit clerk did not apply the credit against the juvenile expungement fines. Section 5-9-1.17(a) of the Unified Code (730 ILCS 5/5-9-1.17(a) (West 2010)), states as follows:

"(a) There shall be added to every penalty imposed in sentencing for a criminal offense an additional fine of \$30 to be imposed upon a plea of guilty or finding of guilty resulting in a judgment of conviction.

(b) Ten dollars of each such additional fine shall be remitted to the State Treasurer for deposit into the State Police Services Fund to be used to implement the expungement [*sic*] of juvenile records as provided in Section 5-622 of the Juvenile Court Act of 1987, \$10 shall be paid to the State's Attorney's Office that

prosecuted the criminal offense, and \$10 shall be retained by the Circuit Clerk for administrative costs associated with the expungement of juvenile records and shall be deposited into the Circuit Court Clerk Operation and Administrative Fund."

¶ 33 According to defendant, the record indicates the circuit clerk assessed the \$30 expungement fine in the form of its three \$10 components. The circuit clerk imposed \$10 charges for "ST POLICE SERVICES" and "CLERK OP & ADMIN F" on both counts upon which defendant was convicted. Further, defendant argues it appears the clerk "simply added the \$10 State's Attorney component of the juvenile expungement fine to the standard \$30 State's Attorney fee" that applies pursuant to section 4-2002(a) of the Counties Code (55 ILCS 5/4-2002(a) (West 2010)). Although defendant did not raise this issue in the trial court, presentence custody credit pursuant to section 110-14 is mandatory and not subject to normal rules of forfeiture. See *People v. Watson*, 318 Ill. App. 3d 140, 143, 743 N.E.2d 147, 149 (2000).

¶ 34 The State agrees defendant is entitled to *per diem* credit pursuant to section 110-14 of the Criminal Code (725 ILCS 5/110-14 (West 2010)) against the juvenile expungement fines for time he spent in custody prior to sentencing. The State also agrees the State's Attorney fee pursuant to section 4-2002(a) of the Counties Code (55 ILCS 5/4-2002(a) (West 2010)) is \$30 rather than the \$40 assessed. We agree. However, the \$10 portion of the juvenile expungement fine which goes to the State's Attorney (which the circuit clerk apparently added on to the normal State's Attorney fee) needs to be reflected elsewhere in the circuit clerk's records to avoid defendant receiving a windfall. Further, on remand, the trial court will need to impose the juvenile expungement fine or fines on defendant as the circuit clerk may not impose a fine on a

defendant. The court should determine whether the juvenile expungement fine can be imposed on both counts.

¶ 35

### III. CONCLUSION

¶ 36 For the reasons stated, we affirm defendant's conviction but remand for the trial court to (1) vacate the duplicate void assessments listed above, (2) determine whether the juvenile expungement fine can be imposed on both counts, (3) impose valid fines improperly imposed by the circuit clerk, and (4) ensure the circuit clerk applies defendant's presentence custody credit against defendant's juvenile expungement fine or fines. Because the State successfully defended a portion of the appeal, we grant the State its \$50 statutory assessment against defendant as costs of this appeal. See *People v. Smith*, 133 Ill. App. 3d 613, 620, 479 N.E.2d 328, 333 (1985) (citing *People v. Nicholls*, 71 Ill. 2d 166, 178, 374 N.E.2d 194, 199 (1978)).

¶ 37 Affirmed; cause remanded with directions.