SIXTH DIVISION
February 4, 2011

No. 1-08-1778

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
	)	the Circuit Court
Plaintiff-Appellee,	)	of Cook County
	)	
v.	)	No. 07 CR 14839
	)	
AARON BUNDY,	)	Honorable
	)	John J. Scotillo,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CAHILL delivered the judment of the court.
Presiding Justice Garcia and Justice R.E. Gordon concurred in the judgment.

ORDER

Held: Defendant's conviction for attempted first degree murder was affirmed where he was not denied the effective assistance of counsel. The admission of gang evidence was proper. The prosecutor's closing remarks did not deny defendant a fair trial. Defendant is entitled to one additional day of sentencing credit and the cause is remanded to vacate several improperly imposed fines.

Following a jury trial, defendant Aaron Bundy was convicted of the attempted first degree murder of Guillermo Rocha and sentenced to 15 years in prison. 720 ILCS 5/9-1 (West 2006). On appeal, defendant contends that: (1) he was denied his right to the effective assistance of

counsel when his attorney elicited or failed to object to various statements made during trial; (2) he was denied his right to a fair trial when gang testimony was admitted into evidence; (3) he was denied a fair trial when the prosecutor used inflammatory language during closing arguments that unfairly prejudiced defendant before the jury; (4) he is entitled to one additional day of sentencing credit; and (5) this cause should be remanded to vacate several improperly imposed fines. We affirm and remand with instructions.

At trial, Mayra Casillas testified that shortly before 1 a.m. on April 23, 2007, she was home with her family at 1323 Wye Court in Wheeling when she heard about five gunshots from outside. She looked out the living room window and from about 20 feet away saw Guillermo Rocha hanging on a car door. She called 911 while her brother Oscar went outside to help Rocha. At that point Rocha "looked like he was already dead" and was not moving at all. The police arrived shortly after.

Officer Sung Kim testified that he responded to a report of a person shot at the intersection of Wye Court and Locust Drive shortly before 1 a.m. on April 23, 2007. When Kim arrived he saw Rocha lying face down on the ground. He noticed Rocha had blood on his chest and there was blood on the ground. The Wheeling Fire Department arrived and took Rocha away. Kim secured the scene and went to speak with Mayra Casillas to find out what happened. Evidence technician Brian Jacobson arrived shortly after and Kim "turned the scene over to him."

Maria Alvarez testified that on April 22, 2007, she finished work at Bob Chinn's Crabhouse in Wheeling at 9 p.m. and got a ride home. Rocha met Alvarez at her house at 1323

Wye Court in Wheeling. She got into his black Honda between 9:20 p.m. and 9:30 p.m. They were talking and listening to music when an African-American male came close to the car on the driver's side and asked Rocha "Where is Joshua?" Maria testified that she could see the man's face clearly. Rocha replied that he did not know anyone with that name. The person stepped backwards and shined a small red light into the car. Maria told Rocha she wanted to go inside the house because she was frightened. When Rocha moved the car and got out to open the door for Maria, the person fired five shots at Rocha from three car lengths away. Maria agreed that the shooting occurred at approximately 12:50 a.m. on April 23, 2007. She saw Rocha fall to the ground and screamed. When she got out of the car the assailant ran away. Maria saw a heavily built Hispanic male at the scene with the assailant. She noticed Rocha had blood on his chest and mouth and was unable to breath. The police and paramedics arrived and took care of him.

Maria was shown photo lineups on several occasions and pointed at the person who looked most like the shooter from the night in question. She spoke with a "sketch artist" who drew a picture of the assailant after she described him. In June 2007, she viewed a lineup of six persons but could not identify one as the assailant.

Guillermo Rocha corroborated Maria's testimony. He testified that he was able to look at defendant for ten seconds from about two meters away when defendant came up to the car. Rocha said he was unable to identify defendant or the Hispanic male who was with defendant when he was shown pictures of suspects by the police or in a lineup at the police station on June 15, 2007.

Evidence technician Brian Jacobson testified that he arrived at 1323 Wye Court after 1

a.m. on April 23, 2007. He inspected the entire area and noted that there were several surveillance cameras at a nearby Sam's Club overlooking the area. He saw a red stain on the curb near the black Honda Civic, found six .22-caliber shell casings on the ground and identified bullet marks on a parked minivan and a nearby town home.

