FIRST DIVISION
March 21, 2011

No. 1-08-1030

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 06 CR 10230
	)	
BASHIRE HASSAN,	)	Honorable
	)	Matthew E. Coghlan,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Lampkin concurred in the judgment.

ORDER

Held: Defendant's conviction of possession of 200 or more grams of a substance containing a schedule I controlled substance and his four-year sentence of imprisonment were affirmed where: (1) the State proved him guilty beyond a reasonable doubt; and (2) the circuit court correctly denied his motion to suppress, finding his statement was voluntarily given. Defendant's $5 court system fee and his $30 children's advocacy center fine were vacated, and the fines and fees order was amended to reflect a $10 pre-sentence incarceration credit toward the $10 mental health court fine.

Following a bench trial, defendant, Bashire Hassan, was convicted of possession of 200 or more grams of a substance containing a schedule I controlled substance and sentenced to four years in prison. On appeal, defendant contends: (1) the State failed to prove him guilty beyond a

reasonable doubt; (2) the circuit court erred in denying his motion to suppress; and (3) the circuit court erred by imposing a $5 court system fee, a $30 children's advocacy center fine, and by failing to apply $10 of pre-sentence incarceration credit toward his $10 mental health court fine. We affirm defendant's conviction and four-year sentence of imprisonment, vacate the $5 court system fee and the $30 children's advocacy center fine, and amend the fines and fees order to reflect a $10 pre-sentence incarceration credit toward his $10 mental health court fine.

Defendant, a native of Somalia, was charged by indictment with possession of a controlled substance with intent to deliver and controlled substance trafficking. Defendant asked for and received an interpreter at trial.

The controlled substance at issue here is cathinone. Cathinone is found in the leaves of the khat plant. Officer Dennis O'Shea explained to the court below that, when the khat leaves are placed between the cheek and gum, "it [exudes] a liquid chemical that produces the high."

At trial, Officer O'Shea testified he is a member of the postal interdiction team within the Chicago police department. His duties include monitoring overnight packages coming into Chicago to determine whether they contain narcotics. At approximately 10:30 a.m., on April 4, 2006, he received a phone call from a United Parcel Service (UPS) store located at 47 West Polk Street in Chicago. Officer O'Shea went to the UPS store and spoke with a female employee, who directed him to a parcel located in a back room. Officer O'Shea described the parcel as approximately 22 to 24-inches in length, and 14 to 16-inches high, "approximately the size of a banana box that would contain bananas." The parcel had a FedEx shipping label attached on top indicating that it had originated from London, England, and was addressed to the UPS store located at 47 West Polk

Street. Officer O'Shea testified that the parcel also had a commercial invoice attached on top describing what was purportedly in the parcel; however, Officer O'Shea did not testify as to what the commercial invoice indicated was in the parcel. The shipping label and commercial invoice were admitted into evidence, although they are not contained in the record on appeal. During closing arguments, and again, here on appeal, the State asserted that the shipping label indicated the parcel contained brochures. Defendant does not dispute the shipping label stated the parcel purportedly contained brochures.

Officer O'Shea testified that the bottom one-third of the parcel was leaking an unknown fluid and had water marks. Officer O'Shea returned the parcel to the employee and remained in the back of the UPS store to conduct surveillance. Officer O'Shea was in plain clothes and posed as a customer. Shortly thereafter, he observed a red Ford Mustang drive up. Defendant and Abdirahman Ahmed exited the vehicle. Defendant walked into the UPS store while Ahmed remained outside the door on the sidewalk. Defendant approached the front counter and engaged in a conversation with the employee behind the counter. The employee brought the parcel to defendant and handed it to him. Ahmed then opened the door, and defendant exited the store while holding the parcel.

Officer O'Shea testified he observed defendant and Ahmed walk east on Polk Street, approximately 40 to 50-feet away from the UPS store. Officer O'Shea approached defendant and Ahmed, identified himself as a police officer, and asked defendant whether the parcel he was holding belonged to him. Defendant said it did. The parcel was closed and Officer O'Shea could not see its contents. Officer O'Shea asked defendant what was in the parcel, and defendant replied, "vegetables for salad." Defendant then opened the parcel. Officer O'Shea looked inside and observed several

stem plants that he believed to be khat, which contains the controlled substance cathinone. Officer O'Shea testified that, in his job as a police officer, he had seen khat on approximately 20 prior occasions.

