

**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).

2017 IL App (4th) 150254-U

NO. 4-15-0254

**FILED**  
March 17, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Coles County
ROWANNE F. MARQUEZ,	)	No. 14CF245
Defendant-Appellant.	)	
	)	Honorable
	)	Mitchell K. Shick,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.  
Justices Harris and Knecht concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed defendant’s convictions and sentences but vacated certain fines improperly imposed by the circuit clerk.

¶ 2 In November 2014, defendant, Rowanne F. Marquez, pleaded guilty to the offenses of aggravated unlawful restraint and attempt (aggravated robbery). In January 2015, the trial court sentenced defendant to prison and imposed various fines and fees. The circuit clerk also imposed various assessments.

¶ 3 On appeal, defendant argues the circuit clerk improperly imposed various fines against him. We affirm in part and vacate in part.

¶ 4 I. BACKGROUND

¶ 5 In June 2014, the State charged defendant by information with single counts of attempt (armed robbery) (count I) (720 ILCS 5/8-4, 18-2 (West 2014)) and aggravated unlawful

restraint (count II) (720 ILCS 5/10-3 (West 2014)). In November 2014, the State charged defendant with single counts of armed violence (count III) (720 ILCS 5/33A-2(a) (West 2014)) and attempt (aggravated robbery) (count IV) (720 ILCS 5/8-4, 18-1(b)(1) (West 2014)).

¶ 6 In November 2014, defendant pleaded guilty to counts II and IV, and the State agreed to dismiss counts I and III. In January 2015, the trial court sentenced defendant to five years in prison on count IV. The court imposed a \$1,000 fine, a \$100 Violent Crime Victims Assistance (VCVA) fine, a \$5 drug court fine, and a \$30 court-appointed special advocate (CASA) fine. On count II, the court sentenced defendant to a consecutive 30-month term of probation. The court also imposed a \$500 fine, a \$100 VCVA fine, a \$5 drug court fine, and a \$30 CASA fine. Court records also show the circuit clerk assessed various costs, including \$100 for “Court,” \$20 for “Medical Costs,” \$20 for a “Child Advocacy Fee,” \$30 for “State Police Ops,” \$30 for “Automation,” \$30 for “Document Storage,” and \$4 for an “SA Automation Fee.”

¶ 7 In January 2015, defendant filed a motion to reconsider his sentence. In March 2015, the trial court denied the motion. This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 Defendant argues the circuit clerk improperly imposed various fines, which must be vacated. We agree in part.

¶ 10 This court has previously addressed the impropriety of the circuit clerk imposing judicial fines. See *People v. Warren*, 2014 IL App (4th) 120721, ¶¶ 76-171, 16 N.E.3d 13; *People v. Larue*, 2014 IL App (4th) 120595, ¶¶ 55-73, 10 N.E.3d 959. “Although circuit clerks can have statutory authority to impose a fee, they lack authority to impose a fine, because the imposition of a fine is exclusively a judicial act.” (Emphases omitted.) *People v. Smith*, 2014 IL App (4th) 121118, ¶ 18, 18 N.E.3d 912. Thus, “any fines imposed by the circuit clerk are void

from their inception.” *Larue*, 2014 IL App (4th) 120595, ¶ 56, 10 N.E.3d 959. The propriety of the imposition of fines and fees presents a question of law, which we review *de novo*. *People v. Guja*, 2016 IL App (1st) 140046, ¶ 69, 51 N.E.3d 970.

¶ 11 In the case *sub judice*, the State concedes the following fines were improperly imposed by the circuit clerk and are therefore void: (1) \$100 court finance fee (*Smith*, 2014 IL App (4th) 121118, ¶ 54, 18 N.E.3d 912); (2) \$20 county jail medical assessment (*Larue*, 2014 IL App (4th) 120595, ¶ 57, 10 N.E.3d 959); (3) \$20 child advocacy fee (*People v. Walker*, 2016 IL App (3d) 140766, ¶ 10, 65 N.E.3d 571); and (4) \$30 State Police Operations fee (*People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31, 979 N.E.2d 1030). Because the clerk imposed these fines after sentencing, we vacate these fines.

¶ 12 Defendant also argues the circuit clerk improperly imposed three other assessments, including \$30 for “Automation,” \$30 for “Document Storage,” and \$4 for an “SA Automation Fee.” As to the State’s Attorney automation fee, this court has held that, because the legislature intended the assessment to reimburse the State’s Attorneys for their expenses related to automated record-keeping systems, the assessment was not punitive in nature and thus constituted a fee. *Warren*, 2016 IL App (4th) 120721-B, ¶ 115, 55 N.E.3d 117. Thus, we found the circuit clerk could properly impose the assessment. *Warren*, 2016 IL App (4th) 120721-B, ¶ 115, 55 N.E.3d 117. We decline to depart from our decision in *Warren*. Thus, we do not vacate the \$4 State’s Attorney automation fee. See *People v. Daily*, 2016 IL App (4th) 150588, ¶ 31.

¶ 13 We also find the same reasoning in *Warren* applies to the \$30 circuit clerk automation assessment (705 ILCS 105/27.3a(1) (West 2014)) and the \$30 document storage assessment (705 ILCS 105/27.3c(a) (West 2014)), which are compensatory fees and not punitive

finer. *People v. Tolliver*, 363 Ill. App. 3d 94, 97, 842 N.E.2d 1173, 1176 (2006); see also *People v. Carter*, 2016 IL App (3d) 140196, ¶ 60, 62 N.E.3d 267 (finding the automation fee and the document storage fee were properly imposed by the circuit clerk). Thus, we do not vacate these fees.

¶ 14 As stated, the fines improperly imposed by the circuit clerk must be vacated. We decline to remand to the trial court to reimpose the vacated fines. See *People v. Wade*, 2016 IL App (3d) 150417, ¶ 16, 64 N.E.3d 703.

¶ 15 III. CONCLUSION

¶ 16 For the reasons stated, we vacate the fines improperly imposed by the circuit clerk. We otherwise affirm defendant's convictions and sentences. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 17 Affirmed in part and vacated in part.