2017 IL App (1st) 150739-U

No. 1-15-0739

Order filed September 20, 2017

Third Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appelle,	)	Cook County.
	)	
v.	)	No. 13 CR 19759
	)	
JASON WILSON,	)	Honorable
	)	Jorge Luis Alonso,
Defendant-Appellant.	)	Thomas J. Byrne,
	)	Judges, presiding.

PRESIDING JUSTICE COBBS delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's 12-year sentence for being an armed habitual criminal is affirmed because the trial court did not base its sentencing decision on improper evidence. We correct the order assessing fines, fees, and costs.

¶ 2 Following a jury trial, defendant Jason Wilson was convicted of being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2012)) and sentenced to 12 years' imprisonment. Defendant was also assessed $619 in fines, fees, and costs. Defendant appeals, arguing that he

was denied a fair sentencing hearing because the trial court based its sentencing decision on an incorrect recollection of the evidence and on speculation about events that did not transpire. He also challenges various fines and fees imposed by the court. For the reasons set forth herein, we affirm the judgment of the trial court and correct the order assessing fines, fees, and costs.

¶ 3 Defendant was charged by information with one count of being an armed habitual criminal, four counts of unlawful possession of a weapon by a felon, and three counts of aggravated unlawful use of a weapon. The State nol-prossed all charges, except the armed habitual criminal charge, and the case proceeded to a jury trial.

¶ 4 Officer Martin Teresi testified that, on September 19, 2013, he and his partners, Officers Reno and McCallum, were driving in the vicinity of 8015 South Stewart Street in Chicago when he observed a crowd of 20 people "standing on a sidewalk, parkway, the street and the alley just hanging out." He observed that some of the people were drinking alcohol. Reno stopped their vehicle near the group, and Teresi noticed one individual, whom he identified in-court as defendant, look toward the officers and walk toward the door of the residence at "a fast pace." Teresi exited the passenger side of the vehicle, announced his office, and told defendant to stop because he wanted to talk to him.

¶ 5 Teresi ran toward the defendant, who ascended the stairs leading to the front door of the house and closed a wrought-iron security door. As defendant turned to close the interior front door, Teresi observed a handgun with an extended magazine, protruding six or seven inches from defendant's waistband. Defendant shut and locked the interior door.

¶ 6 A woman from the crowd, whom Teresi identified as Keeshun Hunt, started shouting that she did not know who had just entered her house and told Teresi that her three young children

were in the residence. Teresi heard Reno, who had run to the rear of the building, shout that defendant was coming back to the front of the residence. Teresi then observed defendant return to the front of the residence and lock the front windows. Teresi used a pry tool to open the wrought-iron security door and, after multiple attempts, was able to kick-in the interior door. The officers took defendant, who had been lying on the floor using his weight to hold the door closed, into custody. A search of the house was conducted, and Reno recovered a semi-automatic pistol with an extended magazine. Teresi identified this gun as the gun he observed in defendant's waistband. Teresi testified that he did not know whether the gun was loaded when it was recovered.

¶ 7 Officer Mark Reno testified that he was driving a police vehicle in the area of 8015 South Stewart when he observed a group of at least 20 people congregating "in the street, on the sidewalk, [and] in the alley." When the officers exited the vehicle and announced their office, they observed a man, whom Reno identified in-court as defendant, separate from the group in "a hurried fashion." Reno observed defendant heading towards the front of the residence in question. Fearing that defendant may attempt to flee out of the back, Reno relocated to the rear of the building. There, Reno observed defendant approach the windows in the back of the residence. When defendant noticed Reno standing behind the building, he locked the windows. Reno then lost sight of defendant and sent a radio transmission, requesting that more units respond to the scene.

¶ 8 After a few minutes, Reno relocated to the front of the building where his partners had detained defendant. Reno then began to "clear" the house. Inside, Reno found three young children. He searched the basement of the residence and found a black handgun with an extended

magazine inside of a running washing machine. Reno recovered the gun and "made it safe." When asked how he "made the gun safe," Reno explained that he "[t]ook the magazine out and ejected the round if there was a round in it. I don't recall." The magazine contained 25 live rounds of ammunition. Reno showed the gun to Teresi, who identified the gun as the one that had been in defendant's waistband.

