2018 IL App (1st) 160710-U

No. 1-16-0710

Order filed August 17, 2018

Sixth Division

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 DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 11914
	)	
SHERICE GRIFFIN,	)	Honorable
	)	Arthur F. Hill, Jr.,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Cunningham and Delort concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's sentence of eight-and-a-half years' imprisonment for aggravated battery of a transit employee is affirmed over her contentions that the trial court erred in imposing sentence because it considered, in aggravation, a factor inherent in the offense and ignored factors in mitigation that warranted a minimum sentence. We also direct the clerk of the circuit court to modify defendant's fines, fees, and costs order.

¶ 2 Following a jury trial, defendant Sherice Griffin was convicted of two counts of aggravated battery of a transit employee (720 ILCS 5/12-3.05(d)(7) (West 2014)) and sentenced

to an extended term of eight-and-a-half years' imprisonment. She was also assessed fines and fees totaling $624. On appeal, she contends that the trial court erred in imposing sentence because it: considered, in aggravation, factors inherent in the offense of aggravated battery of a transit employee; and ignored factors in mitigation that warranted a minimum sentence. She also contends that her fines, fees, and costs order should be corrected. We affirm and modify defendant's fines fees and costs order.

¶ 3 Defendant was charged by information with two counts of aggravated battery of a transit employee (720 ILCS 5/12-3.05(d)(7) (West 2014)), stemming from an incident on June 26, 2014. Because defendant does not challenge the sufficiency of the evidence to sustain her convictions, we recount the facts here to the extent necessary to resolve the issues raised on appeal.

¶ 4 On June 26, 2014, Elania Hudson-Davis, a bus driver for the Chicago Transit Authority (CTA), operated the 79th Street bus that ran east and westbound between 79th and South Shore Drive to 76th Street and Cicero Avenue. As the bus travelled eastbound, defendant boarded at the 79th and St. Lawrence stop. After boarding, defendant stood at the front of the bus, near Hudson-Davis, and the two briefly spoke. Defendant told Hudson-Davis that she was upset about her hair dye. After speaking with Hudson-Davis, defendant sat down. Hudson-Davis testified that defendant smelled of alcohol.

¶ 5 When the bus approached the intersection of 79th and Yates, a CTA supervisor approached Hudson-Davis and instructed her to take a detour due to a police blockade on 79th. Hudson-Davis informed the passengers of the situation and then turned to follow the detour. Defendant cursed at Hudson-Davis and asked to get off the bus. Hudson-Davis stopped and

allowed defendant to exit. After defendant exited, she “bammed on the bus” and Hudson-Davis opened the doors to allow her back on. As defendant returned to the bus, she began “really cursing” at Hudson-Davis about the detour. Hudson-Davis explained to defendant that the bus would still take her to her destination and continued driving. Defendant stood near Hudson-Davis, on the other side of the L-shaped clear plastic partition separating the bus driver’s seat from the passengers. Hudson-Davis pressed the bus’ emergency buttons. Once activated, the buttons alert both the police and the CTA control center that there is a situation on the bus and activate the bus’ on-board security cameras.

¶ 6 Defendant then became “really aggravated” and again asked to be let off the bus. Hudson-Davis stopped and opened the doors so that defendant could exit, which defendant then refused to do. She continued to curse at Hudson-Davis and began to pull at the plastic partition. Defendant reached around the partition and “swung” at Hudson-Davis, making contact with the right side of Hudson-Davis’s face and causing a scratch. Hudson-Davis opened the partition and kicked defendant. She then grabbed defendant as defendant continued to swing at her. As Hudson-Davis held defendant around the arms, defendant bit her in the hand and arm. Hudson-Davis punched defendant and the two “tussled” for five to ten minutes. A CTA supervisor arrived and flagged down Chicago police officer Hopkins, who was driving by the area. Hudson-Davis and defendant were separated, and defendant was removed from the bus. Hudson-Davis was transported to the hospital where she was treated for a scratch to her face and lip, bite marks on her right forearm and the palm of her right hand, and a broken finger nail. She also required 16 months of physical therapy for injuries to her back sustained during the altercation. The State

introduced into evidence photographs that Hudson-Davis indentified as depicting the injuries she suffered.

