FIRST DIVISION
MAY 6, 2013

No. 1-11-1873



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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the |
| | ) | Circuit Court of |
| Plaintiff-Appellee, | ) | Cook County. |
| | ) | |
| v. | ) | No. 07 CR 25698 |
| | ) | |
| SONYA JACKSON, | ) | Honorable |
| | ) | Luciano Panici, |
| Defendant-Appellant. | ) | Judge Presiding. |

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JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

**ORDER**

¶ 1 *Held*: Evidence was sufficient to sustain a conviction for aggravated cruelty to an animal; the trial court did not apply an erroneous standard of proof in finding the defendant guilty; and fines and the fees order should be corrected to reflect a total monetary assessment of $395.

¶ 2 Following a bench trial in the circuit court of Cook County, defendant Sonya Jackson was convicted of one count of aggravated cruelty to an animal (510 ILCS 70/3.02 (West 2008)), and sentenced to two years of probation. On direct appeal, the defendant argues that: (1) the State failed to prove her guilt beyond a reasonable doubt; (2) the trial court applied an erroneous standard of

proof in finding her guilty; and (3) certain fines and fees were improperly assessed against her. For the following reasons, we affirm the judgment of the circuit court of Cook County, but order that the mittimus be corrected to show the proper imposition of fines and fees in accordance with this order.

¶ 3 BACKGROUND

¶ 4 On November 7, 2007, a dog was found in the defendant's home at 15839 Ashland Avenue in Harvey, Illinois, with a rubber band tied around the base of its tail. The dog's tail was infected and subsequently required surgical removal by a veterinarian. Thereafter, the defendant was charged with aggravated cruelty to an animal (510 ILCS 70/3.02 (West 2008)). The indictment stated that the defendant committed the offense of aggravated cruelty in that she "intentionally caused a companion animal to suffer serious injury or death, to wit: tied rubber bands around a dog's tail cutting the tail to the bone."

¶ 5 On August 25, 2010,[1] a bench trial commenced during which the State presented the testimony of three witnesses. Animal Control Officer Terry Brown (Officer Brown) testified that at approximately 11:20 a.m. on November 7, 2007, he responded to a complaint of animal cruelty at 15839 Ashland Avenue in Harvey. Upon arrival at the location, Officer Brown identified himself to the defendant, and explained his purpose for being there. Officer Brown and the defendant then went to the garage of the home, where the defendant's dog, a Rottweiler, "picked his head up [from] underneath one of the cars." Officer Brown, who was then joined by Officer Hartwell, observed that the dog was timid and scared. Officer Brown also noticed that the dog's tail was injured and

[1]The bench trial was conducted over the course of three separate days: August 25, 2010, March 22, 2011 and April 21, 2011.

wrapped with a rubber band. The rubber band was tied to the base of the tail closest to the dog's body. Officer Brown then spoke with the defendant, who informed him that she placed the rubber band on the dog's tail and that "this was something she's done before in another state and that she felt that it wasn't a big deal." Thereafter, Officer Brown took custody of the dog and transported it to a humane society facility on Southwest Highway. On cross-examination, Officer Brown testified that a report he authored in connection with this incident did not state that the defendant had informed Officer Brown that she had placed the rubber band on the dog's tail.

¶ 6 Detective Kevin Ramsey (Detective Ramsey) of the Harvey police department testified that on November 7, 2007, at approximately 5:30 p.m., he received an assignment to investigate a case of animal cruelty and interviewed the defendant in police custody. Commander Neal was also present at the interview. Detective Ramsey advised the defendant of her *Miranda* rights, which she waived. The defendant then informed Detective Ramsey that the dog had an injury to its tail; that she took the dog to a veterinarian, who told her that it would cost $380 to treat the dog; that she could not afford to pay the veterinarian; and that the defendant took the dog home and tried to heal the dog's tail on her own. The defendant also informed Detective Ramsey that the dog's tail had been injured for about three weeks.

