2017 IL App (4th) 150686-U

NO. 4-15-0686

Rule 23 filed September 25, 2017

Modified upon denial of rehearing November 1, 2017

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
LEON JONES,	)	No. 15CM132
Defendant-Appellant.	)	
	)	Honorable
	)	William A. Yoder,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed in part and vacated in part, concluding (1) the State presented sufficient evidence to sustain defendant's conviction for resisting a peace officer (720 ILCS 5/31-1(a) (West 2014)); (2) defendant was not prejudiced by the jury, upon request during deliberations, viewing a surveillance video in the courtroom; (3) defendant was not denied effective assistance of counsel for failing to object to witness testimony; and (4) the public-defender-reimbursement fee was imposed in violation of section 113-3.1(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/113-3.1(a) (West 2014)).

¶ 2 In July 2015, a jury found defendant, Leon Jones, guilty of resisting a peace officer (720 ILCS 5/31-1(a) (West 2014)) and criminal trespass to land (720 ILCS 5/21-3(a)(3) (West 2014)). In August 2015, the trial court sentenced him to concurrent terms of 30 days in jail.

¶ 3 On appeal, defendant argues (1) the State failed to prove him guilty of resisting a peace officer beyond a reasonable doubt; (2) the trial court erred by having the jury, upon request

during deliberations; view a surveillance video in the courtroom; (3) he was denied effective assistance of counsel where defense counsel failed to object to inadmissible hearsay statements; and (4) the trial court erred by ordering him to pay a $100 public-defender-reimbursement fee. We affirm in part and vacate in part.

¶ 4 I. BACKGROUND

¶ 5 In January 2015, the State charged defendant with resisting a police officer (720 ILCS 5/31-1(a) (West 2014)) (count I) and criminal trespass to land (720 ILCS 5/21-3(a)(3) (West 2014)) (count II). Count I alleged defendant committed the offense of resisting a peace officer when he knowingly resisted the performance of Officer Ryan Gross of an authorized act within his official duties, being the arrest of defendant, knowing Gross to be a peace officer engaged in his official duties, in that he pulled away from Gross while Gross was trying to place handcuffs on defendant.

¶ 6 In July 2015, defendant's jury trial commenced. Derek Claflin testified he worked at Drifters Pub as the manager of security. Claflin supervised the "door guys and floor guys," and insured patrons "behave[d] in the bar," were in compliance with the dress code, and were at least 21 years old. Claflin worked on the night of January 3, 2015, and into the early morning of January 4, 2015. During the evening, bartenders employed by the bar requested Claflin remove defendant and his brother from the bar.

¶ 7 Defendant wore his pants in a manner in violation of the dress code (wearing pants below the waist) and although advised at the door "to meet dress code" he refused to comply. Claflin also testified bartenders asked him to remove defendant as he was "being unruly." Claflin approached the men and requested they leave the bar. Defendant refused. Claflin testified he asked defendant to leave the bar multiple times but defendant refused to

leave. Defendant's brother voluntarily moved toward the exit and Claflin escorted him out of the bar.

¶ 8 Claflin testified there were three police officers outside the bar. He advised the officers "he might need some help" removing defendant from the bar. Claflin went back into the bar and approached defendant, again asking him to leave the bar. Defendant refused. Claflin testified the three officers then advised defendant "it was time to leave." According to Claflin, defendant "started fighting with the officers and then they put his hands behind his back and arrested him."

¶ 9 Bloomington police officer Ryan Gross testified he was assigned to downtown bar detail on January 3, 2015. Gross wore his police uniform while walking the bar district. Upon entering Drifter's Pub, he observed defendant arguing with the bouncer at the bar. Defendant appeared combative and was yelling. As Gross and two other police officers moved closer, the bouncer advised the officers that defendant had been asked to leave and refused. Gross testified he grabbed defendant's right arm and "told him it was time to leave the bar." Defendant pulled away from Gross. The other two police officers then attempted to gain control over defendant. Defendant continued to pull away. Gross testified he did not have "any further involvement" until attempting to place handcuffs on defendant. Defendant was not "compliant" while Gross attempted to place handcuffs on defendant. Defendant continued to pull away from the other officers and was yelling "the entire time."