¶ 7 The State then played the video recording of the altercation over defendant's objection.

¶ 8 Defendant testified that Hudson-Davis explained to her that the detour would cause the bus to miss her stop. Defendant then asked to exit the bus. Hudson-Davis stopped in the middle of the intersection and opened the bus doors. As defendant exited the bus, she fell and hit her head. She was dazed and believed that she had left her phone on the bus. She "tapped" on the door to get back on the bus. Hudson-Davis opened the doors and defendant again boarded the bus. Defendant told Hudson-Davis that she had fallen and that she had left her phone on the bus. Defendant told Hudson-Davis once more that the detour would take her out of her way and asked to exit the bus. Hudson-Davis refused. The two began to argue and curse at each other. Eventually, Hudson-Davis opened the partition and kicked defendant. She then put defendant in a headlock until the police arrived. Defendant denied ever striking or biting Hudson-Davis.

¶ 9 In rebuttal, the State introduced certified copies of defendant's two prior convictions: one for identity theft and another for theft.

¶ 10 Following deliberations, the jury found defendant guilty of both counts of aggravated battery of a transit employee. The court denied defendant's motion for a new trial and the case proceeded to a sentencing hearing.

¶ 11 At sentencing, the State informed the court that defendant was eligible for an extended sentence based on a 2010 conviction for forgery. The court was also provided with a victim impact statement from Hudson-Davis in which she outlined the physical and emotional toll of defendant's attack. The State argued in aggravation that defendant had an anger issue and

highlighted that defendant attacked Hudson-Davis “out of the clear blue sky.” The State reminded the court that it had seen the video of the battery and had the opportunity to view defendant’s behavior during the course of trial. The State noted that defendant had previously been convicted of forgery, for which she was given probation and she subsequently violated the probation. The State also pointed out that her conviction for identity theft occurred while she was on probation. The State asked the court to sentence defendant to an extended term. In mitigation, defense counsel noted that no medical records were submitted to substantiate Hudson-Davis’s injuries. Counsel also highlighted that defendant was a 39-year-old single mother of seven who was battling cervical cancer.

¶ 12 In allocution, defendant apologized and stated that she took “full responsibility” for her actions. She explained that she was convicted of forgery in 2003 and given probation. In 2009, her probation was revoked because she could not afford to pay the nearly $6,000 in restitution. As a result, she was re-sentenced to 30 months’ imprisonment. She asked the court to give her a second chance so that she could start her life over again.

¶ 13 In announcing its sentencing decision, the court stated that it had read the presentence investigation, Hudson-Davis’s impact statement, as well as the arguments in aggravation and mitigation. The court noted defendant’s criminal history and that defendant created a “major disturbance” when her bond was revoked, but stated that it would not “place any additional aggravation” on that fact. The court continued:

> “THE COURT: However, the court is mindful of the facts of this particular case. And this particular case had to do with this defendant pretty much attacking a bus driver

while on duty. The bus driver was on duty and I saw the manner in which the defendant behaved on the video which was in evidence and her attack of that bus driver.

The combination of all the factors here: The facts of the case, all the factors in aggravation and mitigation – and the court is mindful of the things that are in the presentence investigation, which includes the defendant's upbringing, her criminal history, all matters of things in mitigation, as well as aggravation – lead this Court to sentence the defendant to eight and a half years Illinois Department of Corrections."

Defendant moved the court to reconsider her sentence, arguing that the court improperly considered in aggravation factors inherent in the offense and that her sentence was excessive in light of the presence of mitigating factors. The court denied defendant's motion.

¶ 14 On appeal, defendant first argues that the trial court improperly considered a factor inherent in her offense when sentencing her to an extended term of eight-and-a-half years' imprisonment. Defendant asks this court to either reduce her sentence to the statutory minimum of five years, or vacate the sentence and remand for a new sentencing hearing. She also argues that that the trial court abused its discretion when it failed to consider the numerous mitigating factors present.