Officer O'Shea placed defendant and Ahmed under arrest and gave them *Miranda* warnings. At the police station, Officer O'Shea again *Mirandized* defendant and Ahmed and spoke with them some more. Defendant continued to insist that the contents of the parcel consisted of vegetables for salad, and Office O'Shea continued to tell defendant that they were not vegetables. About an hour and a half to two hours after his arrest, defendant admitted that the contents of the parcel consisted of khat.

Officer O'Shea testified that fellow officers counted 113 bundles of khat inside defendant's parcel. Officer O'Shea testified that Officer Martinez placed the bundles of suspect khat inside a new box because the original box was so wet. Officer Martinez inventoried the khat, which then was sent to the crime lab.

Martinique Rutherford, a forensic scientist at the Illinois State Police crime lab, testified she received the inventoried materials on April 5, 2006. Rutherford opened the sealed box and counted 123[1] bundles of plant material wrapped in banana leaves, noting that some small bundles were sub-bundles within larger ones. She removed three bundles and weighed them together, including their banana leaves and stems. The total weight was 281 grams. Rutherford testified she removed

[1] Although there was a discrepancy between the number of bundles counted by police officers (113) and the number of bundles counted by Rutherford (123), defendant makes no argument that the discrepancy was anything other than a counting error by the officers caused by the banana leaves covering 10 of the bundles from view.

samples from the three bundles and performed two tests generally accepted in the area of forensic chemistry and both tests revealed that the items contained cathinone, a schedule I controlled substance.

The circuit court convicted defendant of possession of 200 grams or more of a substance (khat) containing the schedule I controlled substance (cathinone) and sentenced him to four years in prison and $570 in fines and costs. Defendant filed this timely appeal.

First, defendant contends the State failed to prove him guilty beyond a reasonable doubt where the State presented insufficient evidence that he knew a controlled substance was in the parcel he picked up from the UPS store. Defendant contends the issue presents a question of law subject to *de novo* review. In support, defendant cites *People v. Smith*, 191 Ill.2d 408, 411 (2000), in which our supreme court held, where facts of a case are not in dispute, defendant's guilt is a question of law subject to *de novo* review. In *Smith*, the court essentially was asked to construe the meaning of a statute as it applied to the undisputed facts of that case. *Smith*, 191 Ill.2d at 411-13. Unlike in *Smith*, defendant here is specifically asking this court to review the trial court's finding of fact that he possessed the *mens rea* sufficient to support his conviction. As such, the appropriate standard of review is "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Emphasis in original.) *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

Section 402 of the Illinois Controlled Substances Act (the Act) provides that, "[e]xcept as otherwise authorized by this Act, it is unlawful for any person knowingly to possess a controlled or counterfeit substance or controlled substance analog." 720 ILCS 570/402 (West 2006). Cathinone

is identified in the Act as a schedule I controlled substance. 720 ILCS 570/204(f)(5) (West 2006). Possession of 200 grams or more "of any substance containing any substance classified as a narcotic drug in schedules I or II, or an analog thereof," is a class 1 felony. 720 ILCS 570/402(a)(11) (West 2006).

To convict defendant of unlawful possession of a controlled substance, the State must prove he had knowledge of the presence of the controlled substance and, that he had immediate and exclusive possession or control of the narcotics. *People v. Woods*, 214 Ill.2d 455, 466 (2005). Knowledge generally is proved by circumstantial evidence because it rarely can be shown by direct proof. *People v. Sanchez*, 375 Ill. App. 3d 299, 301 (2007). "Knowledge may be proved by presenting sufficient evidence from which a jury may reasonably infer that the defendant knew of the controlled substance's existence at the place officers found it, including acts, conduct or statements [citations], and the surrounding facts and circumstances." *Sanchez*, 375 Ill. App. 3d at 301.