Detective Richard Benbow testified that he spoke to Maria Alvarez at the Wheeling police station at approximately 2:10 a.m. on April 23, 2007. Detective Tom Pinedo acted as a translator. Benbow put together a photo lineup containing black male subjects of the Latin Count street gang because he knew of a feud between them and the Spanish Gangster Disciples (SGDs). Defendant was not included in the photo lineup and Maria did not identify anyone from it as being responsible for the shooting. Benbow returned to the crime scene later that day and contacted Sam's Club to obtain the surveillance video of the area from the previous night.

On April 24, 2007, Benbow and Penedo went to Lutheran General Hospital to interview Rocha. They showed Rocha a six-person photo lineup made with black male members of the Latin Counts. Neither Rocha nor Maria identified anyone in the photo array as involved in the shooting. On April 25, 2007, Benbow prepared another photo lineup containing black and Hispanic subjects. Maria identified a person as being involved in the shooting, but that person was eliminated as a potential suspect after Benbow verified his alibi.

On June 3, 2007, Victor Checuga, a member of the Latin Counts street gang, was arrested and brought to the Wheeling Police Department. Based on information provided by Checuga, the investigations unit of the police department located Aaron Ruiz. Ruiz was questioned and charged in connection with Rocha's shooting. Based on their interviews with Ruiz, the police

arrested defendant on June 13, 2007.

Defendant was brought to the police department for questioning by Benbow and Detective Mike Conway. Defendant was read his *Miranda* rights, signed a waiver of rights form and agreed to speak to the officers. Defendant admitted he was a member of the Latin Counts but denied having knowledge of a March 26 gang fight in which a Latin Counts member was stabbed by a SGD member. During his first two interviews he also denied involvement or knowledge of the shooting. During his third interview he told Benbow he had knowledge of the shooting but denied involvement.

Detective Conway corroborated Benbow's testimony. Conway testified that he and Detective Licari interviewed defendant after Benbow finished with him. After Conway showed defendant the Sam's Club surveillance tape of the crime scene, defendant said "he would tell *** the truth from here on in." Defendant proceeded to admit that he was the shooter on the night in question. He was shown photographs from the surveillance video and of the crime scene. He marked and initialed the location where he had shot at Rocha and discussed the details of the incident. Defendant identified himself in the photograph, standing at the trunk of a car in the Sam's Club parking lot at 12:47 a.m. on April 23, 2007. He said that Danielle Greco drove the car and Aaron Ruiz was with him during the shooting. Defendant identified Rocha's car as the one at which he shot and identified Rocha in a six-person photo array as the man he shot. Defendant had written what he described and signed his name underneath the description on each of the photographs admitted at trial.

Assistant State's Attorney Michael Gerber testified that he met with defendant on June

14, 2007, at the Wheeling police department. Gerber obtained defendant's permission to prepare a written summary of what defendant had told him about the shooting. Defendant made a few corrections and signed the statement Gerber prepared.

Defendant said in the written summary that on April 22, 2007, at about 11 p.m., he and Aaron Ruiz, who are Latin Counts members, were driven to Wheeling by Danielle Greco. The purpose of the trip was to locate members of the SGDs, rivals of the Latin Counts. They stopped in the Wal-Mart parking lot and defendant and Ruiz got out of the car while Danielle stayed behind the wheel. Defendant and Ruiz walked through a fence near the parking lot and saw "some beaner," or Hispanic, behind the wheel of a car parked on the street. Defendant noticed the man was not wearing gang clothes or colors and "probably was not a gang member." Defendant and Ruiz returned to the car and continued to drive around, looking for SGD members. Finding none, the group returned to the Wal-Mart parking lot. Defendant and Ruiz got out of the car and went over to "the beaner['s]" car. Defendant was armed with a .22-caliber semiautomatic handgun and a laser key-chain. As "the beaner" got out of the car defendant "lit up the place" by firing five or six shots. Defendant and Ruiz ran back to the car where Danielle was waiting and drove off. Defendant was dropped off in Glen Ellyn. Defendant left the gun in the car and told "them to get rid of it."

Gerber further testified that defendant identified Rocha from a photo lineup as the man he shot. The State rested.