¶ 10 Bloomington police officer Caleb Zimmerman testified he was working downtown detail on January 3, 2015, with Gross and another police officer. A staff person from Drifter's Bar approached the officers and asked for assistance in removing a patron from the bar. The officers observed the staff person approach defendant and ask him to leave the bar "two or

three times." Gross and another police officer approached defendant. Zimmerman stood several feet away until he observed defendant pulling away from the officers. Zimmerman grabbed defendant's right arm and he and another police officer moved defendant to the less crowded bar counter area for greater control. The officers attempted to move defendant's arms behind his back so he could be handcuffed. Defendant continued to pull away and resist the police officers. Zimmerman testified that while defendant was "bent over the top of the bar," he placed his thumb in a pressure point behind defendant's ear in an attempt to control defendant and place him in handcuffs. According to Zimmerman, at no point was defendant compliant.

¶ 11 Bloomington police officer Scott Wald testified on January 3, 2015, he was in full uniform and assigned to the downtown bar district. He worked with Gross and Zimmerman. Wald testified he observed Drifter's Bar security ask defendant "multiple times" to leave the bar. Defendant appeared agitated and noncompliant. Wald approached defendant, asking him to leave. Wald testified defendant had been asked to leave the bar multiple times by the security staff, Gross, and then Wald. Defendant refused. Wald testified he grabbed defendant's left arm but defendant pulled away. Wald then grabbed his arm again and, with Zimmerman, pinned defendant's waist against the bar counters in an effort to place defendant under arrest for criminal trespass, and to place defendant in handcuffs. Wald testified defendant remained noncompliant during the handcuffing process.

¶ 12 Sally Basham testified for the defense. On the night in question, Basham was at Drifter's Pub and engaged in conversation with defendant. Basham observed a man who she believed was defendant's brother being escorted from the bar. Two police officers approached defendant and asked him to leave the bar. Basham testified that, although defendant remained

calm and polite, the officers slammed defendant against the bar. According to Basham, defendant did not pull away from, struggle with, or resist the officers.

¶ 13 Roshelle Brown testified she was at Drifter's Pub on the night in question. She was engaged in conversation with defendant and his brother. Defendant's brother was asked to leave the bar. Later, two police officers asked defendant to leave the bar. Brown testified that when defendant asked the officers why he had to leave, the officers slammed defendant's face into the bar.

¶ 14 Michael Gallegos testified he was at Drifter's Pub when defendant was arrested. He has known defendant for a long time. Gallegos testified he was "inebriated" and "really didn't see much."

¶ 15 Defendant testified he was "hanging out, having drinks" at Drifter's Pub with his brother. His brother was asked to leave the bar because his pants were baggy. After escorting his brother from the bar, the bouncer came back and grabbed defendant's drink from his hand. The bouncer advised defendant to leave "because the cops were here." As defendant grabbed for his drink, three police officers "grabbed and man-handled" defendant. Defendant testified he did not fight the officers and did not attempt to physically pull away from the officers.

¶ 16 On rebuttal, the State published to the jury a video recording taken by security cameras in Drifter's Pub during the relevant time period. The video depicted defendant struggling with officers.

¶ 17 During deliberations, the jury sent out a note that read, "We want to see the tape again." The following colloquy ensued:

"THE COURT: What is the State's position?

MS. LAWSON (Assistant State's Attorney): I have no problem going upstairs to get the equipment again. I think we should probably play it in court for them.

THE COURT: Mr. McEldowney [assistant Public Defender]?

MR. McELDOWNEY: We have no problem and we have no preference as to how that display is done.

THE COURT: Ms. Lawson, if you'll run upstairs and get the equipment. We'll set it up, bring the jury in the courtroom, and sit them in the jury box and then we'll play the tape. Was that the complete recording that you played to them?

MS. LAWSON: I don't know. I don't know if it stops right after I stopped it or not. I stopped it right after they got out of the picture.

THE COURT: Why don't you get the equipment and we'll play it for them here. Before we bring them in we'll determine how far we're going to with the tape. It was right after they left the screen."

¶ 18 Following a brief recess, the parties viewed the recording and agreed on the time at which the recording was stopped. The trial court directed the assistant State's Attorney to stop the recording at the agreed time. The court advised the parties the jury would be brought into the courtroom "and no one will speak *** I'm not going to say anything." The jury viewed the recording and immediately returned to the deliberation room.

¶ 19 Following closing arguments, the jury found defendant guilty of resisting a peace officer and criminal trespass to land. In August 2015, the trial court sentenced defendant to concurrent terms of 30 days in jail and imposed various fines. This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 A. Sufficiency of the Evidence

¶ 22 Defendant first asserts the State failed to present sufficient evidence to sustain his conviction for resisting a peace officer (720 ILCS 5/31-1(a) (West 2014)). Defendant does not challenge his conviction for criminal trespass to land in that he knowingly remained on the land of another, Drifter's Pub, after receiving notice from the owner or occupant to depart.

