

**FILED**

July 20, 2016  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2016 IL App (4th) 130219-U

NO. 4-13-0219

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
CARTER M. PUCKETT,	)	No. 12CF1214
Defendant-Appellant.	)	
	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

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JUSTICE HOLDER WHITE delivered the judgment of the court.  
Justices Turner and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the trial court's extended-term sentence, as the 2007 conviction was valid to qualify defendant for extended-term sentencing. The appellate court further vacated certain fines improperly imposed by the circuit clerk and remanded for proper imposition of fines.

¶ 2 This court, in *People v. Puckett*, 2015 IL App (4th) 130219-U, upheld defendant's extended-term sentence but vacated certain fines imposed by the circuit clerk and remanded the case for the proper imposition and clarification of fines. On January 20, 2016, by supervisory order, the Illinois Supreme Court vacated this court's judgment and ordered us to reconsider this appeal in light of its recent decision in *People v. Castleberry*, 2015 IL 116916, 43 N.E.3d 932. *People v. Puckett*, No. 118892, 45 N.E.3d 685 (2016) (nonprecedential supervisory order on denial of petition for leave to appeal). After reconsidering defendant's appeal in light of

*Castleberry*, we continue to affirm the trial court's imposition of defendant's extended-term sentence, vacate any fines imposed by the circuit clerk, and remand to the trial court for the imposition of fines previously imposed by the circuit clerk.

¶ 3

#### I. BACKGROUND

¶ 4 In October 2012, the State charged defendant with aggravated driving under the influence (DUI) (625 ILCS 5/11-501(d)(2)(E) (West 2012)) for driving or being in actual physical control of a motor vehicle at a time when defendant was under the influence of alcohol, and defendant had five times previously committed violations of section 11-501 of the Illinois Vehicle Code (Vehicle Code) (625 ILCS 5/11-501 (West 2012)) or similar provisions in violation of section 11-501(a)(2) of the Vehicle Code (625 ILCS 5/11-501(a)(2) (West 2012)).

¶ 5 That same month, a stipulated bench trial was held, at which the following evidence was presented. On July 29, 2012, Officer Matthew Bross observed defendant cross the centerline, putting part of his vehicle into the lane of oncoming traffic, and travel in the center lane inappropriately. Officer Bross conducted a traffic stop and observed defendant exhibiting signs of alcohol intoxication. Defendant admitted consuming four beers and three shots approximately four hours prior. Defendant showed signs of impairment on standardized field sobriety tests. The officer arrested defendant and took him to the police department, where an Intoximeter EC/IR breath-testing instrument was properly employed. This test determined that defendant's breath contained a breath-alcohol concentration of 0.15. Upon receiving this evidence, the trial court found defendant guilty.

¶ 6 In December 2012, the trial court held a sentencing hearing. The State tendered to the court a certified driving abstract for defendant. The court found defendant was eligible for

extended-term sentencing because he had a prior Class X felony conviction (2007 aggravated DUI) within 10 years of the matter before the court for sentencing. 730 ILCS 5/5-5-3.2(b)(1) (West 2012). The court sentenced defendant to 45 years' imprisonment, with credit for 142 days spent in custody. Additionally, as part of the sentence, the judge stated that defendant was "required to pay the statutory fine of \$1,000.00, local anti-crime fee of \$10.00, court costs[,] \*\*\* [and] a genetic marker grouping analysis fee of \$250.00." Finally, the judge granted defendant a \$710 credit for 142 days in custody to be applied against his fines. Additional assessments were later imposed by the circuit clerk.

¶ 7 In January 2013, defendant filed a motion for reconsideration of his sentence, asserting that the trial court gave too much weight to his past criminal history as an aggravating factor and inadequate consideration to his potential for rehabilitation and his past sentences as mitigating factors. In March 2013, at the hearing on the motion, the court found it to be clear defendant was eligible for extended-term sentencing based on the 2007 Class X felony aggravated DUI conviction. It then found the factors in aggravation and mitigation were correctly weighed and therefore denied the motion.

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 On remand, we must determine whether our prior decision warrants a different result in light of *Castleberry*, 2015 IL 116916, 43 N.E.3d 932. We therefore reexamine (1) whether the trial court improperly imposed an extended-term sentence and (2) the imposition of various fines and fees. Per our request, the parties submitted supplemental briefs discussing the impact of *Castleberry* on this court's previous judgment. Before addressing the merits of the

appeal, we discuss the supreme court's decision in *Castleberry*.