¶ 15 The Illinois Constitution requires that a trial court impose a sentence that reflects both the seriousness of the offense and the objective of restoring the defendant to useful citizenship. Ill. Const. 1970, art. I, § 11; *People v. McWilliams*, 2015 IL App (1st) 130913, ¶ 27. In reaching this balance, a trial court must consider a number of aggravating and mitigating factors, including the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Alexander*, 239 Ill. 2d 205, 213 (2010).

¶ 16 In this case, defendant was convicted of aggravated battery of a transit employee, which is a Class 3 felony. 720 ILCS 5/12-3.05(d)(7), (h) (West 2014). A Class 3 felony has a prison term of two to five years or an extended prison term of five to ten years. 730 ILCS 5/5-4.5-40 (West 2014). A defendant may receive an extended term for a felony if, as here, defendant was convicted of a separate felony (that is, arising from different acts) of the same or greater class within the preceding 10 years. 730 ILCS 5/5–5–3.2(b)(1) (West 2014). Ultimately, the court sentenced defendant to an extended term of eight-and-a-half years' imprisonment.

¶ 17 Defendant contends that the trial court, in sentencing her, improperly considered factors inherent in the crime in aggravation. Specifically, she points to the following remarks as evidence that the court considered improper factors:

> "THE COURT: However, the Court is mindful of the facts of this particular case. And this particular case had to do with this defendant pretty much attacking a bus driver while on duty. The bus driver was on duty and I saw the manner in which the defendant behaved on the video which was in evidence and her attack of that bus driver."

These comments, according to defendant, show that the court considered the fact that she battered a bus driver who was on duty, essential elements of the crime for which she was convicted, as an aggravating factor.

¶ 18 Although the trial court has broad discretion when imposing a sentence, it may not consider a factor implicit in the offense as an aggravating factor in sentencing. *People v. Phelps*, 211 Ill. 2d 1, 11 (2004). In other words, a single factor cannot be used both as an element of an offense and as a basis for imposing a "harsher sentence than might otherwise have been imposed." *People v. Gonzalez*, 151 Ill. 2d 79, 84 (1992). That said, "[T]he trial court is not

required to refrain from any mention of the factors which constitute elements of an offense, and a mere reference to the existence of such a factor is not reversible error." *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 50, 38 N.E.3d 98; see also *People v. Burge*, 254 Ill. App. 3d 85, 91, 626 N.E.2d 343, 347 (1993) (stating "every reference by the sentencing court to a factor implicit in the offense does not constitute reversible error"). Moreover, the court "may consider the nature and circumstances of the offense,*** including the nature and extent of each element of the offense committed by the defendant." *People v. Brewer*, 2013 IL App (1st) 072821, ¶ 55. In determining the propriety of a sentence, the reviewing court must consider the record as a whole and should not focus on a few words or statements made by the trial court. *People v. Walker*, 2012 IL App (1st) 083655, ¶ 30 (citing *People v. Ward*, 113 Ill. 2d 516, 526–27 (1986)). Whether the court considered improper factors during sentencing presents a question of law to be reviewed *de novo*. *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 49.

¶ 19 Here, when read in context, the record reveals that the trial court did not rely on the fact that defendant struck Hudson-Davis while she was on duty as a transit worker as an aggravating factor. Rather, the court stated that it was "mindful" of the facts of the case and noted that it viewed the video and "saw the manner in which the defendant behaved" during the attack. As mentioned, the court is allowed to consider the nature and extent of the elements of the crime. In this instance, the court was allowed to, and properly did, consider the nature and circumstances of defendant's attack on Hudson-Davis when sentencing her. *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 128 ("[C]ontrary to defendant's argument, the nature of the crime is an appropriate factor to consider.").

¶ 20 In reaching this conclusion, we are not persuaded by defendant's reliance on *People v. Dowding*, 338 Ill. App. 3d 936 (2009). In *Downing*, the trial court, in imposing a murder sentence, twice stated that an aggravating factor was that "the defendant's conduct caused or threatened serious harm." Here, unlike in *Dowding*, the trial court focused on the manner and circumstances of defendant's battery, rather than on the battery itself.

¶ 21 Defendant further argues that the court abused its discretion in imposing sentence by failing to consider several mitigating factors, such as her strong family ties, work history, remorse, and poor health. She asks this court to reduce her sentence to the minimum term of five years' imprisonment.