¶ 23 When considering a challenge to the sufficiency of the evidence in a criminal case, our function is not to retry the defendant. *People v. Lloyd*, 2013 IL 113510, ¶ 42, 987 N.E.2d 386. Rather, our inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Lloyd*, 2013 IL 113510, ¶ 42, 987 N.E.2d 386. This means we must allow all reasonable inferences from the record in favor of the prosecution. *Lloyd*, 2013 IL 113510, ¶ 42, 987 N.E.2d 386. "We will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217, 824 N.E.2d 262, 267-68 (2005).

¶ 24 Section 31-1(a) of the of the Criminal Code of 1961 (Code) provides as follows:

> "A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his

or her official capacity commits a Class A misdemeanor." 720 ILCS 5/31-1(a) (West 2014).

¶ 25 In *People v. Baskerville*, 2012 IL 111056, ¶ 23, 963 N.E.2d 898, the court explained that "the legislative focus of section 31-1(a) is on the tendency of the conduct to interpose an obstacle that impedes or hinders the officer in the performance of his authorized duties." Defendant asserts the State failed to present sufficient evidence to sustain his conviction. Specifically, defendant argues he did not knowingly resist the performance of Gross of an authorized act within his official capacity, being Gross' attempt to arrest and handcuff defendant.

¶ 26 Contrary to defendant's assertions at trial and on appeal, defendant's conduct clearly impeded Gross' attempt to arrest him. The evidence indicated defendant engaged in a physical altercation with Gross, Zimmerman, and Wald. Defendant repeatedly disobeyed police officers' orders to exit the bar. Gross, Zimmerman, and Wald testified defendant struggled against each of their efforts to escort him out of the bar. Zimmerman and Wade testified they moved defendant to the bar counter in an effort to gain better control of defendant. Zimmerman worked to take control of defendant's right arm and Wald worked to gain control of defendant's left arm so Gross could secure defendant in handcuffs. Defendant "continued to pull away and resist," impeding Gross' attempts to handcuff defendant. Each of the officers testified defendant continued to engage in a physical struggle throughout Gross' efforts to handcuff defendant. Viewing the evidence in the light most favorable to the State, we find it is sufficient to allow a rational trier of fact to find defendant knowingly resisted arrest by Gross.

¶ 27 B. Surveillance Video

¶ 28 Defendant next argues the trial court erred by having the jury, upon request during deliberations, view the surveillance video in the courtroom, in the presence of the court and counsel.

¶ 29 Defendant has waived his argument under the doctrine of invited error, or acquiescence:

> "[A] party cannot complain of error which that party induced the court to make or to which that party consented. The rationale behind this well-established rule is that it would be manifestly unfair to allow a party a second trial upon the basis of error which that party injected into the proceedings." *In re Detention of Swope*, 213 Ill. 2d 210, 217, 287, 821 N.E.2d 283 (2004) (citing *McMath v. Katholi*, 191 Ill. 2d 251, 255, 730 N.E.2d 1, 3 (2000), and *People v. Segoviano*, 189 Ill. 2d 228, 240-41, 725 N.E.2d 1275, 1281 (2000)).

¶ 30 Here, when the jury requested to view the surveillance video while deliberating, neither the assistant State's Attorney nor defense counsel objected. Indeed, in response to the trial court's inquiry regarding the assistant State's Attorney's suggestion that the video be played in the courtroom, defense counsel stated, "We have no problem and we have no preference as to how that display is done." The trial court adhered to defense counsel's position and thus defendant cannot complain about its action now. (This type of waiver, which occurs through a defendant's affirmative acquiescence, is different than a forfeiture that occurs when a defendant fails to bring an error to the trial court's attention, and is not subject to the plain error doctrine. *People v. Bowens*, 407 Ill. App. 3d 1094, 1101, 943 N.E.2d 1249, 1258 (2011) (citing *People v.*

Townsell, 209 Ill. 2d 543, 547-48, 809 N.E.2d 103, 105 (2004)).) "In a situation like this, where defense counsel affirmatively acquiesces to actions taken by the trial court, a defendant's only challenge may be presented as a claim for ineffective assistance of counsel." *Bowens*, 407 Ill. App. 3d at 1101, 943 N.E.2d at 1258.