¶ 7 Veterinarian Leo Paul (Dr. Paul) testified as an expert witness for the State that on November 7, 2007, he worked at an animal shelter in Chicago Ridge, Illinois. On that day, Dr. Paul treated a Rottweiler dog that had a rubber band tied around its tail. Dr. Paul testified that the rubber band was cutting off the circulation to the dog's tail, that the tail had an infection, and that the tail was dying. Dr. Paul testified that it was not possible to save the tail, that the rubber band had cut through the

tissue of the tail and was "working its way towards the bone," and that the tail was separating from the rest of the dog's body. He stated that he was certain that the dog felt pain. Consequently, Dr. Paul anesthetized the dog and performed surgery to amputate the tail. After the surgery, the dog was provided pain medication and antibiotics. Dr. Paul testified that the prognosis for the dog was good following the surgery. In Dr. Paul's opinion, had he not surgically removed the dog's tail, the infection would have spread to the rest of the dog's body.

¶ 8 Dr. Paul further testified that performing tail removal surgery on the dog in this case was a necessary treatment, but that the same type of surgery on a healthy animal would be considered purely cosmetic in nature. He explained that tail removal surgery for cosmetic purposes on a healthy animal should be performed while the animal is under six weeks of age. Based on the presence of adult teeth in the defendant's dog, Dr. Paul estimated the dog's age to be one year old. Dr. Paul also testified that using a rubber band to remove a dog's tail was dangerous because of the risk of infection, and that it was not an accepted practice in the field of veterinary science.

¶ 9 On cross-examination, Dr. Paul testified that aside from the infected tail, the dog had no other physical ailments. On redirect examination, Dr. Paul opined that the dog's tail became infected as a direct result of tying a rubber band on it.

¶ 10 Following closing arguments, the trial court found the defendant guilty of one count of aggravated cruelty to an animal.

¶ 11 On May 10, 2011, the defendant filed a motion for a new trial. On June 7, 2011, the trial court denied the defendant's motion for a new trial and sentenced her to two years of probation plus mandatory fines, fees and costs in the amount of $720.

¶ 12 On June 30, 2011, the defendant filed a notice of appeal.

¶ 13 ANALYSIS

¶ 14 We determine the following issues on appeal: (1) whether the State proved beyond a reasonable doubt that the defendant was guilty of aggravated cruelty to an animal; (2) whether the trial court applied an erroneous standard of proof in finding her guilty; and (3) whether the trial court improperly assessed certain fines and fees against the defendant.

¶ 15 We first determine whether the State proved beyond a reasonable doubt that the defendant was guilty of aggravated cruelty to an animal.

¶ 16 The defendant argues that her conviction for aggravated cruelty to an animal should be reversed because the State failed to establish every element of the offense. Specifically, she maintains that her conduct did not rise to the level of "aggravated cruelty" and that she did not possess the requisite intent under the statute.

¶ 17 The State counters that the defendant was proven guilty beyond a reasonable doubt of aggravated cruelty. The State argues that the evidence demonstrated that the defendant intentionally tied a rubber band to her dog's tail, which caused prolonged pain to her dog for a period of up to three weeks, cut off circulation to the dog's tail, cut into the dog's flesh, and resulted in an open wound.

¶ 18 When the sufficiency of the evidence is challenged on appeal, we must determine " 'whether, after viewing the evidence in the light most favorable to the [State], *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis in original.) *People v. Graham*, 392 Ill. App. 3d 1001, 1008-09, 910 N.E.2d 1263, 1271 (2009), quoting *Jackson*

*v. Virginia*, 443 U.S. 307, 319, 61 L. Ed. 2d 560, 99 S. Ct. 2781, 2789 (1979). A reviewing court affords great deference to the trier of fact and does not retry the defendant on appeal. *People v. Smith*, 318 Ill. App. 3d 64, 73, 740 N.E.2d 1210, 1217 (2000). It is within the province of the trier of fact "to assess the credibility of the witnesses, determine the appropriate weight of the testimony, and resolve conflicts or inconsistencies in the evidence." *Graham*, 392 Ill. App. 3d at 1009, 910 N.E.2d at 1272. A reviewing court will not substitute its judgment for that of the trier of fact. *People v. Sutherland*, 223 Ill. 2d 187, 242, 860 N.E.2d 178, 217 (2006). A criminal conviction will not be reversed "unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to the defendant's guilt." *Graham*, 392 Ill. App. 3d at 1009, 910 N.E.2d at 1271.