In the present case, the circumstantial evidence supported the circuit court's finding that defendant knew of the controlled substance's existence at the time Officer O'Shea confronted him outside the UPS store. Specifically, the evidence showed defendant voluntarily entered the UPS store knowing that a parcel was waiting for him to be picked up. Officer O'Shea saw defendant engage in a conversation with an employee, after which the employee handed defendant the parcel that was approximately 22 to 24-inches long and 14 to 16-inches high. The parcel was wet and leaking an unknown fluid. There was no testimony that defendant expressed any surprise at the size or the wet appearance of the parcel. After defendant left the UPS store with the parcel in hand,

Officer O'Shea approached defendant, identified himself as a police officer, and inquired about the ownership of the parcel. Defendant stated the parcel belonged to him. Officer O'Shea asked what was inside the parcel. Although the parcel was labeled as containing brochures, defendant stated it contained vegetables for salad. Thus, without even opening the parcel, defendant indicated his awareness that the labeling was incorrect and that the parcel contained plant material. Defendant opened the parcel, and Officer O'Shea identified the contents inside as khat, a plant containing the controlled substance cathinone. Although defendant initially continued to insist the contents of the parcel were vegetables, he admitted at the police station that Officer O'Shea was correct in his determination that the parcel contained khat.

Viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could infer defendant knew his parcel contained khat at the time he picked it up. The evidence supporting such an inference includes: defendant's awareness of the parcel, as evidenced by his affirmative travel to the UPS store to pick up the parcel as opposed to simply receiving it in the mail; his statement to Officer O'Shea outside the UPS store that the parcel belonged to him, and it contained plant material despite labeling indicating otherwise; and his subsequent confession at the police station that the parcel contained khat. Any rational trier of fact also could find defendant had immediate and exclusive possession or control of the khat at the time he picked up the parcel at the UPS store and walked outside with it in hand. Accordingly, we affirm defendant's conviction.

Defendant contends *People v. Hodogbey*, 306 Ill. App. 3d 555 (1999), and *People v. Ackerman*, 2 Ill. App. 3d 903 (1971), compel a different result. In *Hodogbey*, English customs agents alerted United States authorities that a package containing heroin was mailed from Thailand

and addressed to Nelson Hodogbey in Chicago. *Hodogbey*, 306 Ill. App. 3d at 556. Chicago police officers and postal officials conducted a controlled delivery of the package. *Hodogbey*, 306 Ill. App. 3d at 556. A postal inspector dressed as a mailman went to Hodogbey's apartment and asked him if he was expecting a package. *Hodogbey*, 306 Ill. App. 3d at 557. Hodogbey asked where the package was from. The inspector pointed to the return address, whereupon Hodogbey said, "Thailand." *Hodogbey*, 306 Ill. App. 3d at 557. Hodogbey said the package was his, accepted the package, and took it inside the apartment. *Hodogbey*, 306 Ill. App. 3d at 557. A few minutes later, an officer observed Hodogbey walk from the apartment building to the sidewalk, where he looked both ways down the street and then returned inside. *Hodogbey*, 306 Ill. App. 3d at 557. About five minutes later, Hodogbey and another person left the apartment building and began walking down Sheridan Road. Neither of them was carrying the package. *Hodogbey*, 306 Ill. App. 3d at 557. Officers stopped Hodogbey on the sidewalk and showed him a search warrant. Hodogbey gave an officer keys to his apartment. *Hodogbey*, 306 Ill. App. 3d at 557. The officer then searched Hodogbey's apartment, where he saw the unopened package sitting in the center of the living room. *Hodogbey*, 306 Ill. App. 3d at 557. Hodogbey was arrested and later convicted of possession of a controlled substance (heroin) with intent to deliver. *Hodogbey*, 306 Ill. App. 3d at 556.

On appeal, Hodogbey contended the State failed to prove he knowingly possessed the heroin. *Hodogbey*, 306 Ill. App. 3d at 559. The appellate court agreed, noting Hodogbey merely accepted a package that had been addressed to him. *Hodogbey*, 306 Ill. App. 3d at 561. He did not hide the package, but left it unopened in the middle of his living room floor while he went about other business. *Hodogbey*, 306 Ill. App. 3d at 561. Hodogbey did not flee from the officers when they

confronted him, and, in fact, he gave the officers keys to his apartment as requested. *Hodogbey*, 306 Ill. App. 3d at 561. On these facts, the appellate court held the State failed to prove Hodogbey knew the package contained heroin. *Hodogbey*, 306 Ill. App. 3d at 562.