¶ 9 After transporting defendant to a police station, Reno advised him of his *Miranda* rights from a preprinted card. Defendant told Reno that he carried the gun for protection because of an ongoing conflict with a group of individuals from another neighborhood. He also stated that he did not own the gun.

¶ 10 Outside the presence of the jury, the State offered into evidence certified copies of defendant's 2006 vehicular hijacking conviction and his 2010 burglary conviction. Defendant made a motion for a directed finding, which the trial court denied. In the presence of the jury, the parties stipulated that defendant had been convicted of two qualifying felony offenses for the armed habitual criminal charge. The State then rested its case-in-chief.

¶ 11 Keeshun Hunt testified that, on September 2013, she lived at 8015 South Stewart with her two sisters, Acquinett and Keeshunda. At the time, Acquinett had been dating defendant for a month and defendant would come to their house three or four times a week. Hunt testified that she had three children aged 7, 8, and 10. Hunt had seen defendant interact with her children and was not concerned about him being around them.

¶ 12 On the night of September 19, 2013, Hunt had around 20 friends over to her house. The group was standing outside of the house, and Hunt testified that her front door was unlocked so that her friends could go inside to use the restroom and retrieve alcohol from the refrigerator.

Hunt testified that, by 9:30 p.m., she had consumed "about five sips" of vodka but was not impaired or drunk. Her friends were standing in the alley near the building, on the sidewalk, and in the grass between the sidewalk and the street. She testified that none of her friends were standing in the street. She was sitting on the front porch when police arrived. The police approached the group and told Hunt to get off the porch. She testified that defendant had gone inside of the residence "[a]bout two seconds" before the police arrived and that he was standing near the open interior front door. The security door was closed. When the police approached the porch, defendant shut the front interior door. The police broke through the security door and kicked in the interior door.

¶ 13 Hunt testified that the police did not ask her permission to enter the house. She also stated that she did not yell about her children being inside the house and that she was not familiar with defendant. When defendant entered her house, she was not concerned about the safety of her children. When police broke down the interior door, she saw defendant on the floor near the door, and observed police handcuff him.

¶ 14 On cross-examination, Hunt was confronted with a "consent to search" document that she had signed. Hunt stated that she did not read the document before signing it. She was also confronted with a criminal complaint for trespass to residence which she signed three times. She testified that police never explained the document to her.

¶ 15 On redirect, Hunt stated that the police told her that the forms she was signing were to have her doors fixed. She testified that she did not read the forms because she was afraid of the police.

¶ 16 In rebuttal, the State called Sergeant Brian Hawkins, who testified that, on September 19, 2013, there were "over a hundred" people outside of 8015 South Stewart Street. The crowd was "hostile and people were shouting and upset that [defendant] was taken into custody." Hawkins explained the consent to search form to Hunt, who was allowed to read the form before she signed it. He also asked her if she wanted to press charges against defendant for entering her house and had her sign a criminal complaint form. He testified that he did not tell Hunt that she was filling out forms to have her door fixed.

¶ 17 In surrebuttal, defendant called Officer Teresi, who testified that he gave Hunt a phone number for city services, who would fix her front door.

¶ 18 Based on this evidence, the jury found defendant guilty of being an armed habitual criminal. Sentencing was conducted by a judge other than the one who had presided over pre-trial proceedings and the jury trial.[1] The sentencing judge indicated that, although he did not preside over the trial, he had "the benefit of reading all the transcripts" of the case. After hearing arguments in aggravation and mitigation, the court, in announcing its ruling, stated:

> "Well, I did read the transcripts, and I read the transcripts from the motion, as well as the jury trial. And the jury had the opportunity to listen to all the evidence and all the witnesses, and they were convinced beyond a reasonable doubt that you, in fact, possessed the gun as described by the officers.

[1] Section 5-4-1(b) of the Unified Code of Corrections provides that "[t]he judge who presided at the trial or the judge who accepted the plea of guilty shall impose the sentence unless he is no longer sitting as a judge in that court." 730 ILCS 5/5-4-1(b) (West 2012). Before sentencing, the Honorable Jorge Luis Alonso was appointed as a federal judge in the United States District Court for the Northern District of Illinois. The Honorable Thomas J. Byrne presided over sentencing.