¶ 19 Section 3.02 (Aggravated Cruelty) of the Humane Care for Animals Act (the Act) provides that "[n]o person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture." 510 ILCS 70/3.02 (West 2008). A "companion animal" under the Act means an animal that is commonly considered to be a pet, such as "canines, feline, and equines." 510 ILCS 70/2.01a (West 2008).

¶ 20 At trial, Officer Brown testified that, while he was at the defendant's home, he observed that the dog's tail was injured and that the base of its tail was wrapped with a rubber band. The defendant informed Officer Brown that she placed the rubber band on the dog's tail and that "this was something she's done before in another state and that she felt that it wasn't a big deal." Detective Ramsey testified that the defendant informed him that the dog had suffered an injury to its tail for a period of about three weeks, that she could not afford to pay a veterinarian to treat the injury, and

that she tried to heal the dog's tail on her own. Dr. Paul's testimony revealed that the rubber band was cutting off the circulation to the dog's tail, that the tail had an infection, and that the tail was dying. Dr. Paul also testified that the rubber band had cut through the tissue of the tail and was "working its way towards the bone," and that the tail began separating from the rest of the dog's body. The trier of fact also heard testimony that the dog felt pain, and that it was necessary for Dr. Paul to amputate the tail in order to minimize the spread of the infection to the rest of the dog's body. The trier of fact also viewed photographs presented as exhibits at trial which depicted the condition of the dog's tail at the time the dog was examined by Dr. Paul.[2] Dr. Paul further testified that using a rubber band to remove a dog's tail was not an accepted practice in the field of veterinary science, and opined that the dog's tail became infected as a direct result of tying a rubber band on it. Based on this evidence, the trier of fact could reasonably have found that the defendant intentionally tied a rubber band around her dog's tail, that this act caused pain to the dog, that it caused the dog's tail to become infected, and that it ultimately necessitated the amputation of the tail by Dr. Paul. Viewing the evidence in the light most favorable to the State, we find that the evidence supports a finding beyond a reasonable doubt that the defendant committed aggravated cruelty to a companion animal. Thus, we cannot say that the evidence was so improbable or unsatisfactory that it created

[2]These exhibits are attached to the appendix of the State's brief on appeal. The State noted in footnote 1 of its brief on appeal that the State was in the process of having the photographs bound and certified as a supplement to the record on appeal. However, our review of the history of the proceedings before this court shows that the State never requested such leave to file a supplement record, nor do these photographs appear anywhere in the record on appeal. Thus, we disregard these exhibits as improper before this court. See *People v. Williams*, 2012 IL App (1st) 100126, ¶ 27 (inclusion of evidence in the appendix of brief is improper supplementation of record with information *dehors* the record).

a reasonable doubt as to the defendant's guilt. Therefore, we hold that the State proved beyond a reasonable doubt that the defendant committed the offense of aggravated cruelty to an animal.

¶ 21 Nonetheless, the defendant characterizes her conduct as "tail docking" and argues that it is neither considered "cruel treatment" nor aggravated cruelty under the Act. In support of her position, the defendant references other sections of the Act. See 510 ILCS 70/3.01 (West 2008) (cruel treatment); 510 ILCS 70/3.03 (West 2008) (animal torture). We reject the defendant's contention. Sections of the Act other than the one under which the defendant was convicted are irrelevant to this case. Although "tail docking" is an enumerated and permissible conduct under the animal torture statute (510 ILCS 70/3.03 (West 2008)), we find that, even assuming that the defendant's conduct could be classified as "tail docking," the defendant was not free to perform such act in a way as to cause her dog to suffer serious injury under the plain language of the aggravated cruelty statute. See 510 ILCS 70/3.02 (West 2008)); see also *People v. Larson*, 379 Ill. App. 3d 642, 650, 885 N.E.2d 363, 370 (2008) (the best indication of the legislature's intent is the plain and ordinary meaning of the language of the statute).