¶ 11

A. *Castleberry*

¶ 12 In *Castleberry*, the defendant was convicted of two counts of aggravated criminal sexual assault (720 ILCS 5/12-14(a)(8) (West 2008)). *Id.* ¶ 3. At sentencing, the State sought a mandatory 15-year sentencing enhancement on both counts because the defendant was armed with a firearm during the commission of the offenses (see 720 ILCS 5/12-14(d)(1) (West 2008)). *Id.* However, the trial court disagreed and applied the 15-year sentencing enhancement to only one of the counts of aggravated criminal sexual assault. *Id.* ¶ 4. On appeal, the defendant raised two arguments: (1) his conviction should have been reversed due to errors during jury selection, and (2) the 15-year sentencing enhancement for possession of a firearm was unconstitutional. *Id.* ¶ 5. The appellate court affirmed the defendant's conviction and sentence. *Id.* ¶ 6. However, in response to an argument raised by the State, the appellate court remanded the case for resentencing after holding the trial court's failure to impose the 15-year sentencing enhancement to both counts rendered the judgment void for failing to conform to statutory requirements. *Id.*

¶ 13 The defendant appealed to the supreme court, asserting the void-judgment rule relied upon by the appellate court was no longer valid. *Id.* ¶ 9. The supreme court agreed and abolished the long-standing void-judgment rule. *Id.* ¶ 19. The court explained a void judgment was one entered by a court lacking jurisdiction and the failure to comply with a statutory requirement could not negate the court's constitutionally provided jurisdiction over a case. *Id.*

¶¶ 11, 19.

¶ 14 The supreme court also rejected the State's argument that the appellate court could increase a defendant's sentence at the State's request. *Id.* ¶ 20. The court noted Illinois Supreme

Court Rule 604(a) (eff. July 1, 2006) outlined the situations in which the State could appeal, and the rule did not authorize the State to appeal sentencing orders. *Castleberry*, 2015 IL 116916, ¶ 21, 43 N.E.3d 932. Additionally, the supreme court held the State, as an appellee, could not attack a judgment in such a way that it would increase its own rights or lessen the rights of the defendant. *Id.* ¶ 22. Instead, if the State wanted to attack the validity of a criminal sentence based on a mandatory sentencing requirement, it could do so by filing a writ of *mandamus*. *Id.* ¶ 26.

¶ 15 We now turn to the issues raised in the original appeal to determine whether the decision in *Castleberry* changes our holding.

¶ 16 B. Extended-Term Eligibility

¶ 17 On remand, both parties agree the *Castleberry* decision is inapplicable to the issue of whether the trial court properly imposed an extended-term sentence. In the original appeal, defendant asserted the court improperly relied on his 2007 Class X aggravated DUI conviction to make him extended-term eligible because the subsection under which he was charged and convicted was later ruled invalid. *Puckett*, 2015 IL App (4th) 130219-U, ¶ 17. We concluded, because the 2007 Class X felony DUI conviction was of record and authorized by statute when entered, the court properly considered the conviction when determining defendant's eligibility for extended-term sentencing. *Id.* ¶ 22. In reaching this decision, we found the trial court's order was not void, and we therefore did not apply the void-judgment rule. *Id.* Accordingly, the abolishment of the void-sentence rule in *Castleberry* does not impact our original holding. We therefore affirm defendant's extended-term sentence.

¶ 18 We now turn to whether *Castleberry* impacts our original analysis regarding the

imposition of certain fines.

¶ 19 C. Imposition of Fines

¶ 20 Defendant did not challenge the imposition of any fines or fees in his original appellant's brief. Rather, the State challenged the imposition of several fines, asserting the void-judgment rule allowed it to challenge a void judgment—*i.e.*, a statutorily unauthorized sentence—at any time, relying on *People v. Arna*, 168 Ill. 2d 107, 113, 658 N.E.2d 445, 448 (1995). See *Puckett*, 2015 IL App (4th) 130219-U, ¶¶ 32, 34, 36, 38, 40, 42, 44, 46. However, *Castleberry* abrogated *Arna* and abolished the void-judgment rule, and the parties therefore agree we must change our analysis with respect to the imposition of fines.