And that was a gun that wasn't an ordinary handgun because of that clip, which according to the evidence, held 25 live rounds. I thought there was testimony, too, about one being in the weapon itself separate and apart from the magazine. That would be a hard weapon to conceal and a hard weapon to miss if it was carried in someone's waistband. I expect that you probably had that weapon in your waistband in part for show. I'm not sure. But I don't know how you tote that thing around without seeing it.

The facts and circumstances of the case I find to be also important in considering the sentence. This is a situation that could very easily have gotten out of hand. This is a situation where I'd say you essentially barricaded yourself in somebody else's house. There's testimony that you were dating someone that lived in [the] house for almost 30 days, and you were a frequent overnight guest. In that house [were] just three children when you went in there, locked the doors, locked the windows as the police banged on the doors and windows, were stationed front and back. When they eventually kicked the door in knowing that there were children inside the house, you pushed up against the door to resist them coming in after they had defeated the lock, so in a sense barricading yourself in there with this weapon with the extended clip that did turn out to be loaded.

Fortunately, nobody was hurt, children were fine as your lawyer pointed out. There wasn't any testimony that they were aware that this was going on as it was later in the evening. But it was certainly a dangerous situation that could have spiraled and escalated out of control.

It's also important this took place when there was a crowd of people outside and the police were in a difficult situation to manage what was going on in the house with

you essentially locking yourself in there with the children and managing the crowd outside that were in range of this standoff-type of situation that you created.

Now, if the police had rolled up and you had the gun, you were taken into custody, the charge would be the same because you're not allowed to have a weapon based on your background as the jury decided, but you, in fact, made the situation other than that. As I said, fortunately nobody was hurt.

I have considered carefully the facts in the case. I've considered the factors in aggravation, the statutory factors in aggravation, as well as those factors in mitigation. I've carefully considered the arguments of the lawyers and what you yourself have said to the Court."

¶ 19 The court sentenced defendant to 12 years' imprisonment and assessed $619 in fines, fees, and costs. The court denied defendant's motion to reconsider sentence, and defendant filed a timely notice of appeal.

¶ 20 On appeal, defendant first contends that he was denied a fair sentencing hearing because the court improperly imposed his 12-year sentence based on its incorrect recollection of the evidence and on speculation about events that did not transpire. Specifically, he claims that the court's statement "I thought there was testimony, too, about [a bullet] being in the weapon itself separate and apart from the magazine" was an incorrect statement of the facts. Defendant also argues that the sentencing court's statement that he suspected that " [defendant] probably had that weapon in [his] waistband in-part for show" is a misstatement of the evidence and by which the sentencing judge was attempting to "belittle" his "very real concerns about his neighborhood's danger."

¶ 21 In setting forth this argument, defendant acknowledges that he failed to preserve these issues for appeal by not objecting to the court's oral pronouncements or including these alleged errors in his motion to reconsider sentence. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). ("It is well settled that, to preserve a claim of sentencing error, both a contemporaneous objection and a written postsentencing motion raising the issue are required."). Nonetheless, he argues that we may review this issue under the plain error doctrine.

¶ 22 To establish plain error in the context of sentencing, a defendant must show that a clear or obvious error occurred and "that (1) the evidence at the sentencing hearing was closely balanced, or (2) the error was so egregious as to deny the defendant a fair sentencing hearing." *Hillier*, 237 Ill. 2d at 545. Under either prong of the plain error doctrine, the burden of persuasion remains on the defendant. *Id.* A reviewing court conducting plain error analysis must first determine whether an error occurred, as "[w]ithout reversible error, there can be no plain error." *People v. McGee*, 398 Ill. App. 3d 789, 794 (2010).

¶ 23 Before determining whether any error occurred, we initially address defendant's argument that the appropriate standard of review in this case is *de novo*. In doing so, we observe that the trial court has broad discretionary powers to determine a defendant's sentence and its decision merits great deference because it is in a superior position to weigh the applicable sentencing factors. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). As such, the imposition of a sentence is normally within the trial court's discretion and a reviewing court will not alter a defendant's sentence absent an abuse of discretion. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). Moreover, where, as here, a sentence falls within the prescribed statutory range it is presumed proper and will not be disturbed absent an affirmative showing that the sentence is at

variance with the purpose and spirit of the law or is manifestly disproportionate to the nature of the offense. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46 (citing *People v. Gutierrez*, 402 Ill. App. 3d 866, 900 (2010)).

