

2018 IL App (1st) 160896-U

No. 1-16-0896

Order filed August 16, 2018

Fourth 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. 15 CR 1051
)	
LASEAN THREATT,)	Honorable
)	Charles P. Burns,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE BURKE delivered the judgment of the court.
Justices McBride and Gordon concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's fines and fees order amended to apply a \$15 credit against the state police operations assessment; claim that additional fees constitute fines entitled to monetary credit is without merit.

¶ 2 Following a bench trial, defendant Lasean Threatt was convicted of aggravated domestic battery and sentenced to eight and a half years' imprisonment as a Class X offender. The trial court also assessed defendant fines, fees and court costs totaling \$404. On appeal, defendant does not challenge his conviction or term of imprisonment, but contends that monetary credit for the

days he spent in presentencing custody should be applied against several of the assessments. We apply a \$15 credit against the state police operations assessment, and affirm defendant's conviction and sentence in all other respects.

¶ 3 Because defendant does not challenge his conviction or prison term, we need not discuss the details of the evidence presented at trial or the other proceedings below. Defendant was tried on charges of aggravated kidnapping, aggravated criminal sexual assault, aggravated domestic battery, and domestic battery. All of the charges were based on an incident that occurred on December 20, 2014, between defendant and his girlfriend, L.C., inside defendant's apartment. The evidence showed that a neighbor heard a volatile argument occurring inside the apartment. The police arrived at the apartment in response to a call regarding a domestic disturbance. While standing outside the apartment door, the police heard "bloodcurdling" screams for help coming from L.C. inside the apartment, and heard defendant telling her to be quiet. The officers kicked in the apartment door and found L.C. on the bedroom floor, nude and hysterical, with blood covering her face and the bed. L.C. testified that defendant had repeatedly punched her in the face, fracturing her nose. The trial court found defendant not guilty of aggravated kidnapping and aggravated criminal sexual assault, but guilty of aggravated domestic battery and domestic battery. At sentencing, the court merged the charges into the aggravated offense, and sentenced defendant to eight and a half years' imprisonment as a Class X offender. The court awarded defendant 441 days of credit for time served in presentencing custody. The court also assessed defendant \$404 for various fines, fees, and court costs, and applied a credit of \$80 against his fines, leaving a balance due of \$324.

¶ 4 On appeal, defendant solely contends that he is entitled to an additional \$239 in credit against six assessments that are labeled as fees, but are actually fines. Defendant acknowledges that he did not preserve this issue for appeal because he did not challenge the assessments in the trial court. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Nevertheless, he urges this court to review his assessments under the plain error doctrine. The State acknowledges the forfeiture, agrees that the plain error doctrine applies, and addresses the merits of defendant's claims.

¶ 5 Pursuant to section 110-14 of the Code of Criminal Procedure (Code) (725 ILCS 5/110-14 (West 2014)), a defendant is entitled to have a credit applied against his fines of \$5 for each day he spent in presentence custody. Here, defendant spent 441 days in presentence custody, and is therefore entitled to a maximum credit of \$2205.

¶ 6 The credit under section 110-14 can only be applied to offset fines, not fees. *People v. Jones*, 223 Ill. 2d 569, 580 (2006). To determine whether an assessment is a fine or a fee, we consider the nature of the assessment rather than its statutory label. *People v. Graves*, 235 Ill. 2d 244, 250 (2009). Our supreme court has defined a "fine" as "punitive in nature" and "a pecuniary punishment imposed as part of a sentence on a person convicted of a criminal offense." (Internal quotation marks omitted.) *Id.* (quoting *Jones*, 223 Ill. 2d at 581). A "fee," on the other hand, is "a charge that 'seeks to recoup expenses incurred by the state,' or to compensate the state for some expenditure incurred in prosecuting the defendant." *Id.* (quoting *Jones*, 223 Ill. 2d at 582).

¶ 7 The parties agree, and we concur, that defendant is due full credit for the \$15 state police operations fee (705 ILCS 105/27.3a(1.5) (West 2014)). Although this assessment is labeled as a fee, this court previously held that it is a fine because it does not compensate the State for an expense incurred in the prosecution of a defendant, and thus, it is subject to offset by the

monetary sentencing credit. *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31. We direct the clerk of the circuit court to amend the fines, fees and costs order to reflect a \$15 credit for the state police operations fee.