The defense called Debra Schlaiss, the mother of Megan Schlaiss. Debra testified that defendant was dating Megan and he lived at Debra's house. On April 22, 2007, Debra left work,

picked up dinner for her family and arrived home at about 8:30 p.m. When she got home Megan asked Debra to borrow her car to pick defendant up at a friend's house. Megan and defendant came back an hour later and sat down for dinner. The family finished dinner around 11:30 p.m. and everyone went to bed. The bedroom Megan and defendant sleep in is right next to Debra's. Debra testified that no one entered or left the house after 10 p.m that night. She saw Megan and defendant the next morning at 5 a.m. One of Debra's dogs barks whenever people enter or leave the house, but it was silent on the night in question.

Megan Schlaiss' testimony corroborated Debra's. Megan said that after the family had dinner she and defendant had a cigarette in the garage then went to bed. When Megan's baby awoke at 2 a.m. she got up to make him his bottle then woke defendant up to feed him.

Megan testified she was arrested at her home with defendant on June 13, 2007. She was brought to the Wheeling police station for questioning about the events of April 22, 2007. She told the officers she overheard a conversation at a party where somebody had said, "You should not have brought Danielle into it because she will rat you out." She said there was only one night where defendant did not come home, which was on May 18.

On cross-examination Megan testified that she knew defendant was a member of the Latin Counts. She knew that Latin Counts members wear red and black to identify themselves and said defendant attended gang meetings "a couple times."

The State entered into evidence photographs of defendant's Latin Counts gang tattoo and the defense rested.

Following closing arguments, the jury returned a verdict of guilty on the attempted

murder charge. Defendant was sentenced to 15 years in prison.

On appeal, defendant first contends that he was deprived of his right to the effective assistance of counsel when his attorney: (1) elicited inadmissible hearsay testimony from Detective Benbow, who testified that Victor Checuga, a fellow gang member, identified defendant as Rocha's shooter; (2) failed to object when the State elicited hearsay testimony from Benbow about a conversation where Megan Schlaiss overheard defendant and fellow gang members talking about Danielle Greco's involvement in the crime; (3) failed to object when the State asked Megan if the police told her that fellow gang members implicated her in the shooting; (4) failed to object to highly prejudicial gang evidence offered by the State; and (5) failed to object to inflammatory remarks by the prosecutor during closing argument. Defendant argues that defense counsel's cumulative errors resulted in a fundamentally unfair trial. Defendant separately alleges that the prejudicial gang evidence offered by the State and the prosecutor's inflammatory remarks during closing argument were error and denied him a fair trial. We address the first three issues together and the last two separately.

To succeed on a claim of ineffective assistance of counsel, a defendant must establish (1) that counsel's performance was deficient; and (2) that trial counsel's deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984). A reviewing court must strongly presume that counsel's conduct was reasonable, and it is the defendant's burden to overcome the presumption that, under the circumstances, a challenged action might be considered sound trial strategy. *People v. Peeples*, 205 Ill. 2d 480, 512, 793 N.E.2d 641 (2002).

To prevail, a defendant must satisfy both the performance and prejudice prongs of the Strickland test. *People v. Harris*, 206 Ill. 2d 293, 303, 794 N.E.2d 181 (2002). However, if the court concludes that the defendant did not suffer prejudice, we need not decide whether counsel's performance was constitutionally deficient. *Harris*, 206 Ill. 2d at 304. If we find that the evidence of the defendant's guilt is overwhelming, independent of the allegedly inadmissible evidence, the *Strickland* claim will fail. *People v. McCarter*, 385 Ill. App. 3d 919, 935, 897 N.E.2d 265 (2008).

Here, even without the allegedly inadmissible hearsay testimony of Detective Benbow and Megan Schlaiss, the evidence against defendant was overwhelming such that its exclusion would not warrant a different result. We reject defendant's suggestion that the evidence was "insufficient to prove the *corpus delicti* of the crime"; specifically, that there is a lack of "evidence independent of the defendant's statements that corroborates the facts set forth in the indictment." In the presence of Detectives Conway and Licari defendant said "he would tell the truth from here on in" when confronted with the existence of the Sam's Club surveillance tape of the crime scene. Defendant proceeded to admit he was the shooter. He marked the location where he shot at Rocha and initialed pictures of the crime scene. He identified Rocha's car as the one he shot at and identified Rocha from a six-person photo array as the man he shot. On each of the photographs admitted at trial defendant wrote what he described and signed his name underneath the description. Assistant State's Attorney Gerber interviewed defendant and wrote a summary of the interview which defendant corrected and signed. Defendant's recitation of the events in that statement corroborates the testimony of the State's witnesses at trial. Specifically,

Mayra Casillas, Rocha and Alvarez said they heard five shots, while defendant said he fired "five or six shots" from a .22-caliber pistol. Evidence technician Jacobson found six .22-caliber bullet casings at the crime scene. Rocha and Alvarez also described defendant as shining a small red light at them before the shots were fired. Defendant's statement said he had a laser key-chain with him when he approached Rocha's car.