¶ 24 Defendant nevertheless urges us to employ the *de novo* standard of review, claiming that the sentencing court's reliance on an improper factor involves the application of law to uncontested facts. However, the cases cited by defendant in support of this claim raised issues that presented questions of law. See *People v. Watkins*, 325 Ill. App. 3d. 13, 18 (2001) (applying a *de novo* standard in reviewing whether the defendant's sentence was an improper double enhancement); *People v. Abdelhadi*, 2012 IL App (2d) 111053, ¶ 8 (applying *de novo* standard where sentencing judge relied on a factor inherent in the offense in sentencing the defendant to 10 years' imprisonment).

¶ 25 In this case, unlike in *Watkins* and *Abdelhadi*, defendant contends that, in imposing sentence, the court relied on improper evidence. Under these circumstances, the more appropriate standard of review is an abuse of discretion. See *People v. Cotton*, 393 Ill. App. 3d 237, 265 (2009) (quoting *People v. McAfee*, 332 Ill. App. 3d 1091, 1096 (2002)) (Reliance upon improper evidence " 'affects a defendant's fundamental right to liberty, and therefore, is an abuse of discretion.' "). We note, however, that under either standard of review, the outcome would be the same.

¶ 26 When sentencing a defendant, a court " 'must exercise care to insure the accuracy of information considered.' " *People v. Jackson*, 149 Ill. 2d 540, 549 (1992) (quoting *People v. Adkins*, 41 Ill. 2d 297, 300 (1968)). Apart from showing that a court misstated evidence at sentencing, a defendant must demonstrate that the court "relied on the particular improper fact"

when it sentenced the defendant. *People v. Valadovinos*, 2014 IL App (1st) 130076, ¶ 47. Even if the trial court considers a misstated fact, remand is not required if the weight given to the factor "is so insignificant that it did not lead to a greater sentence." *Cotton*, 393 Ill. App. 3d at 266. "[A] reviewing court should not focus on a few words or statements made by the trial court, but must consider the record as a whole." *People v. Sims*, 403 Ill. App. 3d 9, 24 (2010).

¶ 27 Here, after reviewing the record as a whole, we find that the trial court did not abuse its discretion in sentencing defendant to 12 years' imprisonment. The record clearly shows that, in imposing sentence, the court was most concerned with the seriousness of defendant's conduct and the dangerous situation he created during the commission of the offense. In announcing sentence, the court specifically stated that it found "important" the "facts and circumstances" of this case and that the situation defendant created "could very easily have gotten out of hand." See *People v. Raymond*, 404 Ill. App. 3d 1028, 1069 (2010) (a court must consider all factors in aggravation, including the nature and circumstances of the crime and the defendant's actions in the commission of that crime); see also *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 123 (the most significant factor in imposing sentence is the seriousness of the offense).

¶ 28 The court then recounted the evidence, including that defendant, armed with a loaded semi-automatic handgun, which was equipped with a high-capacity magazine, locked himself in a house with three young children whose mother was screaming and visibly distraught about their safety. The court noted that defendant did this while there was a crowd of people outside the house and the police had to manage the crowd. Prior to imposing sentence, the court again stressed that its sentencing decision was motivated by defendant's conduct during the commission of the offense. The court admonished defendant that even "if the police rolled up

and you had the gun * * * the charge would be the same because you're not allowed to have a weapon based on your background * * * but you, in fact, made the situation other than that." The court then noted "as I said, fortunately nobody was hurt." Given this record we cannot say that the court relied on improper evidence in sentencing defendant.

¶ 29 Defendant nevertheless takes issue with the court's comments that he created "a dangerous situation that could have spiraled and escalated out of control" and that the "police were in a difficult situation to manage what was going on in the house with you essentially locking yourself in there with the children and managing the crowd outside that were in range of this standoff-type of situation that you created." Defendant claims that it is "simply not accurate" to say that the situation was dangerous. In support, he claims that that the situation was "a mere delay that lasted only as long as it took Officer Teresi to kick down the front door" rather than a "stand-off" and that he had disarmed himself before police were able to kick down the front door.

¶ 30 Defendant's characterization of events is belied by the record, which shows that he essentially barricaded himself in the house with three young children while he was armed with a semi-automatic weapon. Defendant locked the door and both the front and rear windows to the house. Moreover, even after the police defeated the lock to the door, defendant continued to obstruct their progress by using his body weight to prevent the officers from opening the door. As such, the court's characterization of the situation as "dangerous" and a "stand-off" was reasonable.

