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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

| | | |
|-------------------------|---|-------------------------------|
| THE PEOPLE OF THE STATE |) | Appeal from the Circuit Court |
| OF ILLINOIS, |) | of Lake County. |
| |) | |
| Plaintiff-Appellee, |) | |
| |) | |
| v. |) | No. 14-CF-2891 |
| |) | |
| UBALDO CRUZ, |) | Honorable |
| |) | George D. Strickland, |
| Defendant-Appellant. |) | Judge, Presiding. |

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| THE PEOPLE OF THE STATE |) | Appeal from the Circuit Court |
| OF ILLINOIS, |) | of Lake County. |
| |) | |
| Plaintiff-Appellee, |) | |
| |) | |
| v. |) | No. 14-CF-1453 |
| |) | |
| UBALDO CRUZ, |) | Honorable |
| |) | George D. Strickland, |
| Defendant-Appellant. |) | Judge, Presiding. |

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Spence concurred in the judgment.

ORDER

¶ 1 *Held:* (1) We reduced defendant's probation fees to reflect his actual time on probation, and we vacated a probation transfer fee to reflect the fact that no transfer

occurred; (2) defendant was entitled to full credit against various fines, to reflect his time in presentencing custody.

¶ 2 Defendant, Ubaldo Cruz, appeals, asking that we modify his sentences in two cases by (1) reducing his total probation services fee from \$1,440 to \$200, (2) vacating his \$125 probation transfer fee, and (3) ordering that, in each of the cases, he receive credit of \$570 against his eligible fines based on the \$5-per-day credit of section 110-14(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-14(a) (West 2014)). The State agrees on all points save one of arithmetic; to the extent that there is disagreement, we hold defendant is nevertheless entitled to the relief he seeks. We therefore order the reductions and credits that defendant seeks.

¶ 3 I. BACKGROUND

¶ 4 This consolidated appeal arises from two cases, No. 14-CF-2891 and No. 14-CF-1453. Defendant entered a negotiated guilty plea to one felony count of violating an order of protection (720 ILCS 5/12-3.4(a)(1) (West 2012)) in each of the cases, and, on May 26, 2015, the court sentenced him to concurrent 30-month terms of probation with 6 months of periodic imprisonment. The court ordered that he receive 287 days of presentence-custody credit in case No. 14-CF-1453 (for “8-12-15 [*sic*]” to “5-26-15”) and 216 days of presentence custody credit in case No. 14-CF-2891 (for “10-22-15 [*sic*]” to “5-26-15”). (August 12, 2014, to May 26, 2015, is 288 days, inclusive of starting and ending days; October 10, 2014, to May 26, 2015, is 217 days, inclusive of starting and ending days. Further, the days for which the court gave defendant credit in case No. 14-CF-2891 are entirely included in the days for which the court gave defendant credit in case No. 14-CF-1453.)

¶ 5 On August 21, 2015, the State filed a petition to revoke defendant’s probation, and defendant was again jailed. The court granted the petition. On October 16, 2015, it resentenced him to 4½ years’ imprisonment in case No. 14-CF-1453 and unsatisfactorily terminated his

probation in case No. 14-CF-2891. The clerk's office calculated a total of \$3,591 in fines and fees in case No. 14-CF-1453 and a total of \$950 in fines and fees in case No. 14-CF-2891. It credited \$242.38 against defendant's fines in each case. After the court denied defendant's postsentencing motion, he timely appealed.

¶ 6

II. ANALYSIS

¶ 7 In this appeal, defendant seeks the following relief:

- (1) A reduction of his \$50-a-month probation fees (see 730 ILCS 5/5-6-3(i) (West 2014)) by "at least \$1,240" in case No. 14-CF-1435; he argues that he was on active probation for only 100 days and that he should pay fees only for the four months in which those 100 days fell.
- (2) Vacatur of a \$125 probation transfer fee case No. 14-CF-1435 (see 730 ILCS 5/5-9-1.13 (West 2014)) on the basis that he never sought such transfer.
- (3) Credit of "an additional \$285 in each case," resulting in "a grand total of \$570 in \$5-per-day credit."

Defendant asserts that the clerk failed to apply the credit against five types of fine in each case:

- (1) \$50 for " 'County,' " which defendant identifies as the "court-system" fine (55 ILCS 5/5-1101(c)(1) (West 2014));
- (2) \$200 for " 'Dom Viol Shelter Ser,' " which defendant identifies as the "domestic-violence fine" (730 ILCS 5/5-9-1.5 (West 2014));
- (3) \$15 for " 'St Police Operation,' " which defendant identifies as the "operations-assistance" fine (705 ILCS 105/27.3a(1.5), (5) (West 2014));

(4) \$10 for “ ‘State Police Service,’ ” which defendant identifies as the “police-services” fine and a “portion of the juvenile expungement fine” (730 ILCS 5/5-9-1.17(b) (2014)); and

(5) \$10 of the \$40 charge for “ ‘States [*sic*] Attorney,’ ” which defendant identifies as the “states-attorney [*sic*]” fine, “which is also a portion of the juvenile expungement fine” (730 ILCS 5/5-9-1.17(b) (West 2014)).

The State agrees that, in case No. 14-CF-1435, defendant is entitled to have us reduce the probation fees to \$200 and to have us vacate the \$125 transfer fee. It further agrees that the fines listed above all are ones against which the clerk must apply any available portions of the \$5-a-day credit. However, citing *People v. Dale*, 137 Ill. App. 3d 101, 107 (1985), it asserts that the credit “is to be applied only once.”

¶ 8 We agree with the parties on the uncontested points, and we need not address them further. On his entitlement to credits, we agree with defendant. The *Dale* court held that fairness requires that a defendant be entitled to have the \$5 earned on a specific day applied no more than once, regardless of the number of cases in which he or she has fines. *Dale*, 137 Ill. App. 3d at 107. In other words, regardless of the number of cases, a defendant cannot earn more than \$5 in credit on one day. Thus, despite what the court orders of May 26, 2015, could be read to suggest, defendant was in presentencing custody for a total of 288 days; he is therefore entitled to credit for no more than 288 days total during his initial period of incarceration. However, that implies a maximum permissible credit (288 x \$5 per day) of \$1,440 for that period of incarceration, which is by itself sufficient to permit the credits that defendant seeks. (The clerk recognized one credit of \$242.38 in each of the two cases; defendant seeks another credit of \$285 in each case, for a total credit of \$527.38 in each case, or \$1,054.76 overall.) We thus can follow

the rule in *Dale*—applying each day’s \$5 credit no more than once—and apply the proper credit (up to \$1,440) to the fines listed in both cases; thus we nevertheless grant all the credit that defendant seeks.

¶ 9

III. CONCLUSION

¶ 10 For the reasons stated, we modify the sentence in case No. 14-CF-1435 by reducing defendant’s \$50-a-month probation fees to \$200 and vacating his \$125 probation transfer fee. We further apply a credit in each case of up to \$527.38, inclusive of credit already given, toward satisfying defendant’s fines, including the “court-system” fines, the “domestic-violence” fines, the “operations-assistance” fines, the “police-services” portion of the juvenile expungement fines, and the “states-attorney” portions of the juvenile expungement fines, all credits to come from defendant’s \$5-a-day credit for presentencing incarceration.

¶ 11 Affirmed as modified.