Given the combined weight of the testimony, we are confident that the absence of the complained-of evidence would not have created a reasonable probability of a different outcome. *Strickland*, 466 U.S. at 693 ("[i]t is not enough for the defendant to show that the error had some conceivable effect on the outcome of the proceeding"); *People v. Lefler*, 294 Ill. App. 3d 305, 312, 689 N.E.2d 1209 (1998) (even excluding inadmissible evidence, "the core evidence in [the] case stood virtually unimpeached").

Defendant next contends defense counsel was ineffective for failing to object to prejudicial gang evidence elicited during the State's cross examination of Megan Schlaiss. Schlaiss testified that defendant had been in the Latin Counts since he was a teenager and he attended gang meetings, and that Schlaiss, defendant and their child were present during a police raid at another gang member's house. Two photographs of defendant's gang tattoos were also admitted into evidence. Defendant separately claims that the admission of the photographs and testimony was unduly prejudicial and denied him a fair trial.

Defendant's ineffective assistance of counsel claim fails if we find the admission of this evidence was proper, as defense counsel's failure to make a futile objection cannot constitute fundamentally deficient performance. *People v. Holmes*, 397 Ill. App. 3d 737, 745, 922 N.E.2d

1179 (2010).

Evidence of gang membership and gang rivalries is relevant where it establishes the reasons for deadly gang behavior. *People v. Hamilton*, 328 Ill. App. 3d 195, 202, 764 N.E.2d 1240 (2002), citing *People v. Colon*, 162 Ill. 2d 23, 30, 642 N.E.2d 118 (1994). "Such evidence may be admitted so long as it is relevant to an issue in dispute and its probative value is not substantially outweighed by its prejudicial effect." *People v. Johnson*, 208 Ill. 2d 53, 102, 803 N.E.2d 405 (2003). Relevant gang evidence should not be excluded simply because it may have a tendency to prejudice the accused. *Hamilton*, 328 Ill. App. 3d at 202, citing *People v. Patterson*, 154 Ill. 2d 414, 458, 610 N.E.2d 16 (1992).

The evidence of defendant's gang involvement was central to the State's theory of the case: defendant's sole motive for shooting Rocha was to avenge the stabbing of a Latin Counts member by the SGDs. While Rocha was not a gang member, defendant stated in his confession that he shot at him because Rocha was a Hispanic in an area controlled by the all-Hispanic SGDs. Contrary to defendant's assertions, the State and trial court did not go "overboard" in permitting the jury to hear Schlaiss's testimony and see the pictures of defendant's gang tattoos. Rather, such evidence was probative of defendant's dedication to the Latin Counts and his willingness to commit criminal acts on their behalf. Without this evidence the jury would be left without a motive for what would otherwise appear to be a random and senseless crime. See *People v. Goldsberry*, 259 Ill. App. 3d 11, 16, 630 N.E.2d 1113 (1994), citing *People v. Smith*, 141 Ill. 2d 40, 58, 565 N.E.2d 900 (1990) ("[e]vidence of gang membership may be received in order to show a common design or existence of a motive which would be relevant to prove an

otherwise inexplicable act"). Defense counsel was not ineffective for failing to object to this evidence, and its admission did not prejudice defendant's right to a fair trial.

Next, defendant contends that defense counsel was ineffective for failing to object to inflammatory remarks made by the prosecutor and the prosecutor's reference to Megan Schlaiss's hearsay testimony during closing argument. Defendant separately contends that the prosecutor's remarks were so prejudicial defendant was denied a fair trial. If we find the prosecutor's comments did not deny defendant a fair trial, defendant's claim that defense counsel was ineffective for failing to object will also fail. *People v. Myers*, 246 Ill. App. 3d 542, 547, 616 N.E.2d 633 (1993) ("since we have found that the comments complained of by defendant were not improper, we reject defendant's argument that his defense counsel was ineffective for failing to object to those comments").

