



Warner testified that he had been "in uniform" and had "activated the light bar on [his marked] squad car to start the traffic stop." After the defendant "pulled over to the side of the road and stopped," he exited his car and walked to a nearby house. In response, Warner followed, identifying himself as a police officer and repeatedly asking the defendant to stop. When the defendant reached the front porch of the house and started to open the screen door, Warner "made contact" with the defendant's arm. The defendant then turned around and started yelling, and "a struggle ensued." During the struggle, the defendant and Warner "both went down onto the porch," and a chair and "some lawn ornaments" were broken. Soon after being dispatched to assist, Officer Danny Lake of the Effingham police department arrived at the scene and helped Warner subdue and handcuff the defendant. The defendant was subsequently taken to jail, where someone told Warner that his uniform shirt "was torn in the back." Warner indicated that his shirt had been torn while struggling with the defendant, but he acknowledged that he did not know "exactly" how it had happened. Warner further acknowledged that his shirt "could have been torn by an object."

¶ 5 The defendant testified that he lives with his grandparents and is hearing impaired. The defendant explained that he "can't hear anything" out of his left ear and has "about 50 percent hearing" in his right. On the night in question, the defendant drove home from work and parked near his grandparents' house on Lawrence. The defendant testified that he had used his turn signal when turning from Linden onto Lawrence. The defendant further testified that he had not seen any lights or heard any sirens and had not seen or heard anyone while walking up to the house. As the defendant approached the front door, Warner jumped him from behind and knocked him to the ground. Warner then began choking him, and the defendant "was kind of fearing for [his] life," thinking that Warner "was going to kill [him] or something." The defendant testified that after hearing "the noise of [Warner] jumping on top of [him]," his grandmother had come to the door to "check on what was going on." The

defendant testified that Warner had told her that it was "none of [her] fucking business." The defendant indicated that he had not realized that Warner was a police officer until Warner and Lake had handcuffed him. The defendant further indicated after he was handcuffed, Warner and Lake had stood over him laughing.

¶ 6 The defendant's grandmother, Lavesta Rickfelder, testified that she had watched the defendant park his car and walk up to the house, and she had not initially seen "any lights that would belong to a police car." Lavesta indicated that "the lights" had come on shortly before Warner had "jumped on" and choked the defendant on her front porch. Lavesta testified that Warner had broken several items on her porch and that the defendant is "deaf." Lavesta acknowledged that she has problems with her sight and is somewhat deaf, herself.

¶ 7 In rebuttal, Warner testified that when he grabbed hold of the defendant on the front porch, they had "both wrestled to the ground," but at no point had he "jumped on" the defendant. Warner further testified that he had grabbed the defendant "[a]round his waist from behind."

¶ 8 In its closing arguments to the jury, the State contended that the defendant's story was not credible. The State also suggested that a routine traffic stop should never culminate into "a wrestling match." In response, emphasizing that the defendant suffers from a "hearing problem," defense counsel argued that the defendant did not know that Warner was a police officer. Counsel further maintained that the defendant had been "totally surprised by someone accosting him" and had "reacted by fighting." After due deliberation, the jury returned a verdict finding the defendant guilty as charged.

¶ 9 In September 2011, the cause proceeded to a sentencing hearing on the defendant's conviction for resisting a police officer. In support of its recommendation that the defendant be sentenced to a two-year term of probation with 180 days in jail, the State presented evidence of the defendant's prior criminal history. The State also noted, *inter alia*, that

although "[t]he officer wasn't hurt in this situation," his "uniform was torn." The State thus asked that as part of his sentence, the defendant be ordered to pay "[r]estitution in the amount of \$44.95 for the damaged uniform of the officer in this case."

¶ 10 Acknowledging that the defendant had a prior criminal history, defense counsel stressed that all of the defendant's prior convictions were for nonviolent offenses. Counsel asked that the court "give [the defendant] either 12 months conditional discharge or a straight conviction" plus a fine, fees, and costs. In allocution, the defendant maintained his innocence, claiming that Warner "had falsified information" to convict him.

¶ 11 The trial court ultimately sentenced the defendant to a one-year term of probation with 10 days in jail. The defendant was also ordered to pay a \$500 fine, court costs, and \$44.95 in restitution to the Effingham police department for Warner's damaged uniform shirt. With respect to the defendant's claim that he was innocent, the trial court stated that it had "absolutely no basis to believe that [Warner] falsified any statements, falsified any testimony, or in any way misled the court or the jury in this case." The defendant subsequently filed a timely notice of appeal.

¶ 12 ANALYSIS

¶ 13 The defendant first argues that the trial court lacked authority to order him to pay restitution in the amount of \$44.95. The defendant suggests that the trial court's restitution order is void, because the court failed to explicitly state its findings in support of the order and because "there was no evidence that the damage to Warner's shirt was proximately caused by [the defendant's] conduct." We disagree.

¶ 14 Pursuant to section 5-5-6 of the Unified Code of Corrections (730 ILCS 5/5-5-6 (West 2010)):

"In all convictions for offenses in violation of the Criminal Code of 1961 \*\*\* in which the person received any injury to his or her person or damage to his or her real

or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this [s]ection."