¶ 22 In reviewing a defendant's sentence, this court will not reweigh the factors and substitute its judgment for that of the trial court merely because it would have weighed the factors differently. *People v. Busse*, 2016 IL App (1st) 142941, ¶ 20. The trial court is in the superior position to weigh the appropriate factors and so its sentencing decision is entitled to great deference. *Id.* Where that sentence falls within the statutory range, it is presumed proper and will not be disturbed on review absent an abuse of discretion. *Alexander*, 239 Ill. 2d at 212-13. An abuse of discretion exists where the sentence imposed is at great variance with the spirit and purpose of the law, or is manifestly disproportionate to the nature of the offense. *Alexander*, 239 Ill. 2d at 212. Absent some indication to the contrary, other than the sentence itself, we presume the trial court properly considered all relevant mitigating factors presented. *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 19.

¶ 23 Initially, we point out that the eight-and-a-half-year sentence imposed by the trial court falls within the permissible statutory range of five to ten years and, thus, we presume it proper.

Wilson, 2016 IL App (1st) 141063, ¶ 12; *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46. As such, in order to prevail on her argument, defendant "must make an affirmative showing [that] the sentencing court did not consider the relevant factors." *People v. Burton*, 2015 IL App (1st) 131600, ¶ 38. Defendant cannot make such a showing here because the record reflects that the court considered all evidence in mitigation.

¶ 24 It is well settled that it is not necessary for a trial court to "detail precisely for the record the exact thought process undertaken to arrive at the ultimate sentencing decision or articulate its consideration of mitigating factors." *People v. Abrams*, 2015 IL App (1st) 133746, ¶ 32; *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). That said, the record at bar shows that the trial court expressly considered the relevant factors in reaching its sentencing decision. In announcing its decision, the court noted that it had read defendant's presentence investigation report and stated that it was "mindful" of the information contained therein, including her "upbringing" and "criminal history." Also included in that report was information regarding defendant's poor health. The court also heard from defendant in allocution, in which she expressed her remorse and took responsibility for her action. But the court also noted the facts of the case and the "manner in which defendant behaved on the video." The court was not obligated to give defendant's mitigating factors more weight than her actions when committing the crime. See *Busse*, 2016 IL App (1st) 142941, ¶ 28 ("In fashioning the appropriate sentence, the most important factor to consider is the seriousness of the crime."); see also *People v. Coleman*, 166 Ill. 2d 247, 261 (1995) ("A defendant's rehabilitative potential *** is not entitled to greater weight than the seriousness of the offense.").

¶ 25 Given that all of the factors defendant raises on appeal were discussed in defendant's presentence investigation report or in arguments in mitigation, defendant essentially asks us to reweigh the sentencing factors and substitute our judgment for that of the trial court. As noted above, this we cannot do. See *Busse*, 2016 IL App (1st) 142941, ¶ 20 (explaining that a reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently). As the trial court is presumed to have considered all evidence in mitigation, and the record suggests that it did, we find that the trial court did not abuse its discretion in sentencing defendant to an extended term of eight-and-a-half years' imprisonment for committing aggravated battery. See *Alexander*, 239 Ill. 2d at 212-14.

¶ 26 Defendant next contends that the assessed fines, fees, and costs should be reduced from $624 to $230. She argues that (1) the electronic citation ($5) fee should be vacated because it wass improperly imposed and, (2) pursuant to section 110-14 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-14(a) (West 2014)), she is entitled to presentence custody credit against several fines and assorted other assessments that are labeled "fees" but are actually "fines."

¶ 27 Initially, we note that defendant did not raise these challenges at trial and they are, therefore, arguably forfeited. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). She nevertheless argues that we should review her claim using any of the following means: (1) finding that a claim for *per diem* monetary credit can be raised at any time pursuant to *People v. Woodward*, 175 Ill. 2d 435, 444-48 (1997); (2) using the second prong of the plain-error doctrine; or (3) holding that her trial counsel was ineffective for failing to object to the imposition of the

improper fees. The State agrees with defendant that, even though she forfeited her claims by failing to raise them in the trial court, we may review them using these means.

