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2015 IL App (3d) 140041-U

Order filed October 27, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

THE PEOPLE OF THE STATE OF)	Appeal from the Circuit Court
ILLINOIS,)	of the 14th Judicial Circuit,
)	Whiteside County, Illinois,
Plaintiff-Appellee,)	
)	Appeal No. 3-14-0041
v.)	Circuit No. 12-CF-396
)	
MICHAEL J. CORRAL,)	Honorable
)	John L. Hauptman,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice McDade and Justice O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* Cause is remanded for proper entry of an order of enumerated costs.
- ¶ 2 Defendant, Michael J. Corral, pled guilty to driving while license revoked (625 ILCS 5/6-303(d) (West 2012)). The court sentenced defendant to a term of 18 months' imprisonment and ordered him to pay certain enumerated costs. On appeal, defendant argues that: (1) a number of monetary assessments were improperly imposed by the circuit clerk, and (2) he was entitled to a \$5-per-day credit against his fine. We agree and remand the cause with instructions.

¶ 3

FACTS

¶ 4

The State charged defendant by information with one count of driving while license revoked (625 ILCS 5/6-303(d) (West 2012)). When defendant subsequently failed to appear in court, an arrest warrant was issued. The warrant was executed at the Cook County jail on June 20, 2013.

¶ 5

Defendant entered a fully negotiated guilty plea to the charged offense on July 23, 2013. Pursuant to the agreement, the trial court sentenced defendant to a term of 18 months' imprisonment. The court also noted that defendant would be given credit for 36 days previously served. Additionally, the court stated that defendant was "ordered to pay the costs of these proceedings including a [Violent Crimes Victims Assistance Fund (VCVA)] fine, Drug Court fee and a Child Advocacy Center Fee." A written order reflecting these assessments—\$100, \$10, and \$15, respectively—was entered on the day of sentencing.

¶ 6

A computer printout entitled "Payment Status Information" appears in the record. The printout is undated and unsigned, and shows a total assessment of \$636. The \$100 VCVA fine appears on the printout, but the drug court and child advocacy center assessments do not. A number of assessments not referenced by the trial court appear on the printout. The printout does not state the statutory authority for any of the listed assessments and does not reflect monetary credit for time defendant spent in presentence custody.

¶ 7

ANALYSIS

¶ 8

On appeal, defendant argues that a number of the assessments found on the computer printout were improperly imposed without authorization by the circuit clerk. Defendant asserts that the assessments were fines and therefore needed to be imposed by the trial court. Defendant also contends that he is entitled to a credit of \$180 against his fines—\$5 for each day spent in

presentence custody. Defendant requests that we remand the matter so the trial court may enter a written order enumerating each assessment he is obligated to pay and providing him credit against the appropriate fines. The State concedes that the circuit clerk imposed fines without authorization and that defendant is entitled to \$180 in credit for time spent in presentence custody. However, the State requests that we remedy these errors by reimposing the fines ourselves and applying the credit, rather than remanding the matter to the trial court.

¶ 9 It is well-settled that the imposition of a fine is a judicial act, and the circuit clerk, therefore, does not have the authority to impose a fine. See *People v. Warren*, 2014 IL App (4th) 120721, ¶ 82. Any fine imposed by the circuit clerk is void. *People v. Alghadi*, 2011 IL App (4th) 100012, ¶ 20. Where a circuit clerk has improperly imposed mandatory fines, the reviewing court may vacate those fines and reimpose them. *People v. Williams*, 2013 IL App (4th) 120313, ¶ 18.

¶ 10 In the present case, the State concedes that the following four fines were improperly imposed by the circuit clerk: the \$50 court fee, the \$15 State Police Operations fee, the \$10 Probation Operations fee, and the \$10 medical costs fee. The State further concedes that these assessments should be vacated. However, the State insists that each of the four listed fines is mandatory, and requests that this court reimpose those assessments. We decline to do so.

¶ 11 Initially, we note that defendant has not filed a reply brief, and thus has not challenged the State's assertion that the above four fines are indeed mandatory in nature. Nevertheless, the authority to reimpose mandatory fines—rather than remand the matter—is purely discretionary. *Williams*, 2013 IL App (4th) 120313, ¶ 18. It has been the position of this court that where monetary assessments have been improperly imposed, the preferred remedy is to vacate the assessments in full and remand the matter so the trial court may enter an order of enumerated

costs. See, e.g., *People v. Hunter*, 2014 IL App (3d) 120552, ¶¶ 16-17. This remedy allows the trial court to delineate "the specific amounts the court intended to *order* this defendant to pay." (Emphasis in original.) *Id.* ¶ 17. Remand also allows the matter to be addressed by the trial court with input from both parties. See *id.*

¶ 12 Accordingly, we vacate all of the fines and fees, and remand the cause with the following directions: the trial court should impose each proper fine, fee, assessment, and court cost setting forth in a written order the statutory authority for each one. The trial court should also calculate the appropriate \$5-per-day presentence incarceration credit and offset defendant's fines by that amount.

¶ 13 CONCLUSION

¶ 14 The judgment of the circuit court of Whiteside County is vacated and the cause is remanded with instructions.

¶ 15 Vacated and remanded with instructions.