¶ 31 We are likewise not persuaded by defendant's reliance on the complained-of remarks made by the court in announcing its sentence. In crafting his argument, defendant does not

consider the sentencing record as a whole. Rather, he isolates certain comments made by the court and points to these comments as an indication that the court relied on improper evidence. As we have stated, however, a defendant must demonstrate that the court "relied on the particular improper fact" when it sentenced the defendant. *Valadovinos*, 2014 IL App (1st) 130076, ¶ 47; see also *Cotton*, 393 Ill. App. 3d at 266 (Even if the trial court considers a misstated fact, remand is not required if the weight given to the factor "is so insignificant that it did not lead to a greater sentence."). Here, even if we were to consider the complained-of remarks as a misstatement of the evidence, we cannot say that the court's two passing remarks, in the context of the sentencing record as a whole, indicate that the court relied on this evidence in fashioning its sentence. This is especially so where, as here, the court was most concerned with defendant's conduct of barricading himself in the house and protracting his encounter with the police.

¶ 32 In sum, the court did not consider or rely on improper evidence and, thus, did not abuse its discretion in sentencing defendant to 12 years' imprisonment. As such, we find no error, and hence, no plain error here. See *McGee*, 398 Ill. App. 3d at 794 ("[w]ithout reversible error, there can be no plain error."). Therefore, defendant's claim of sentencing error is forfeited.

¶ 33 Defendant next challenges the trial court's assessment of certain fines and fees. He argues that two assessments were erroneously imposed against him. He further contends that certain "fees" assessed against him operate as fines and should be offset by his presentence custody credit.

¶ 34 Defendant acknowledges that he did not raise these claims in the trial court. See *People v. Thompson*, 238 Ill. 2d 598, 611 (2010) ("To preserve a claim for review, a defendant must both object at trial and include the alleged error in a written posttrial motion."). However, the State

does not argue forfeiture, and has therefore forfeited the claim that the issues raised by defendant are forfeited. *See People v. Whitfield*, 228 Ill. 2d 502, 509 (2007) (the State may forfeit the claim that an issue defendant raises is forfeited if the State does not argue forfeiture on appeal). " 'We review the propriety of a trial court's imposition of fines and fees *de novo*.' " *People v. Glass*, 2017 IL App (1st) 143551, ¶ 21 (quoting *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 60).

¶ 35 Defendant first argues, and the State agrees, that the $5 Electronic Citation fee (720 ILCS 105/27.3e (West 2012)) was erroneously assessed against him. The statute authorizing this fee dictates that it shall be paid by a defendant "in any traffic, misdemeanor, municipal ordinance, or conservation case upon a judgment of guilty or grant of supervision." *Id.* As defendant was convicted of a felony offense, this fee was erroneously assessed against him. Accordingly, we vacate the $5 Electronic Citation fee. *See People v. Brown*, 2017 IL App (1st) 142877, ¶ 71 (vacating an Electronic Citation fee where the defendant was convicted of a felony.)

¶ 36 Further, defendant contends, and the State agrees, that the $20 Violent Crime Victim's Assistance fine (725 ILCS 240/10 (c)(2) (West 2010)) was erroneously assessed against him. Effective July 16, 2012, the statute was amended, and the section which authorized this particular fine was removed. See 725 ILCS 240/10 (West 2012). As defendant was arrested on September 19, 2013, the section of the statute authorizing this $20 fine was no longer in effect and, therefore, this fine was erroneously assessed against defendant. Accordingly, we vacate the $20 Violent Crime Victim Assistance fine.

¶ 37 Defendant next contends that certain "fees" assessed against him operate as fines and should be offset by his presentence custody credit. A defendant incarcerated on a bailable offense who does not supply bail and against whom a fine is levied is allowed a credit of $5 for

each day of presentence incarceration. 725 ILCS 5/110-14(a) (West 2012). "The credit for presentence incarceration can only reduce fines, not fees." *People v. Jones*, 223 Ill. 2d 569, 599 (2006). A "fine" is punitive in nature and is imposed as part of a sentence on a person convicted of a criminal offense. *People v. Graves*, 235 Ill. 2d 244, 250 (2009). A "fee" is a charge that seeks to recoup expenses incurred by the State in prosecuting the defendant. *Id*. The legislature's label for a charge is strong evidence of whether the charge is a fee or a fine, but the most important factor is whether the charge seeks to compensate the state for any costs incurred as the result of prosecuting the defendant. *Id*.