¶ 22 The defendant further contends that her actions in tying a rubber band to her dog's tail did not rise to the level of "aggravated cruelty" under section 3.02 of the Act, noting that, unlike her conduct here, case law involving the convictions for this offense pertained only to extreme conduct resulting in severe injury or death. See *People v. Land*, 2011 IL App (1st) 101048, ¶ 5 (defendant convicted of aggravated cruelty to an animal where defendant used an industrial tow chain as a dog collar and chain became deeply embedded in the dog's neck and created a gaping hole in its neck); *People v. Primbas*, 404 Ill. App. 3d 297, 300, 936 N.E.2d 1088, 1090 (2010) (defendant mistakenly

shot and killed a family member's dog with a pellet gun); *Larson*, 379 Ill. App. 3d at 644, 885 N.E.2d at 374-75 (affirming defendant's conviction of aggravated cruelty to an animal where defendant deliberately shot a dog three times in the head with a .45-caliber handgun).

¶ 23 We reject this contention and find that the plain language of section 3.02 does not require intentional acts to be of a certain degree of severity in order to sustain a conviction for aggravated cruelty to an animal. Rather, the plain language of the statute proscribes *any* intentional act, except euthanasia through recognized methods approved by the Department of Agriculture, that causes a companion animal to suffer serious injury or death. See 510 ILCS 70/3.02 (West 2008). Likewise, we reject the defendant's contention that her dog did not suffer a "serious injury" within the meaning of section 3.02 of the Act. As discussed, viewing the evidence in a light most favorable to the State, a trier of fact could reasonably have found that the defendant's actions caused serious injury to her dog, where, for a period of about three weeks, the rubber band caused pain and an infection to her dog which ultimately led to the amputation of the dog's tail.

¶ 24 The defendant further argues that the State failed to prove beyond a reasonable doubt that she possessed the requisite specific "intent" under the aggravated cruelty statute, stating that she only intended to help heal the dog rather than harm it. We reject this contention. As discussed, the conviction for aggravated cruelty to an animal requires that a defendant commit an *intentional* act that causes a companion animal to suffer serious injury or death. See 510 ILCS 70/3.02 (West 2008). Where a defendant denies intent, as here where the defendant claims she had no intent to harm her dog, intent may be demonstrated through circumstantial evidence. See *Primbas*, 404 Ill. App. 3d at 302, 936 N.E.2d at 1092 (citing *People v. Phillips*, 392 Ill. App. 3d 243, 259, 911 N.E.2d

462, 478 (2009)). A person "acts intentionally" when her "conscious objective or purpose is to accomplish that result or engage in that conduct." 720 ILCS 5/4-4 (West 2008). Here, viewing the evidence in a light most favorable to the State, the evidence reveals that the defendant knew that the dog's tail was injured; that she intentionally tied a rubber band to the dog's tail in the hope of causing it to separate from the dog's body; that she had performed this procedure in the past and considered it to be no "big deal"; that the dog's tail became infected while the dog was living within the defendant's home and control; that the defendant knew about the dog's infected tail and did not remove the rubber band; and that the rubber band remained on the dog's tail for a period of about three weeks until the tail became unsalvageable and required surgical amputation by a licensed veterinarian. Based on this evidence, we find that a trier of fact could reasonably have found that the defendant possessed the requisite intent to cause her dog to suffer serious injury. See generally *People v. Calderon*, 393 Ill. App. 3d 1,7, 911 N.E.2d 1115, 1120 (2009) (whether circumstantial evidence proves the requisite intent of a crime is a question of fact for the trier of fact). Moreover, the trier of fact was not required to believe the defendant's statements to Detective Ramsey that she had taken her dog to the veterinarian or that her sole intention was to help heal her dog. See *Graham*, 392 Ill. App. 3d at 1009, 910 N.E.2d at 1272 (it is within the province of the trier of fact to determine the appropriate weight of testimony). Therefore, we hold that the State proved beyond a reasonable doubt that the defendant committed the offense of aggravated cruelty to an animal.

