

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).

FILED
May 18, 2017
Carla Bender
4th District Appellate
Court, IL

2017 IL App (4th) 141016-U

NO. 4-14-1016

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Adams County
ROGER L. PARKER,)	No. 14CF131
Defendant-Appellant.)	
)	Honorable
)	Scott H. Walden,
)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Holder White and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant forfeited the argument that the trial court erred by imposing a \$473 sheriff’s fee.

¶ 2 Defendant, Roger L. Parker, appeals the trial court's sentencing order requiring him to pay a \$473 sheriff’s fee. Defendant argues the trial court did not explain its calculation of the fee or make findings of fact supporting the imposition of the fee, and, therefore, the fee is unauthorized in its entirety. Alternatively, defendant argues the trial court erred in its calculation, and this court should reduce the sheriff’s fee to \$320. The State argues that defendant forfeited any argument on appeal relating to the imposition of the fee. In his reply

brief, defendant concedes the issue is procedurally forfeited but argues the imposition of the sheriff's fee was plain error. We affirm.

¶ 3 I. BACKGROUND

¶ 4 At a September 2014 jury trial, defendant was convicted of aggravated battery (720 ILCS 5/12-3.05(c) (West 2014)), intimidation (720 ILCS 5/12-6(a)(1) (West 2014)), and resisting a peace officer (720 ILCS 5/31-1(a) (West 2014)). In October 2014, the trial court sentenced defendant to 30 months of probation and ordered defendant to pay all court costs, fees, and penalties. That same day, the trial judge signed a "FELONY FINES, COSTS, AND ASSESSMENTS" sheet, which indicated defendant was to pay, *inter alia*, a "Sheriff fee [pursuant to] 55 ILCS 5/4-5001 [(West 2014)]," and "\$473" was handwritten in the adjacent blank to indicate the total amount of the fee.

¶ 5 Defendant did not object to the calculation or imposition of fees at or following the sentencing hearing. Defendant also did not file a motion to reduce his sentence or otherwise challenge the calculation or imposition of fees in a written motion. In December 2014, defendant sought, and was granted, leave to file a late notice of appeal.

¶ 6 This appeal followed.

¶ 7 II. ANALYSIS

¶ 8 Defendant argues the trial court did not explain how it arrived at the sum of \$473 for the sheriff's fee and made no findings of fact relating to the imposition of the fee, and, therefore, the fee is unauthorized. Alternatively, defendant argues the trial court miscalculated the fee and requests that it be reduced to \$320. The State argues defendant forfeited any challenge to the imposition of the fee by failing to object at the sentencing hearing and failing to

seek a sentence reduction. Alternatively, the State agrees the trial court miscalculated the fee, but it asserts the fee should actually be \$677.

¶ 9 Defendant concedes in his reply brief that his claim on appeal is procedurally forfeited. Nonetheless, he requests plain-error review, arguing the imposition of the sheriff's fee denied him the right to a fair sentencing hearing.

¶ 10 We conclude defendant has failed to establish that plain-error review of the sheriff's fee is warranted. The plain-error doctrine is a narrow and limited exception to the forfeiture rule and will only be invoked where (1) the evidence is closely balanced or (2) the alleged error was so egregious as to deny the defendant a fair proceeding. *People v. Hillier*, 237 Ill. 2d 539, 545, 931 N.E.2d 1184, 1187 (2010). Defendant cites *People v. Lewis*, 234 Ill. 2d 32, 48, 912 N.E.2d 1220, 1230 (2009), for the proposition that the imposition of a fine without a sufficient evidentiary basis "affect[s] the integrity of the judicial process and the fairness of the [sentencing] proceeding." However, *Lewis* dealt only with the imposition of fines, not fees. Defendant has not explained how we may apply plain-error review to the imposition of fees. We find his claim does not rise to the level of error affecting fundamental fairness or the integrity of the judicial process such that he may avail himself of plain-error review.

¶ 11 We note, however, that defendant is not left without a remedy. "[A defendant] may petition the trial court to correct [a] simple error in arithmetic, as trial courts retain jurisdiction to correct nonsubstantial matters of inadvertence or mistake." *People v. Nelson*, 2016 IL App (4th) 140168, ¶ 39, 49 N.E.3d 1007.

¶ 12

III. CONCLUSION

¶ 13 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2014).

¶ 14 Affirmed.