¶ 8 Defendant next contends that he is entitled to credit against the \$190 felony complaint filed fee (705 ILCS 105/27.2a(w)(1)(A) (West 2014)), the \$15 automation fee (705 ILCS 105/27.3a(1) (West 2014)), and the \$15 document storage fee (705 ILCS 105/27.3c(a) (West 2014)). Defendant argues that these assessments are fines rather than fees because they do not reimburse the State for the costs incurred in prosecuting a defendant, but instead, finance a component of the court system for the general costs of litigation.¹

¶ 9 This court has already considered challenges to these assessments and has determined that they are fees, not fines, and therefore, not subject to presentence incarceration credit. See *People v. Tolliver*, 363 Ill. App. 3d 94, 97 (2006); *People v. Bingham*, 2017 IL App (1st) 143150, ¶¶ 41–42 (relying on *Tolliver* and finding the \$190 felony complaint filed fee to be a fee), *pet. for leave to appeal granted*, No. 122008 (May 24, 2017); *People v. Brown*, 2017 IL App (1st) 142877, ¶ 81 (finding that the document storage fee and automation fee are fees not subject to offset by presentence incarceration credit). See also *People v. Heller*, 2017 IL App (4th) 140658, ¶ 74 (citing *Tolliver* and finding the automation and document storage fees are fees rather than fines). We adhere to the reasoning in our prior decisions and find that these assessments are fees that compensate the clerk's office for expenses incurred in the prosecution

¹ Whether the felony complaint filed, automation, document storage, Public Defender records automation, and State's Attorney records automation assessments are fees or fines is currently pending before the Illinois Supreme Court in *People v. Clark*, 2017 IL App (1st) 150740-U, *pet. for leave to appeal granted*, No. 122495 (Sept. 27, 2017).

of a defendant. As such, defendant is not entitled to offset these fees with his presentence custody credit.

¶ 10 Finally, defendant contends that he is entitled to credit against the \$2 State's Attorney records automation fee (55 ILCS 5/4-2002.1(c) (West 2014)) and the \$2 Public Defender records automation fee (55 ILCS 5/3-4012 (West 2014)). Defendant points out that these assessments apply to all defendants who are found guilty of an offense, and that the purpose of the assessments is to discharge the expenses associated with establishing and maintaining automated record keeping systems. He argues that the assessments therefore do not compensate the State for prosecuting a particular defendant, and thus, they constitute fines rather than fees.

¶ 11 This court has repeatedly found that the \$2 State's Attorney records automation fee and the \$2 Public Defender records automation fee are compensatory in nature because they reimburse the State for its expenses related to maintaining its automated record-keeping systems. *People v. Reed*, 2016 IL App (1st) 140498, ¶¶ 16-17; *People v. Green*, 2016 IL App (1st) 134011, ¶ 46 (Public Defender assessment is a fee, not a fine); *People v. Bowen*, 2015 IL App (1st) 132046, ¶¶ 62-65; *People v. Rogers*, 2014 IL App (4th) 121088, ¶ 30 (State's Attorney assessment is a fee, not a fine). In *Reed*, we explained that the State's Attorney's Office would have utilized its automated record-keeping systems in prosecuting the defendant when it filed charges with the clerk's office and made copies of discovery that were tendered to the defense. *Reed*, 2016 IL App (1st) 140498, ¶ 16. We further explained that, because the defendant was represented by a public defender, counsel would have used the Public Defender's Office record systems in representing the defendant. *Id.* at ¶ 17. Consequently, we concluded that the assessments were fees, not fines, and thus not subject to offset by the *per diem* credit. *Id.* at

¶¶ 16-17; *Green*, 2016 IL App (1st) 134011, ¶ 46; *Bowen*, 2015 IL App (1st) 132046, ¶¶ 62-65; *Rogers*, 2014 IL App (4th) 121088, ¶ 30; *contra People v. Camacho*, 2016 IL App (1st) 140604, ¶ 56 (finding the assessments are fines because they do not compensate the State for the costs associated with prosecuting a particular defendant).

¶ 12 We agree with the holdings in *Reed*, *Green*, *Bowen*, and *Rogers*, and similarly conclude that the State's Attorney records automation fee and the Public Defender records automation fee are fees, not fines. Accordingly, defendant is not entitled to offset these fees with his presentence custody credit.

¶ 13 For these reasons, we direct the clerk of the circuit court to amend the fines, fees and costs order to reflect a credit of \$15 to offset the state police operations fee. Defendant's amended total amount due should be \$309. We affirm defendant's conviction and sentence in all other respects.

¶ 14 Affirmed; fines and fees order corrected.