Section 5-5-6 further provides:

"In fixing the amount of restitution to be paid in cash, \*\*\* the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant \*\*\*." 730 ILCS 5/5-5-6(b) (West 2010).

¶ 15 The restitution statute is meant "to make defendants pay any costs incurred as a result of their actions" (*People v. Harris*, 319 Ill. App. 3d 534, 536 (2001)), and its terms "should be construed broadly to effect [its] remedial purpose" (*People v. Fontana*, 251 Ill. App. 3d 694, 707 (1993)). On appeal, "[w]e review the trial court's restitution order for abuse of discretion" (*People v. Universal Public Transportation, Inc.*, 2012 IL App (1st) 073303-B, ¶ 52), but "[w]e review *de novo* whether a restitution order is statutorily authorized" (*People v. Day*, 2011 IL App (2d) 091358, ¶ 49).

¶ 16 The defendant complains because the trial court "did not explicitly make a finding that the damage to Warner's shirt was caused by [the defendant's] conduct" and that there was an absence of evidence explaining "how the figure of \$44.95 was arrived at" or "whether Warner pays for his own uniform." However, "[t]he State correctly points out that the defendant has waived these objections because he did not raise them at the sentencing hearing." *People v. Eades*, 123 Ill. App. 3d 113, 119 (1984); see also *People v. Fouts*, 319 Ill. App. 3d 550, 553 (2001). Moreover, where it can be inferred from the record that the trial court properly determined that restitution was warranted, the court's failure to explicitly state its reasons for ordering restitution will not render its restitution order void. See *Fouts*, 319 Ill. App. 3d at 552-54. We must therefore determine whether the record adequately

supports the trial court's order. *Id.* at 553.

¶ 17 Contrary to the defendant's intimations on appeal, and "viewing all the evidence adduced at trial in a light most favorable to the State" (*People v. Edward*, 402 Ill. App. 3d 555, 564 (2010)), there is ample evidence to support the conclusion that Warner's uniform shirt was torn during his struggle with the defendant and that the damage thus resulted from the defendant's criminal conduct (see *People v. Stites*, 344 Ill. App. 3d 1123, 1125 (2003) (defendant convicted of criminal trespass and unlawful restraint properly ordered to pay \$570 for door damaged by responding officers' forced entry into bedroom where "the damage to the door occurred as a result of defendant's criminal trespass"); *People v. Flanagan*, 133 Ill. App. 3d 1, 3, 5 (1985) (defendant convicted of resisting a peace officer properly ordered to pay \$50 restitution for damage to an officer's clothing where the damage occurred "during the melee" upon which the conviction was based)). We also note that throughout the proceedings below, even though Warner could not explain "exactly" how it happened, that his shirt had been damaged while struggling with the defendant was never a contested issue. The State's representation that it would cost \$44.95 to replace the damaged shirt was never contested, either.

¶ 18 "[O]n appeal, all reasonable presumptions are in favor of the trial court's actions" (*People v. Gallinger*, 252 Ill. App. 3d 816, 820 (1993)), and "any doubts arising from an incomplete or silent record" are resolved against a defendant, who has the burden of establishing error on appeal (*People v. Generally*, 170 Ill. App. 3d 668, 676 (1988)). Under the circumstances, we reject the defendant's contention that the trial court lacked authority to order him to pay restitution in the amount of \$44.95 for Warner's damaged shirt. *Cf. Gallinger*, 252 Ill. App. 3d at 820 (presuming that "the trial judge received bills matching the restitution amounts"), with *People v. Kirkman*, 241 Ill. App. 3d 959, 962, 965-66 (1993) (vacating restitution order where the "award was made by the trial court without any

information on how to calculate the exact amount," and the defendant and the State both agreed that the award "was erroneous").

¶ 19 The defendant next argues that he is entitled to a \$10 credit toward his \$500 fine because he spent three days in custody prior to sentencing and was only credited for one. We agree.

¶ 20 By statute, "[a]ny person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of \$5 for each day so incarcerated upon application of the defendant." 725 ILCS 5/110-14(a) (West 2010). A defendant is entitled to such credit "for each day or part of a day spent in jail prior to the imposition of sentence." *People v. McCreary*, 393 Ill. App. 3d 402, 408 (2009). Whether a defendant is entitled to additional credit is an issue we review *de novo*. *Id.*

¶ 21 Here, the record indicates that the defendant spent three days in custody prior to posting bond, but when sentenced, he was only credited with one day. The defendant thus asks that the trial court's judgment order be amended to reflect a \$15 credit rather than a \$5 credit. The State concedes that the defendant is "entitled to a credit of \$15," and we accordingly modify the mittimus to reflect that credit toward the defendant's \$500 fine. *Id.* at 409.

¶ 22 CONCLUSION

¶ 23 For the foregoing reasons, we affirm the trial court's judgment but modify the mittimus to reflect a \$15 credit.

¶ 24 Affirmed as modified.