In *Ackerman*, the postmaster of the Macomb, Illinois post office noticed a suspicious package and called the sheriff, who examined the package and determined it contained LSD. *Ackerman*, 2 Ill. App. 3d at 904. The package was addressed to Jeffrey Ackerman at a dormitory at Western Illinois University. *Ackerman*, 2 Ill. App. 3d at 904. The package was delivered to the dormitory and the sheriff set up a surveillance. *Ackerman*, 2 Ill. App. 3d at 904. Ackerman went to his mail box and withdrew a notice stating there was a package for him. *Ackerman*, 2 Ill. App. 3d at 904. Ackerman went to the counter where packages ordinarily were delivered, presented his notice, received the package, and signed a receipt therefor. *Ackerman*, 2 Ill. App. 3d at 904. Then Ackerman put the package under his arm and walked toward the elevator. *Ackerman*, 2 Ill. App. 3d at 904. While he was so proceeding, he was stopped and arrested. *Ackerman*, 2 Ill. App. 3d at 904. A jury later convicted him of possession of LSD. *Ackerman*, 2 Ill. App. 3d at 904. On appeal, Ackerman contended the State failed to prove he had "knowing" possession of the LSD. *Ackerman*, 2 Ill. App. 3d at 904. The appellate court agreed and reversed his conviction, noting "[a]ll the evidence shows is that [Ackerman] received a package in the course of normal mail delivery and placed the package under his arm for about five seconds." *Ackerman*, 2 Ill. App. 3d at 905-06. On these facts, the appellate court held the State failed to prove beyond a reasonable doubt that Ackerman knew the package contained LSD. *Ackerman*, 2 Ill. App. 3d at 905-06.

Unlike *Hodogbey* and *Ackerman*, defendant here did not simply receive a package delivered

unannounced to his home address. Rather, defendant affirmatively traveled to the UPS store to pick up a parcel he knew was waiting for him. Unlike in *Hodogbey* and *Ackerman*, defendant indicated some awareness of the contents of the parcel even though it was sealed, noting to Officer O'Shea that the package contained plant material (supposedly vegetables for a salad), even though the labeling indicated only that the parcel contained brochures. Finally, unlike in *Hodogbey* and *Ackerman*, defendant ultimately admitted to the officer that the parcel contained khat, a plant containing the schedule I controlled substance cathinone. As discussed above, viewing this evidence in the light most favorable to the prosecution, any rational trier of fact could find defendant guilty of possession of a substance containing a schedule I controlled substance beyond a reasonable doubt.

Defendant argues he voluntarily opened his parcel to show the officer its contents, and that such an "innocent act" contradicts any inference that he knew the parcel contained khat at the time he picked up the parcel at the UPS store. While defendant's act of voluntarily opening the parcel is one factor to consider when determining the sufficiency of the evidence, it is not the only factor. As discussed above, the court also properly considered defendant's affirmative act of going to the UPS store to pick up the parcel, his statement to the officer prior to opening the parcel that it contained plant material despite labeling on the parcel indicating otherwise, and his subsequent statement at the police station acknowledging that the parcel contained khat. Viewing all the evidence in the light most favorable to the prosecution, any rational trier of fact could find defendant knew the parcel contained khat at the time he picked it up at the UPS store and that he was guilty of possession of a substance containing a schedule I controlled substance.

Defendant contends it was "uncontroverted" that, as a native of Somalia, he had difficulty

communicating in English, and that this language barrier may have caused him to mis-speak, or may have caused Officer O'Shea to misunderstand him, when he admitted at the police station that he knew the contents of the parcel were khat. The record belies defendant's argument. Officer O'Shea testified to defendant's ability to communicate with the employee working at the counter of the UPS store and inquire after and receive his parcel. Officer O'Shea testified that, when he approached defendant outside the UPS store and asked him about the ownership and contents of the parcel, defendant understood the questions and answered that the parcel belonged to him and contained vegetables for a salad. Officer O'Shea testified that, at the police station, he told defendant the parcel contained khat. Defendant understood the officer's comments, and repeated his insistence that the parcel contained vegetables. Finally, Officer O'Shea testified that, about an hour and a half after his arrest, defendant stated the parcel contained khat. On this record, we cannot say defendant's alleged language barrier raises any reasonable doubt concerning his statement acknowledging the presence of khat in his parcel.