¶ 28 The parties are correct that our supreme court has interpreted section 110-14 as meaning that a claim for *per diem* monetary credit can be raised at any time. See *People v. Caballero*, 228 Ill. 2d 79, 88 (2008) (holding that "a claim for monetary credit under section 110–14 is a statutory claim" that "may be raised at any time and at any stage of court proceedings")). "Granting credit is a simple ministerial act that promotes judicial economy by ending any further proceedings over the matter." *People v. Brown*, 2017 IL App (1st) 150203, ¶ 36 (citing *People v. Woodward*, 175 Ill. 2d 435, 456-57 (1993)). As it is undisputed that defendant's appeal is properly before the court, we can address the issue of whether she properly received credit for her presentence custody. *Brown*, 2017 IL App (1st) 150203, ¶ 37.

¶ 29 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 spent in presentence custody. 725 ILCS 5/110-14(a) (West 2014). Defendant spent 539 days in presentence custody and is, therefore, entitled to up to $2,695 in presentence custody credit.

¶ 30 Defendant argues that she is entitled to use this credit to offset the applicable fines assessed against her. The State did not address this portion of defendant's argument and has, therefore, conceded the issue. See *People v. Bridgeforth*, 2017 IL App (1st) 143637, ¶ 46. According to her costs order, defendant was assessed a total of $80 based upon the following fines: $10 mental health court (55 ILCS 5/5-1101(d-5) (West 2014)), $5 youth diversion/peer court (55 ILCS 5/5-1101(e) (West 2014)), $5 drug court (55 ILCS 5/5-1101(f) (West 2014)), $30 Children's Advocacy Center assessment (55 ILCS 5/5-1101(f-5) (West 2014)), $30 Fine to Fund

Juvenile Expungement (730 ILCS 5/5-9-1.17 (West 2016)). We agree with defendant that these fines should have been offset by her presentence custody credit.

¶ 31 However, defendant also raises substantive issues pertaining to whether particular charges apply to her case or whether they are properly categorized as fines or fees. In these instances, she does not seek the ministerial correction of a mathematical calculation envisioned under section 110-14. Accordingly, *Caballero* and section 110-14 do not save her substantive arguments from forfeiture.

¶ 32 We also disagree with defendant's argument that her claims are reviewable under plain error. See *People v. Griffin*, 2017 IL App (1st) 143800, ¶ 9, *pet. for leave to appeal granted*, No. 122549 (Nov. 22, 2017) (finding that the plain-error doctrine is not the appropriate vehicle for addressing the clerical mistakes raised in the "majority of [fines and fees] cases"); but see *People v. Cox*, 2017 IL App (1st) 151536, ¶ 102 ("[S]ince the fines were not statutorily authorized and were a part of defendant's sentence, they affected his substantial rights and may be reviewed under the second-prong of the plain error doctrine."). Nevertheless, the rules of forfeiture and waiver also apply to the State, and where, as here, the State fails to argue that defendant has forfeited the issue, it waives the forfeiture. *People v. Bridgeforth*, 2017 IL App (1st) 143637, ¶ 46. We review *de novo* the propriety of a court-ordered fine or fee. *People v. Bryant*, 2016 IL App (1st) 140421, ¶ 22.

¶ 33 First, the parties agree, and we concur, that the $5 electronic citation fee (705 ILCS 105/27.3e (West 2014)) must be vacated. The electronic citation fee does not apply to felonies and is, therefore, inapplicable to defendant's felony convictions for aggravated battery of a transit employee. Accordingly, we vacate the erroneous charge.

¶ 34 Defendant next asserts that seven of the fees imposed against her are actually fines subject to be offset by her presentence incarceration credit. See *People v. Jones*, 223 Ill. 2d 569, 599 (2006) ("[T]he credit for presentence incarceration can only reduce fines, not fees."). "Broadly speaking, a 'fine' is a part of the punishment for a conviction, whereas a 'fee' or 'cost' seeks to recoup expenses incurred by the State." *Id.* at 582. The most important factor, therefore, is whether the charge seeks to compensate the state for any costs incurred as a result of prosecuting the defendant. See *People v. Graves*, 235 Ill. 2d 244, 250 (2009); see also *Jones*, 223 Ill. 2d at 600 ("A charge is a fee if and only if it is intended to reimburse the State for some cost incurred in defendant's prosecution.").

