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2012 IL App (3d) 100879-U

Order filed July 23, 2012

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

SHERRY CHILES,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 12th Judicial Circuit,
) Will County, Illinois,
)
) Appeal No. 3-10-0879
) Circuit No. 10-CM-1905
)
) Honorable
) Brian E. Barrett,
) Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices McDade and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court properly entered the jury's guilty verdict, granting the court jurisdiction to proceed with sentencing; and (2) defendant was entitled to credit of one day for time served and \$5 toward her fine.

¶ 2 Following a jury trial, defendant, Sherry Chiles, was found guilty of obstructing a peace officer. 720 ILCS 5/31-1(a) (West 2010). Defendant was sentenced to 12 months' conditional discharge, 4 days' incarceration in the county jail, and a \$500 fine. On appeal, defendant argues: (1) that the trial court improperly entered the jury's guilty verdict; and (2) that she is entitled to a two-day

credit toward her sentence and a \$10 credit toward her fine for time spent in custody prior to sentencing. We affirm as modified.

¶ 3

FACTS

¶ 4 At 11:30 p.m. on May 20, 2010, police responded to the home of defendant, in response to a domestic violence call involving defendant's son and his girlfriend. When police arrived, they spoke with the girlfriend and then with the son, who was two houses away. The son fled to defendant's house, and police pursued him. As defendant's son then fled from defendant's house, defendant grabbed an officer's vest and belt in an attempt to prevent the officer from apprehending her son. The officer broke free, causing injuries to defendant, but was unable to apprehend the son. After returning to defendant's home, officers took defendant to receive medical attention for her injuries before taking her into custody. Defendant was charged with obstructing a peace officer. 720 ILCS 5/31-1(a) (West 2010). Defendant posted bond on May 21, 2010.

¶ 5 At trial the jury returned a verdict of guilty. The trial court read the verdict in court and, after defendant stated she did not understand, the trial court told defendant that she had been found guilty. The court's written order scheduling a sentencing hearing also stated that defendant had been found guilty. After denying defendant's motion for new trial, the trial court sentenced her.

¶ 6

ANALYSIS

¶ 7 I. Trial Court's Entry of the Jury's Verdict

¶ 8 Defendant argues that the trial court lacked jurisdiction to impose a sentence because it did not first formally adopt the jury's verdict.

¶ 9 Challenges to a trial court's subject matter jurisdiction are reviewed *de novo*. *Millennium Park Joint Venture, LLC v. Houlihan*, 241 Ill. 2d 281 (2010). A sentencing hearing may not be

conducted until a guilty verdict is accepted by the court. *People v. Britt*, 265 Ill. App. 3d 129 (1994). That acceptance must be an explicit judgment apparent of record. *People v. Vaughn*, 92 Ill. App. 3d 913 (1981). In the present case, it is apparent from the trial court's actions that the jury's guilty verdict had been accepted. The trial court read the verdict aloud and explicitly told defendant she was found guilty. The trial court then made a written statement on its scheduling order confirming its acceptance of the verdict. This was sufficient to evidence an explicit judgment that the trial court had accepted the verdict. Therefore, the trial court had jurisdiction to proceed with sentencing.

¶ 10

II. Sentencing Credit

¶ 11 Defendant argues that she served two partial days in custody and is entitled to two days' credit against her sentence of incarceration and \$10 credit against her fine. A defendant's right to credit for time served is reviewed *de novo*. *People v. Krueger*, 175 Ill. 2d 60 (1996).

¶ 12 A criminal defendant is entitled to credit for time already spent in custody resulting from the offense for which the sentence is imposed. 730 ILCS 5/5-4.5-100(b) (West 2010). A defendant is awarded a full day of credit for any partial day spent in custody. *People v. Quintana*, 332 Ill. App. 3d 96 (2002). For each day already served, a defendant is also entitled to a \$5 credit against any fine levied as a result of the conviction. 725 ILCS 5/110-14(a) (West 2010).

¶ 13 In the present case, defendant claims that she was in custody for two partial days, but the record establishes that she was in custody for only one partial day—May 21, 2010. The record is silent on the exact time that defendant was arrested or taken into custody. However, it does establish that police responded to the domestic violence call at 11:30 p.m. on May 20, 2010. Officers then spoke to the alleged victim and to the defendant's son before he fled. The officers chased her son to defendant's home and then into the streets. After abandoning their chase, officers took defendant

to receive medical attention before taking her into custody. Considering the lengthy events that happened after officers responded at 11:30 p.m., but before defendant was taken into custody, it appears that defendant was taken into custody on May 21, 2010, and defendant has presented no evidence to the contrary. Defendant posted bond on the same day. Defendant is therefore entitled to one day of credit against her sentence of incarceration and a \$5 credit toward her fine.

¶ 14

CONCLUSION

¶ 15 The judgment and sentence of the circuit court of Will County is affirmed, with the sentence to be modified by crediting defendant with a one-day credit for time served and a \$5 credit toward her fine.

¶ 16 Affirmed as modified.