Next, defendant contends the State failed to prove beyond a reasonable doubt that he possessed 200 grams or more of khat since the only evidence regarding the weight of the khat came from the forensic chemist, who testified she did not weigh the khat alone but rather weighed the khat along with its packaging and binding. Defendant contends, given the lack of evidence regarding the weight of the khat versus the weight of the material used as packaging, we should reduce his conviction from the class 1 felony of possession of 200 grams or more of a substance (khat) containing the schedule I controlled substance cathinone (720 ILCS 570/402(a)(11) (West 2006)) to the class 4 felony of possession of less than 200 grams. 720 ILCS 570/402(c) (West 2006).

Although defendant did not raise this issue in his post-trial motion, there was no waiver here. Where, as here, defendant challenges the sufficiency of the evidence, his claim is not subject to the waiver rule and may be raised for the first time on appeal. *Woods*, 214 Ill.2d at 470.

Defendant again contends the standard of review is *de novo*, citing *Smith*. As discussed above, in *Smith* the court essentially was asked to construe the meaning of a statute as it applied to the undisputed facts of the case. *Smith*, 191 Ill.2d at 411-13. Unlike in *Smith*, defendant here is specifically asking this court to review the circuit court's finding of fact that the khat weighed 200 grams or more. As such, the facts are in dispute and the appropriate standard of review is "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Emphasis in original.) *Jackson*, 443 U.S. at 319.

Our supreme court has held, a chemist "generally need not test every sample seized in order to render an opinion as to the makeup of the substance of the whole. [Citation.] Rather, random testing is permissible when the seized samples are sufficiently homogenous so that one may infer beyond a reasonable doubt that the untested samples contain the same substance as those that are conclusively tested." *People v. Jones*, 174 Ill.2d 427, 429 (1996). In the present case, Officer O'Shea testified to the homogenous nature of the plant material contained in defendant's parcel, describing the plant material as "very distinctive, stems, green and purplish in color." Officer O'Shea also testified to the homogenous nature of each "bundle" of plant material, noting each bundle was wrapped in a banana leaf and contained approximately 10 stems. The forensic scientist similarly testified to the homogenous nature of each "bundle" of plant material recovered from defendant's

parcel: "It was a bundle of plant material that was wrapped in banana--yeah, it looked like one banana leaf that was secured as its wrapping paper or raffia twine." When she opened the banana leaves she found "smaller bundles of plant material." The forensic scientist counted 123 bundles and weighed three of them together, including their banana leaves and stems. The three bundles weighed 281 grams. Samples from each of the three bundles tested indicated the presence of the schedule I controlled substance cathinone.

Given the homogenous nature of the 123 bundles of plant material, coupled with the fact that three of those bundles weighed 281 grams, the circuit court inferred that, even without the banana leaves and binding the total weight of the khat exceeded 200 grams. The circuit court's inference was supported by the evidence. We affirm defendant's conviction.

Next, defendant contends the circuit court erred in denying his motion to suppress his statement at the police station that his parcel contained khat. Defendant argues that he did not knowingly, intelligently, and voluntarily waive his *Miranda* rights prior to making the statement because they were given to him in English, a language he had difficulty understanding.

The reviewing court accords great deference to the circuit court's factual findings and credibility determinations on a motion to suppress, and will reverse those findings only if they are against the manifest weight of the evidence. *People v. Richardson*, 234 Ill.2d 233, 251 (2009). "This deferential standard of review is grounded in the reality that the circuit court is in a superior position to determine and weigh the credibility of the witnesses, observe the witnesses' demeanor, and resolve conflicts in their testimony." *Richardson*, 234 Ill.2d at 512-13. However, the reviewing court reviews *de novo* the ultimate question of defendant's legal challenge to the denial of his motion to

suppress. *Richardson*, 234 Ill.2d at 251.