¶ 21 The trial court's written sentencing order required defendant to pay a \$1,000 fine, a \$10 Crimestoppers fine, a violent crimes victims assessment fine, and a deoxyribonucleic acid fee. However, the circuit clerk later imposed additional fines, including (1) a \$10 arrestee's medical fee (730 ILCS 125/17 (West 2012)), (2) a \$5 spinal-cord-research fine (730 ILCS 5/5-9-1(c-7) (West 2012)), (3) a \$100 trauma-fund assessment (730 ILCS 5/5-9-1(c-5) (West 2012)), (4) a \$250 criminal surcharge (730 ILCS 5/5-9-1(c) (West 2012)), (5) a \$5 drug-court-program fine (55 ILCS 5/5-1101(f) (West 2012)), (6) a \$50 court-finance fee (55 ILCS 5/5-1101(c), (g) (West 2012)), (7) a \$10 State Police operations assessment (705 ILCS 105/27.3a(1.5) (West 2012)), and (8) a \$30 juvenile-expungement-fund fine—listed as three separate \$10 charges for the Circuit Clerk Operations and Administrative Fund, State's Attorney's Office Fund, and State Police Services Fund (730 ILCS 5/5-9-1.17 (West 2012)).

¶ 22 In our original judgment, we agreed with the State, holding the sentencing order was void and could therefore be attacked at any time by either party. *Puckett*, 2015 IL App (4th)

130219-U , ¶ 29. As a result, we vacated the fines imposed by the clerk and remanded for the proper imposition and clarification of fines. *Id.* ¶ 50. The decision in *Castleberry* changes that analysis, but not the outcome.

¶ 23           When *Castleberry* abolished the void-judgment rule, the supreme court explained a void judgment is one where the trial court lacks jurisdiction. *Castleberry*, 2015 IL 116916, ¶ 11, 43 N.E.3d 932. The court held a trial court's constitutionally provided jurisdiction could not be revoked based on its failure to follow a statutorily mandated provision. *Id.* ¶ 19. Here, we are not confronted with an issue regarding the trial court's jurisdiction, but rather the authority of a *circuit clerk*, a nonjudicial officer, to impose fines. We review *do novo* whether the circuit clerk improperly imposed a fine. See *People v. Gutman*, 2011 IL 110338, ¶ 12, 959 N.E.2d 621.

¶ 24           Unlike the trial court, circuit clerks lack the authority to enter judgments and, therefore, any judgments they enter are void. *People v. Gutierrez*, 2012 IL 111590, ¶ 14, 962 N.E.2d 437; *People v. Hible*, 2016 IL App (4th) 131096, ¶ 9. The parties therefore agree that any fines imposed by the circuit clerk must be vacated because the clerk lacked the authority to impose them. See *People v. Swank*, 344 Ill. App. 3d 738, 748, 800 N.E.2d 864, 871 (2003) (nonjudicial officers lack the authority to enter judgments).

¶ 25           Although the parties agree that the fines imposed by the circuit clerk must be vacated, they disagree as to whether those particular fines can be reimposed by the trial court. The State asserts we may remand the case for the court to judicially impose those mandatory fines. Conversely, defendant argues such an approach is prohibited by *Castleberry* because to do so would allow the State to seek an increase in defendant's sentence.

¶ 26           Pursuant to *Castleberry*, the State cannot attack a judgment in a way that

increases its own rights or lessens defendant's rights. *Castleberry*, 2015 IL 116916, ¶ 22, 43 N.E.3d 932. However, the State seeks neither to increase its own rights nor lessen defendant's rights. Rather, the State asks that the fines improperly imposed by the circuit clerk be properly imposed by the trial court. In other words, the amount of fines owed by defendant would remain the same. Accordingly, we remand the aforementioned fines improperly imposed by the circuit clerk to be imposed by the trial court.

¶ 27

### III. CONCLUSION

¶ 28 For the reasons stated, we affirm the trial court's extended-term sentence as defendant's 2007 Class X felony conviction was appropriate to consider in finding defendant eligible for extended-term sentencing. Further, we vacate certain fines improperly imposed by the circuit clerk and remand for the proper imposition of fines. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002(a) (West 2014).

¶ 29

Affirmed in part and vacated in part; cause remanded with directions.