Prosecutors are granted wide latitude during closing argument. *People v. Blue*, 189 Ill. 2d 99, 127, 724 N.E.2d 920 (2000). The prosecutor may comment on the evidence, draw reasonable inferences from it, and "also respond to comments by defense counsel which clearly invite a response." *People v. Hudson*, 157 Ill. 2d 401, 441, 626 N.E.2d 161 (1993). However, "[the] prosecutor cannot use closing argument simply to 'inflame the passions or develop the prejudices of the jury without throwing any light upon the issues.' " *People v. Wheeler*, 226 Ill. 2d 92, 128-29, 871 N.E.2d 728 (2007), quoting *People v. Halteman*, 10 Ill. 2d 74, 84, 139 N.E.2d 286 (1956).

Prosecutorial misconduct in closing argument warrants reversal where the improper remarks engendered substantial prejudice against a defendant such that it is impossible to say

whether or not a verdict of guilty resulted from them. *Wheeler*, 226 Ill. 2d at 123. "Misconduct in closing argument is substantial and warrants reversal and a new trial if the improper remarks constituted a material factor in a defendant's conviction." *Wheeler*, 226 Ill. 2d at 123.

Defendant specifically points to this portion of the prosecutor's closing argument:

> "We know that [defendant] was hunting that night. Who was he hunting for? Who was he trying to find? Who was he trying to kill? The first Mexican he could find. How do we know that? He was looking for Spanish Gangster Disciples, not * * * African-American Gangster Disciples, not Asian Gangster Disciples, but Spanish Gangster Disciples, Mexicans.
>
> Remember, [defendant] was trying to get revenge for the stabbing o[f] his [f]ellow buddy, Mello, his fellow Latin Count. Well, I guess that was Guillermo Rocha's wrong assumption. [Rocha] wrongfully assumed he could be Mexican and sit in a parked car in Spanish Gangster territory, which he didn't even know was Spanish Gangster territory because he doesn't have time to think about gangs.
>
> ***
>
> And, furthermore, he didn't know the likes of [defendant] was out there hunting him, trying to kill him."

The prosecutor's comments were not a material factor in defendant's conviction and were not unduly prejudicial. Rather, these comments represent an accurate recitation of the trial evidence and were within the bounds of permissible closing argument. *People v. Resendez*, 273 Ill. App. 3d 751, 760, 652 N.E.2d 1357 (1995). The evidence showed defendant went to Wheeling with

the intention of exacting revenge on a member of the SGDs for the stabbing of a Latin Counts member. In his statement defendant repeatedly referred to Rocha as a "beaner," and shot at Rocha after unsuccessfully trying to locate SGD members. The prosecutor's statement that defendant was trying to find Mexicans to attack was a reasonable inference based on the evidence. *Hudson*, 157 Ill. 2d at 441.

The prosecutor's reference to a conversation Megan Schlaiss overheard of Danielle Greco's role as a driver was not a material factor in defendant's conviction. As discussed above, the evidence was overwhelming in spite of this statement. *McCarter*, 385 Ill. App. 3d at 935. Nor was defense counsel's failure to object to this comment so prejudicial as to deny defendant the effective assistance of counsel. *Harris*, 206 Ill. 2d at 304.

People v. Nightengale, 168 Ill. App. 3d 968, 523 N.E.2d 136 (1988), on which defendant relies, is readily distinguishable. We found the defendant there was entitled to a new trial after the prosecutor argued that his fingerprints were found at the scene of the crime when no fingerprints existed, called the defendant "scum" and attempted to arouse the antagonism of the jury by laughing and smirking while defense counsel argued his objections before the court. *Nightengale*, 168 Ill. App. 3d at 975-76. We found that "[s]uch conduct by the prosecutor constituted an open mockery of our judicial system and was totally unprofessional. The repeated disregard of the bounds of proper argument and the prosecutor's conduct was so flagrant and purposeful, we can only conclude that it was done for the purpose of prejudicing defendant." *Nightengale*, 168 Ill. App. 3d at 976.

The complained of conduct here does not compare with the prosecutor's conduct in

Nightengale. Here, the comments did not exceed the wide latitude afforded to prosecutors in closing argument. *Blue*, 189 Ill. 2d at 127.