¶ 38 Defendant first argues, and the State agrees, that the $15 State Police Operations fee (705 ILCS 105/27.3a(1.5) (West Supp. 2013)), and the $50 Court System fee (55 ILCS 5/5-1101(c) (West 2012)) operate as fines and should be offset by his presentence custody credit. This court has previously determined that these "fees" operate as fines. *People v. Moore*, 2014 IL App (1st) 112592-B, ¶ 46 (State Police Operations fee operates as a fine); *People v. Bingham*, 2017 IL App (1st) 143150, ¶ 40 (Court System fee operates as a fine that is offset by presentence credit). Defendant was incarcerated for 510 days prior to sentencing, and therefore, has a presentence custody credit of $2,550. Because this court considers the $15 State Police Operations fee and the $50 Court System fee as fines, defendant's pre-sentence credit is offset by $65.

¶ 39 Next, defendant argues that he is entitled to presentence credit against both the $2 Public Defender Records Automation fee (55 ILCS 5/3-4012 (West 2012)) and the $2 State's Attorney Records Automation fee (55 ILCS 5/4-2002.1(c) (West 2012)) assessed against him. However, this court has found that both the State's Attorney Records Automation fee and the Public Defender Records Automation fee constitute fees, and not fines, as they are compensatory rather

than punitive in nature. *People v. Reed*, 2016 IL App (1st) 140498 ¶¶16-17 (holding that these assessments are fees because both the assistant State's Attorney and assistant public defender would have used their respective office records systems in the course of prosecuting and defending the defendant). C*ontra People v. Camacho*, 2016 IL App (1st) 140604, ¶ 56. Accordingly, neither of the Records Automation fees are offset by defendant's presentence credit.

¶ 40 Defendant contends that the $15 Clerk's Automation fee (705 ILCS 105/27.3a (1), (1.5) (West Supp. 2013)), $15 Clerk's Document Storage fee (705 ILCS 105/27.3c (West 2012)), and $190 Clerk's Felony Complaint Filed fee (705 ILCS 105/27.2a(w)(1)(A) (West 2012)) assessed against him are actually fines, and should be offset by his presentence credit. However, this court has previously held that these charges are "compensatory and a collateral consequence of defendant's conviction," and therefore are fees rather than fines. *People v. Tolliver*, 363 Ill. App. 3d 94, 97 (2006). Contrary to defendant's argument, our reasoning in *Tolliver* is in line with our supreme court's holding that the "central characteristic which separates a fee from a fine" is " 'whether the charge seeks to compensate the state for *any* costs incurred as the result of prosecuting the defendant.' " (Emphasis added.) *People v. Graves*, 235 Ill. 2d 244, 250 (2009) (quoting *People v. Jones*, 223 Ill. 2d 569, 600 (2006)); see also *People v. Brown*, 2017 IL App (1st) 150146, ¶ 39 (Clerk's Automation, Document Storage, and Felony Complaint Filed fees do not operate as fines). Accordingly, the $15 Clerk's Document Storage fee, $15 Clerk's Automation fee and $190 Clerk's Felony Complaint Filed fee shall not be offset by defendant's presentence credit.

¶ 41 For the foregoing reasons, we vacate the $5 Electronic Citation fee and $20 Violent Crime Victim's Assistance fine assessed against defendant. We find that the $15 State Police Operations fee and $50 Court System fee operate as fines and are offset by defendant's presentence custody credit. The $15 Clerk's Automation fee, $15 Clerk's Document Storage fee, $190 Clerk's Felony Complaint Filed fee, $2 State's Attorney Records Automation fee, and $2 Public Defender Records Automation fee are not offset by credit. Pursuant to Illinois Supreme Court Rule 615(b)(1), this court enjoys authority to correct a mittimus without remand. See *People v. Glass*, 2017 IL App (1st) 143551, ¶ 28; *People v. Bowen*, 2015 Il App (1st) 132046, ¶ 68. Accordingly, we direct the clerk of the circuit court to correct the fines and fees order consistent with this order.

¶ 42 Affirmed as modified.