¶ 35 The parties agree that two of the fees assessed to defendant, the $50 court system fee (55 ILCS 5/5-1101(c) (West 2014)) and the $15 state police operations fee (705 ILCS 105/27.3a(1.5) (West 2014)), are actually fines and should be offset by her presentence credit. We concur. See *People v. Blanchard*, 2015 IL App (1st) 132281, ¶ 22 ("[W]e hold that the $50 Court System fee imposed in this case pursuant to section 5–1101(c) is a fine for which defendant can receive credit for the *** days he spent in presentence custody."); se*e People v. Maxey*, 2016 IL App (1st) 130698, ¶¶ 140–41 ("Since the state operations charge under section 27.3a(1.5) is a fine, defendant is entitled to presentence credit toward it.").

¶ 36 The parties dispute is thus limited to whether the five remaining charges are fines rather than fees because they do not reimburse the State for the costs incurred in prosecuting defendant. Specifically, defendant argues that the following five charges are, in fact, fines subject to offset by her presentence incarceration credit: the $190 felony complaint fee (705 ILCS 105/27.2a(w)(1)(A) (West 2016)); the $25 clerk automation fee (705 ILCS 105/27.3a(1) (West

2016)); the $25 document storage fee (705 ILCS 105/27.3c(a) (West 2016)); the $2 State's Attorney records automation fee (55 ILCS 5/42002.1(c) (West 2016)); and the $2 public defender records automation fee (55 ILCS 5/3–4012 (West 2016)).

¶ 37 However, this court has already considered challenges to these assessments and determined that they are fees and, therefore, not subject to presentence incarceration credit. See *People v. Tolliver*, 363 Ill. App. 3d 94, 97 (2006) ("We find that all of these charges are compensatory and a collateral consequence of defendant's conviction and, as such, are considered 'fees' rather than 'fines' "); *People v. Bingham*, 2017 IL App (1st) 143150, ¶¶ 41–42 (relying on *Tolliver* and finding the $190 felony complaint assessment to be a fee); *People v. Brown*, 2017 IL App (1st) 142877, ¶ 81 (finding clerk automation fee and document storage fee are fees not subject to offset by presentence incarceration credit); *Brown*, 2017 IL App (1st) 142877, ¶¶ 73, 75 (finding the State's Attorney records automation fee and Public Defender records automation fee to be fees); *People v. Reed*, 2016 IL App (1st) 140498, ¶¶ 16–17 (same); *Bowen*, 2015 IL App (1st) 132046, ¶¶ 6265 (finding the State's Attorney records automation assessment and the public defender records automation assessment are both fees because they are meant to reimburse the State for expenses related to automated record-keeping systems). We decline defendant's invitation to revisit these rulings. Accordingly, we hold that these charges are fees not subject to offset by presentence incarceration credit.

¶ 38 In reaching this conclusion, we acknowledge that, in *People v. Camacho*, 2016 IL App (1st) 140604, ¶¶ 47–56, a panel of this court found that the State's Attorney and public defender records automation fees were, in fact, fines that should be offset by the presentence credit. However, we follow the prevailing authority in *Brown*, *Reed*, and *Bowen* and determine that the

State's Attorney records automation charge and the public defender records automation charge are fees, and, therefore, not subject to offset by presentence custody credit.

¶ 39 For these reasons, we vacate the erroneously assessed $5 electronic citation fee; we also offset $145 in fines that are subject to defendant's presentence credit. However, we find that the $190 felony complaint fee, the $25 clerk automation fee, the $25 document storage fee, the $2 State's Attorney records automation charge, and the $2 public defender records automation charge are fees not subject to presentence incarceration credit. The fines, fees, and costs order should reflect a new total due of $474. Pursuant to Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967), we direct the clerk of the circuit court to modify the fines, fees, and costs order accordingly.

¶ 40 Affirmed; fines, fees, and costs order corrected.