The State bears the burden of proving, by a preponderance of the evidence, defendant made a knowing, intelligent and voluntary waiver of his *Miranda* rights. *People v. Reid*, 136 Ill.2d 27, 51 (1990). Once the State establishes its *prima facie* case, the burden shifts to defendant to show that his waiver was not knowing, intelligent or voluntary. *Reid*, 136 Ill.2d at 51. In determining whether a confession is voluntary, courts look to the totality of the circumstances, including factors such as defendant's age, intelligence, background, experience, education, mental capacity and physical condition at the time of questioning; the duration and legality of the detention; and any physical or mental abuse by the police. *People v. Morgan*, 197 Ill.2d 404, 437 (2001). Another factor considered is defendant's familiarity with the English language. *People v. Joya*, 319 Ill. App. 3d 370, 378 (2001).

In the present case, defendant's argument that his statement was involuntary is premised solely on his alleged difficulties in understanding the English language; defendant makes no arguments that his statement was involuntary pursuant to the other factors considered under the totality of the circumstances test.

At the hearing on his motion to suppress, defendant testified through an interpreter that he was born in Somalia and had lived in the United States for five years. Defendant testified some police officers arrested him on April 4, 2006. They did not provide him with a Somali interpreter. Defendant claimed the officers never gave him his *Miranda* rights, and that even if they had given him his *Miranda* rights, he would not have understood them because his English was so poor. Defendant testified he only understands "some" words and phrases, such as "how are you" and

"what's your name."

On cross-examination, defendant testified that when he was arrested he did not speak to the officers and he did not tell them that his parcel contained vegetables for a salad. Defendant testified that the officers tried to speak to him, but that he did not understand what they were saying. Defendant claimed when the officers "caught" him on the street, he told the officers "no English, no English" and tried to use his phone to call an interpreter, but that the officers took away his phone.

Officer O'Shea testified at the hearing on the motion to suppress that he approached defendant outside the UPS store, spoke to him in English, and asked him what was in the parcel. Defendant replied that the parcel contained vegetables. Officer O'Shea testified defendant voluntarily opened the parcel. Officer O'Shea looked inside the parcel and saw items he believed to be khat. Officer O'Shea told defendant the parcel contained khat, not vegetables; defendant kept insisting they were vegetables. Officer O'Shea testified he arrested defendant, read him his *Miranda* rights, and asked him if he understood his rights. Officer O'Shea testified "we didn't have any problem at all understanding one another" and defendant never stated he needed an interpreter. Officer O'Shea told defendant to put his hands behind his back, and defendant did exactly as he was told. Officer O'Shea testified that, at the police station, he again read defendant his *Miranda* rights and asked defendant if he understood them. Defendant stated he understood his rights. Officer O'Shea testified that he and another officer, Officer Byrne, questioned defendant about whether he had intended to distribute the khat, and defendant continued to respond that his parcel contained vegetables for salad.

Following all the evidence, the circuit court expressly stated it found Officer O'Shea's

testimony to be credible, that the officer admonished defendant of his *Miranda* rights, and defendant was "able to understand *Miranda*." Therefore, the court denied defendant's motion to suppress.

The circuit court's findings of fact and credibility determinations were not against the manifest weight of the evidence. Although defendant testified officers did not give him his *Miranda* rights and that his limited English would have prevented him from understanding his *Miranda* rights anyway, his testimony was directly refuted by Officer O'Shea, who testified he read defendant his *Miranda* rights multiple times and defendant expressed his understanding thereof. Officer O'Shea also testified to defendant's ability to understand the officer's question about the contents of the parcel, his ability to understand the officer's instructions to put his hands behind his back at the time of his arrest, and his ability to respond to the officer's questions at the police station by continuing to insist that his parcel contained vegetables for a salad.

The circuit court had the opportunity to observe both Officer O'Shea and defendant when they testified at the suppression hearing, assessed their respective credibility, and determined that the officer gave defendant his *Miranda* warnings and defendant understood English well enough to know the meaning of the *Miranda* warnings. The circuit court's findings were not against the manifest weight of the evidence. We affirm the order denying defendant's motion to suppress.

Finally, defendant contends, and the State concedes, the circuit court erred by imposing a $5 court system fee and a $30 children's advocacy center fine, and by failing to apply $10 of pre-sentence incarceration credit toward his $10 mental health court fine. Accordingly, we vacate the $5 court system fee and the $30 children's advocacy center fine, and we direct the clerk of the circuit court to amend the fines and fees order to reflect a $10 pre-sentence incarceration credit toward

defendant's $10 mental health court fine.

Affirmed; fines and fees order modified.