¶ 25 We next determine whether the trial court applied an erroneous standard of proof in finding the defendant guilty.

¶ 26 The defendant argues that she is entitled to a new trial on the basis that the trial court

incorrectly applied a lower "totality of the circumstances" standard of proof, rather than a "beyond a reasonable doubt" standard, in finding her guilty. She surmises that the trial court's use of the wrong standard of proof could be explained by the protracted length of litigation in this case and the fact that aggravated cruelty cases are obscure and uncommon. In support of her contentions, she analogizes *People v. Virella*, 256 Ill. App. 3d 635, 628 N.E.2d 268 (1993), and attempts to distinguish *People v. Weston*, 271 Ill. App. 3d 604, 648 N.E.2d 1068 (1995).

¶ 27 The State counters that the record does not affirmatively show that the trial court used the wrong standard of proof in convicting the defendant. Specifically, the State contends that "totality of the circumstances" is not a standard of proof, but instead, is merely a phrase used by the trial court to convey that all of the evidence had been considered by the court.

¶ 28 The trial court, in finding the defendant guilty, remarked as follows:

> "I did review the testimony of Officer Brown *** and Detective Ramsey. It's true that the defendant never came out and said that she initially put this rubber band around the tail of the dog. However, when she spoke with *** Officer Brown, she specifically said that she had done that before and she didn't think it was a big deal.
>
> So if you look at the totality of the circumstances, the dog was in her house, she indicated she'd done this before, I think she was used to [doing] it in the South or something, or someone came out that it was usually done in the South and it was no big deal. They

> would crop the tails by putting rubber bands around it.
>
> The fact remains, it was in her house, she had control of the dog. And she made that statement which leads me to believe under the totality of the circumstances that it was–specifically your exhibit, and that based on the totality of the circumstances, I believe the State has met its burden. There's a finding of guilty on this."

¶ 29 "Due process requires that a defendant be proven guilty beyond a reasonable doubt before being punished for a crime." *Weston*, 271 Ill. App. 3d at 615, 648 N.E.2d at 1075. While the trial court is presumed to know the law and apply it properly, that presumption is rebutted where the record affirmatively shows the contrary. *Id.* However, the trial court is not required to state for the record the standard of proof it has employed. *Id.*

¶ 30 In *Virella*, this court held that the trial court applied the wrong standard of proof in finding the defendants guilty, where the trial court repeatedly proclaimed that the totality of the State's evidence was "clear and convincing," instead of referencing the correct reasonable doubt standard. *Virella*, 256 Ill. App. 3d at 638, 628 N.E.2d at 271. The trial court had referred to the clear and convincing standard of proof once at trial, and three times in denying the defendants' motion for a new trial. *Id.* at 637-38, 628 N.E.2d at 270-71. On appeal, this court concluded that such reference was strong affirmative evidence that the trial court applied the wrong standard of proof in adjudicating the defendants guilty. *Id.* at 638, 628 N.E.2d at 271.

¶ 31 In *Weston*, this court found that the trial court did not apply the wrong standard of proof when the trial court stated in pertinent part the following: "I found [Coats'] testimony clear and convincing

and, accordingly, I find [defendant] guilty of attempt first-degree murder ***." *Weston*, 271 Ill. App. 3d at 615, 648 N.E.2d at 1076. The reviewing court found that the presumption that the trial court knew the law was not rebutted by this isolated statement, where the trial court "never said that the *totality* of the State's evidence was clear and convincing; only Coats' testimony was clear and convincing." (Emphasis in original.) *Id.* at 615-16, 648 N.E.2d at 1076. Further, the *Weston* court noted that the trial court's findings were based on the totality of Coats' testimony, other witness testimony, attorneys' stipulations, and the State's exhibits, and that the trial court demonstrated excellent knowledge of law and facts throughout the trial. *Id.*

¶ 32 The defendant argues that the facts in the case at bar are more aligned with the facts in *Virella* than *Weston*, where the trial court here repeatedly referenced the "totality of the circumstances" standard in finding her guilty, and the trial court did not demonstrate excellent knowledge of the law. Thus, the defendant maintains, the trial court applied the wrong standard of proof in finding her guilty, and the presumption that the trial court knew the law and applied it correctly was rebutted by the record. We disagree.

