

No. 1-13-3501

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CR 22437
)	
DONALD STUDNICKA,)	Honorable
)	Thaddeus L. Wilson,
Defendant-Appellant.)	Judge Presiding.

JUSTICE COBBS delivered the judgment of the court.
Justice Howse and Justice Ellis concurred in the judgment.

O R D E R

¶ 1 *Held:* The fines and fees order imposed by the trial court is reduced by \$120. Two charges that were incorrectly assessed are vacated, and two fines are offset by defendant's presentencing custody credit.

¶ 2 Following a bench trial in 2013, defendant Donald Studnicka was convicted of aggravated battery of a peace officer, which is a Class 2 felony (720 ILCS 5/12-3.05(d)(4), (h) (West 2012)). Defendant was sentenced to three years in prison. On appeal, defendant challenges the imposition of various fines and fees against him. For the reasons set out below, we order that defendant's fines and fees order be corrected to reflect a total amount due of \$579.

¶ 3 After sentencing defendant, the court imposed \$699 in fines and fees. The court stated defendant would be given credit for 334 days spent in custody prior to sentencing.

¶ 4 On appeal, defendant contends that two fees were erroneously imposed against him and that he should be awarded credit toward several of his fines for time spent in custody prior to his sentencing. The propriety of court-ordered fines and fees raises a question of statutory interpretation, which this court reviews *de novo*. *People v. Ackerman*, 2014 IL App (3d) 120585, ¶ 26.

¶ 5 Defendant first argues, and the State correctly concedes, that the \$50 Quasi-Criminal Complaint conviction fee (705 ILCS 105/27.2a (w)(2)(B) (West 2012)) should be vacated because it duplicates the \$190 fee that was charged for the filing of the felony complaint against him pursuant to another subsection of the same statute (705 ILCS 105/27.2a (w)(1)(A) (West 2012)). See *People v. Smith*, 2014 IL App (4th) 121118, ¶ 27; *People v. Martino*, 2012 IL App (2d) 101244, ¶¶ 34-35; *People v. Pohl*, 2012 IL App (2d) 100629, ¶ 9 (only one such fee may be imposed where one complaint is filed). Accordingly, the \$50 Quasi-Criminal Complaint conviction fee is vacated.

¶ 6 Defendant next asserts, and the State correctly agrees, that he should not have been assessed the \$5 Electronic Citation fee (705 ILCS 105/27.3e (West 2012)) because that charge applies only to traffic, misdemeanor, municipal ordinance and conservation cases and does not apply to felony convictions. See *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 115; *People v. Moore*, 2014 IL App (1st) 112592-B, ¶ 46. Therefore, the \$5 Electronic Citation fee is also vacated.

¶ 7 Defendant further contends that four additional charges imposed against him are fines and should be offset by monetary credit for the time he spent in custody prior to sentencing. A defendant is entitled to a \$5-per-day credit against his fines for time spent in presentencing custody. 725 ILCS 5/110-14(a) (West 2012). The State agrees that defendant has accumulated 334 days of presentencing incarceration credit and therefore can apply up to \$1,670 to offset the fines imposed against him. See *People v. Jones*, 397 Ill. App. 3d 651, 663 (2009) (presentencing credit applies only to fines and not to those charges that are considered fees).

¶ 8 Despite being labeled as fees, certain assessments imposed pursuant to a conviction are actually fines. *People v. Graves*, 235 Ill. 2d 244, 250 (2009). A charge is considered a "fine" if it is pecuniary and part of the punishment imposed as part of a sentence. *People v. Jones*, 223 Ill. 2d 569, 581 (2006). In contrast, a "fee" reimburses the State for expenses related to the defendant's prosecution. *Id.* at 600.

¶ 9 Of the four fees raised by defendant on this point, the State correctly agrees that two of the charges, despite being labeled fees, are in fact fines subject to offset by defendant's presentence credit, namely the \$15 State Police Operations charge (705 ILCS 105/27.3a (1.5) (West 2012)) and the \$50 Court System charge (55 ILCS 5/5-1101(c)(1) (West 2012)). The State concedes those charges are fines because they do not reimburse the State for costs incurred in defendant's prosecution. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31; *People v. Smith*, 2014 IL App (4th) 121118, ¶ 54. Accordingly, those fines, which equal \$65, can be offset by a portion of defendant's presentencing credit.

¶ 10 The parties disagree, however, as to the classification of the \$2 Public Defender records automation fee (55 ILCS 5/3-4012 (West 2012)) and the State's Attorney records automation fee

(55 ILCS 5/4-2002.1(c) (West 2012)). Although defendant contends those charges are fines because they do not compensate the state for costs incurred in a prosecution, this court has held that both of those charges are fees. As to the latter charge, this court found it "is intended to reimburse the State's Attorneys for their expenses related to automated record-keeping systems." *People v. Rogers*, 2014 IL App (4th) 121088, ¶ 30; see also *People v. Bowen*, 2015 IL App (1st) 132046, ¶¶ 62-64; *People v. Mister*, 2015 IL App (4th) 130180, ¶ 111 (and cases cited therein). Using the same reasoning, we find that the Public Defender records automation charge is a fee. See *People v. Bowen*, 2015 IL App (1st) 132046, ¶¶ 62-64. Therefore, each of those \$2 charges will stand and because they are fees, they are not offset by defendant's presentencing credit. See *Jones*, 397 Ill. App. 3d at 663.

¶ 11 In conclusion, the \$50 Quasi-Criminal Complaint conviction fee and the \$5 Electronic Citation fee are vacated. In addition, defendant is awarded \$65 in presentencing custody credit to offset his additional fines. Because those actions reduce defendant's amount owed by a total of \$120, we direct the circuit court to correct defendant's fines and fees order to reflect an amount due of \$579, pursuant to Illinois Supreme Court Rule 615(b)(2) (eff. Aug. 27, 1999). The judgment of the trial court is affirmed in all other respects.

¶ 12 Judgment affirmed; fines and fees order modified.