To summarize, defense counsel was not ineffective for eliciting alleged hearsay testimony or failing to object to the State's elicitation of additional hearsay evidence because the absence of the complained-of evidence would not have created a reasonable probability of a different outcome. The admission of gang evidence and the prosecutor's comments during closing argument did not deprive defendant of a fair trial, nor was defense counsel ineffective for failing to object to the gang evidence or the prosecutor's remarks. The fundamental fairness of this trial was not compromised. *Strickland*, 466 U.S. at 696; *People v. Segoviano*, 189 Ill. 2d 228, 246, 725 N.E.2d 1275 (2000).

Defendant next contends he is entitled to one additional day of sentencing credit. Defendant was arrested on June 13, 2007, and sentenced on April 24, 2008. The total number of days elapsed was 316, rather than 315, as reflected on the mittimus. Under Supreme Court Rule 615(b)(1) (134 Ill. 2d R. 615(b)(1)), we order the mittimus corrected to reflect 316 days of sentencing credit.

Finally, defendant contends that the trial court improperly assessed him: (1) the $5 court systems fee (55 ILCS 5/5-1101(a) (West 2006)); (2) the $25 court supervision fee (625 ILCS 5/16-104(c) (West 2006)); (3) the $10 arrestee's medical costs fee (730 ILCS 125/17 (West 2006)); and (4) the $20 serious traffic violation fee (625 ILCS 5/16-104(d) (West Supp. 2007)). Defendant also contends the trial court failed to give him presentence credit to satisfy the applicable fines. He asks the court to award him $1,580 in sentence credit, reducing his total

assessment to $580.

The $5 court systems fee, $25 court supervision fee and $20 serious traffic violation fee may only be assessed for violations of the Illinois Vehicle Code or similar ordinances. See 55 ILCS 5/5-1101(a) (West 2006); 625 ILCS 5/16-104(c), (d) (West 2006)). Defendant was convicted of attempted murder (720 ILCS 5/9-1 (West 2006)), not a violation of the Illinois Vehicle Code or a similar ordinance. We order these fees vacated. See *People v. Price*, 375 Ill. App. 3d 684, 698, 873 N.E.2d 453 (2007).

We also vacate the $30 children's advocacy center fine (55 ILCS 5/5-1101(f-5) (West 2006)) because it was not in effect at the time defendant committed the offense. See *People v. Cornelius*, 213 Ill. 2d 178, 207, 821 N.E.2d 288 (2004).

Defendant and the State agree that the $10 arrestee's medical costs fee (730 ILCS 125/17 (West 2006)) should be vacated because the record does not show defendant incurred expenses for treatment provided on account of injury he suffered during his arrest. But, we have held that the medical costs fee is applicable to every defendant to create a fund to pay for medical expenses for all arrestees who require medical care while in custody. *People v. Coleman*, __ Ill. App. 3d __, __, 936 N.E.2d 789, 792-93 (2010), citing *People v. Jones*, 397 Ill. App. 3d 651, 662, 921 N.E.2d 768 (2009). We affirm the imposition of this fee.

The trial court failed to award defendant sentencing credit toward his fines. Defendant was in pretrial custody from June 13, 2007, to April 24, 2008, a total of 316 days. Defendant is entitled to $5 for each day spent in pretrial custody, for a total of $1,580 in presentence credit. 725 ILCS 5/110-14(a) (West 2006).

Defendant is entitled to apply his $1,580 presentence credit toward the $10 mental health

court fine (55 ILCS 5/5-1101(d-5) (West 2006)), the $5 youth diversion/peer court fine (55 ILCS 5/5-1101(e) (West 2006)) and the $5 drug court fine (55 5/5-1101(f) (West 2006)) because they constitute fines. *People v. Graves*, 235 Ill. 2d 244, 251, 919 N.E.2d 906 (2009); *People v. Paige*, 378 Ill. App. 3d 95, 102, 880 N.E.2d 675 (2007). Defendant is not entitled to apply his $1,580 in credit against the $10 arrestee's medical costs fee (730 ILCS 125/17 (West 2006)). *People v. Unander*, __ Ill. App. 3d __, __, 936 N.E.2d 795, 800 (2010).

Affirmed; mittimus corrected.