

2017 IL App (1st) 151653-U  
No. 1-15-1653  
Order filed September 11, 2017

First Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County,
	)	
v.	)	No. 14 CR 14194
	)	
MARK RIDEAUX,	)	Honorable
	)	Vincent M. Gaughan,
Defendant-Appellant.	)	Judge, presiding.

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PRESIDING JUSTICE PIERCE delivered the judgment of the court.  
Justices Neville and Hyman concurred in the judgment.

**ORDER**

¶ 1 *Held:* When defendant forfeits fines and fees challenges, and State duly invokes that forfeiture, this court may only apply presentencing detention credit to those fines classified as fines subject to credit in the order assessing fines and fees.

¶ 2 Following a 2015 jury trial, defendant Mark Rideaux was convicted of delivery of a controlled substance (less than one gram of heroin) and sentenced as a mandatory Class X offender to 75 months' imprisonment with fines and fees. On appeal, he challenges two of his

fees and seeks credit against his fines for presentencing custody. As explained below, we correct the order assessing fines and fees to apply the relevant credit, and otherwise affirm the judgment.

¶ 3 Before addressing the merits, we note that defendant did not raise these issues in the trial court – he filed a postsentencing motion but did not raise any issues with his fines or fees – and thus forfeited them. The State correctly argues that defendant forfeited said claims and also forfeited any possible plain-error exception to forfeiture by not raising it. See *People v. Grigorov*, 2017 IL App (1st) 143274, ¶ 15; *People v. Taylor*, 2016 IL App (1<sup>st</sup>) 141251, ¶ 28. Instead of plain error, defendant contends that forfeiture is overcome because his fees that are contrary to statute are void and may be attacked at any time, and credit against his fines may be applied at any time. He is incorrect about the former (*People v. Castleberry*, 2015 IL 116916 (sentence contrary to statute is not void)) but is correct about the latter. Section 110-14 of the Code of Criminal Procedure provides that presentencing detention credit against fines may be awarded “upon application of the defendant.” 725 ILCS 5/110-14(a) (West 2014). Such a claim may be presented at any time and at any stage in the proceedings. *Grigorov*, ¶ 7, citing *People v. Caballero*, 228 Ill. 2d 79, 88 (2008).

¶ 4 However, the scope of our authority to apply credit against fines despite forfeiture is limited. The *Caballero* court found that “ ‘[g]ranted the credit is a simple *ministerial* act that will promote judicial economy by ending any further proceedings over the matter.’ ” (Emphasis added.) *Caballero*, 228 Ill. 2d at 88, quoting *People v. Woodard*, 175 Ill. 2d 435, 456-57 (1993). Relief may be granted “if, as in this case, the basis for granting the application of the defendant is clear and available from the record.” *Caballero*, 228 Ill. 2d at 88. We conclude that, faced with a defendant’s forfeiture, we may only engage in ministerial correction of mathematical calculations and cannot address substantive issues concerning whether particular assessments

apply to the defendant or are properly categorized as fines or fees. Stated another way, we may grant credit against a defendant's fines when forfeiture applies only to the extent that the order assessing fines and fees clearly states that the fines should be offset by his presentence detention credit but then does not apply that credit. Anything more would not be a ministerial act.

¶ 5 Here, the State's brief concedes that certain assessments classified as fees in the fines and fees order are actually fines. However, the State does so strictly as an alternative argument "[s]hould this Court choose to overlook defendant's forfeiture of the claim and plain-error review." We do not overlook defendant's forfeiture duly invoked by the State. Pursuant to that forfeiture, we shall address only defendant's claims for credit against his fines described in the fines and fees order as fines subject to credit.

¶ 6 Defendant's 284 days of presentencing custody entitle him to up to \$1420 credit against his fines. 725 ILCS 5/110-14(a) (West 2014) (\$5 credit against fines for each day of presentencing custody). Defendant's fines and fees order has one fine – the \$1000 controlled substance fine (720 ILCS 570/411.2(a)(3) (West 2014)) – for which the parties correctly agree he is due credit. Thus, pursuant to Supreme Court Rule 615(b)(1)(eff. Aug. 27, 1999), we direct the clerk of the circuit court to correct the fines and fees order to reflect \$1000 credit. We affirm the judgment of the circuit court in all other respects.

¶ 7 Affirmed, order corrected.