¶ 33 Based on our review of the record, we conclude that the trial court's remarks did not affirmatively show that the court used the wrong standard of proof in finding the defendant guilty. Unlike *Virella*, in which the trial court referred to the *totality* of the State's evidence as "clear and convincing," we find that the trial court's comments in the case at bar did not signify that the court deviated from the correct reasonable doubt standard. Rather, reading the entirety of the trial court's comments in context, we find that the court's references to the term "totality of the circumstances" pertained to the fact that the court considered all evidence presented at trial in determining the

defendant's guilt. While the trial court could have been more articulate regarding its findings, our review of the record does not establish that the court applied a standard of proof other than the correct reasonable doubt standard. See *Weston*, 271 Ill. App. 3d at 615, 648 N.E.2d at 1075 (the trial court is not required to state for the record the standard of proof it has employed). Like *Weston*, the trial court in the instant case never stated that the totality of the State's evidence was clear and convincing, but, in finding the defendant guilty, specifically noted that the court had considered the witnesses' testimony and the exhibits at trial. Thus, we find that the trial court did not use an erroneous standard of proof in convicting the defendant. See *Weston*, 271 Ill. App. 3d at 615, 648 N.E.2d at 1075 ("[t]he burden of proof, beyond a reasonable doubt, is one of the most basic tenets in criminal law, known to laymen, lawyers and judges alike").

¶ 34 Nonetheless, the defendant argues that *Weston* is distinguishable from the facts of this case. Specifically, she contends that unlike one isolated statement at issue in *Weston*, the trial court here referenced the "totality of the circumstances standard" three times in making its ruling. We reject this contention. As discussed, the trial court's remarks pertaining to the "totality of the circumstances" was a term of art used to convey that the court had considered all the evidence presented before it at trial, rather than an indication that the court deviated from the reasonable doubt standard. Thus, we find the defendant's argument on this basis to be without merit.

¶ 35 The defendant further contends that the presumption that the court knew and applied the law correctly was rebutted because the trial court demonstrated "unclear and in some instances patently wrong knowledge of law." The defendant's sole support for this contention is that the trial court was "inexplicably preoccupied with the issue of ownership and control of the dog," which she claimed

were irrelevant to the offense in this case. We reject this contention. The record shows that, in finding the defendant guilty, the trial court noted that "the dog was in her house" and "she had control of the dog." We find these remarks to be proper. The fact that the dog's tail became infected while the dog was living in the defendant's home and subject to her control, and that the defendant knew about the infected tail and failed to remove the rubber band, pertained to the element of specific intent in causing serious injury to her dog. The defendant further surmises that the trial court's risk of using an erroneous standard of proof is great because the case was litigated over a protracted length of time and that aggravated cruelty cases are obscure and uncommon. We decline to engage in such speculation. We find that the trial court did not use an erroneous standard of proof in finding the defendant guilty. Therefore, the presumption that the trial court knew the law and applied it correctly was not rebutted.

¶ 36 We next determine whether the trial court improperly assessed certain fines and fees against the defendant, which we review *de novo*. See *People v. Price*, 375 Ill. App. 3d 684, 697, 873 N.E.2d 453, 465 (2007).

¶ 37 The defendant challenges the following: (1) $200 DNA analysis fee (730 ILCS 5/5-4-3(j) (West 2011)); (2) $35 Traffic Court Supervision charge (625 ILCS 5/16-104c (West 2011)); (3) $35 Serious Traffic Violation charge (625 ILCS 5/16-104d (West 2011)); (4) $25 Court Services charge (55 ILCS 5/5-1103 (West 2011)); (5) $5 Court System fee (55 ILCs 5/5-1101(a) (West 2011)); and (6) $30 Children's Advocacy Center fine (55 ILCS 5/5-1101(f-5) (West 2011)).

¶ 38 The State concedes that the $200 DNA analysis fee; the $35 Traffic Court Supervision charge; the $35 Serious Traffic Violation charge; the $5 Court System fee; and the $30 Children's

Advocacy Center fine should be vacated, on the basis that these charges were inapplicable either to the defendant or the offense for which she was convicted. Based on our review of the record, we agree with the parties and vacate the imposition of these charges.

¶ 39 The only charge assessed against the defendant which is disputed by the parties is the $25 Court Services charge (55 ILCS 5/5-1103 (West 2011)). The defendant argues against the imposition of the $25 Court Services charge on the basis that the offense for which she was convicted was not an enumerated offense under the statute. The State, however, argues that the $25 Court Services charge was properly imposed because it applies to criminal convictions other than the ones enumerated in the statute.

¶ 40 Section 5-1103 of the Counties Code (the Code) provides in relevant part the following:

> "A county board may enact by ordinance or resolution a court services fee dedicated to defraying court security expenses incurred by the sheriff in providing court services or for any other court services deemed necessary by the sheriff to provide for court security ***.
>
> * * *
>
> In criminal, local ordinance, county ordinance, traffic and conservation cases, such fee shall be assessed against the defendant upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision, or sentence of probation without entry of judgment pursuant to Section

> 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act." 55 ILCS 5/5-1103 (West 2011).

¶ 41 In *Williams*, this court has rejected a similar argument proffered by a defendant who was convicted of aggravated unlawful use of a weapon (AUUW), sentenced to 5 years of prison, and assessed various costs, fines and fees including a $25 court services fee under section 5-1103 of the Code. *People v. Williams*, 2011 IL App (1st) 091667-B, ¶¶ 1, 18. In ruling that the $25 court services fee was properly imposed, the *Williams* court found that because judgments of conviction were entered against the defendant, "the fact that these convictions were not among those enumerated by the statute for imposition of this fee without entry of conviction does not void the assessment." *Id*. at ¶ 18.

¶ 42 The defendant argues that this court should not follow the holding in *Williams* because it was wrongly decided. We decline to depart from the sound holding in *Williams*. The plain language of the statute permits the assessment of this fee upon findings of guilty resulting in judgments of conviction in criminal cases. See 55 ILCS 5/5-1103 (West 2011). We find that the enumerated offenses contained in the statute only pertained to orders of supervision or probation which are made

without entry of a judgment of conviction. See *id.* Thus, because the trial court made a finding of guilty and entered a judgment of conviction against the defendant for the offense of aggravated cruelty to an animal, we find that the $25 court services fee was properly imposed upon the defendant.

¶ 43 The defendant further argues, and the State likewise concedes, that the trial court made a mathematical error when it totaled the overall amount of monetary assessments against the defendant by an excess of $20. Our review of the record reveals that the trial court erroneously imposed a sum total of $720 in costs, fines and fees, rather than $700. Thus, we reduce the total amounts assessed against the defendant by $20.

¶ 44 For the foregoing reasons, we affirm the defendant's conviction and sentence, but vacate the following charges imposed upon the defendant: (1) the $200 DNA analysis fee; (2) the $35 Traffic Court Supervision charge; (3) the $35 Serious Traffic Violation charge; (4) the $5 Court System fee; (5) the $30 Children's Advocacy Center fine; and (6) the $20 excess charge resulting from a mathematical error. Pursuant to Supreme Court Rule 615(b)(1) (eff. Aug. 27, 1999), we direct the circuit court clerk to correct the order assessing fines and fees to reflect a total assessment of $395. See *People v. Rivera*, 378 Ill. App. 3d 896, 900, 882 N.E.2d 1169, 1173 (2008) (appellate court has the power to correct a mittimus without remand).

¶ 45 Affirmed in part; vacate in part; fines and fees order corrected.