¶ 31 Defendant next argues, even if we fail to find plain error, we should address this issue for structural error. Although defendant raised this issue on appeal, we did not address the issue in our original decision. Defendant filed a petition for rehearing asking us to address this issue and we do so now.

¶ 32 An error is generally considered "structural" when it renders a criminal trial fundamentally unfair or unreliable in determining guilt or innocence. *People v. Glasper,* 234 Ill. 2d 173, 196, 917 N.E.2d 401, 415 (2009) (quoting *Rivera v. Illinois*, 556 U.S. 148, 160 (2009)). The Supreme Court has found an error structural in a " 'very limited class of cases.' " *Neder v. United States,* 527 U.S. 1, 8 (1999) (quoting *Johnson v. United States,* 520 U.S. 461, 468 (1997)). Such cases include a complete denial of counsel, denial of self-representation at trial, trial before a biased judge, denial of a public trial, racial discrimination in the selection of a grand jury, and a defective reasonable doubt instruction. *Washington v. Recuenco*, 548 U.S. 212, 218 n. 2 (2006).

¶ 33 In support of his argument, defendant relies on *Weaver v. Massachusetts*, 582 U.S. __, 137 S. Ct. 1899 (2017). Ultimately, *Weaver* answers the question of what showing is necessary when the defendant does not preserve a structural error on direct review but raises it later in the context of an ineffective-assistance-of-counsel claim. *Id.* at 1911. Unlike the present case, there is no dispute in *Weaver* about whether the error that occurred—the denial of a public trial—is structural. *Id*. at 1908. Here, however, defendant acquiesced in the procedure followed

by the trial court. Given defendant's acquiescence, structural-error analysis is precluded. See *United States v. Boyd*, 86 F.3d 719, 722 (7th Cir.1996) (the "steps the court takes at the defendant's behest are not reversible, because they are not error"). Moreover, we decline to address whether this situation would have warranted structural-error review had defendant not acquiesced.

¶ 34 We therefore turn to defendant's alternative argument that defense counsel was ineffective when he failed to seek to have the jury view the surveillance video "in private" during its deliberations. Under *Strickland v. Washington*, 466 U.S. 668 (1984), a defendant arguing ineffective assistance of counsel must show not only that his counsel's performance was deficient but that he suffered prejudice as a result. *People v. Houston*, 226 Ill. 2d 135, 143, 874 N.E.2d 23, 29 (2007). Under the two-pronged *Strickland* test, "a defendant must show that (1) his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and (2) the deficient performance prejudiced the defendant in that, but for counsel's deficient performance, there is a reasonable probability that the result of the proceeding would have been different." *Houston*, 226 Ill. 2d at 144, 874 N.E.2d at 29. Because a defendant must satisfy both prongs of the *Strickland* test, the failure to establish either is fatal to the claim. *Strickland*, 466 U.S. at 687.

¶ 35 Defendant claims defense counsel's failure to invoke the Jury Secrecy Act (Secrecy Act) (705 ILCS 315/1 (West 2014)) or "long[-]standing precedent protecting the secrecy of jury deliberations" was objectionably unreasonable. Defendant claims defense counsel's alleged error in failing to invoke the Secrecy Act and "long[-]standing precedent" prejudiced him because "the result at trial would have been different."

¶ 36 It is well established that jury deliberations shall remain private and secret. See *United States v. Olano*, 507 U.S. 725, 737 (1993); see also *Yeager v. United States*, 557 U.S. 110, 122 (2009) ("The jury's deliberations are secret and not subject to outside examination."). The sanctity of jury deliberations is a fundamental tenet of our criminal justice system. *United States v. Schwarz*, 283 F. 3d 76, 97 (2d Cir. 2002). "[T]he primary if not exclusive purpose of jury privacy and secrecy is to protect the jury's deliberations from improper influence." *Olano*, 507 U.S. at 737-38. Although the presence of an outsider impinges on the privacy and secrecy of deliberations, " '[I]f no harm resulted from this intrusion *** reversal would be pointless.' " *Olano*, 507 U.S. at 737-38 (quoting *United States v. Watson*, 669 F. 2d 1374, 1391 (11th Cir. 1982)). We analyze outside intrusions upon the jury for prejudicial impact. See *Olano*, 507 U.S. at 738; see also *People v. Johnson*, 2015 IL App (3d) 130610, ¶ 19, 46 N.E.3d 274 ("[W]e review outside jury intrusions for prejudicial impact.").

¶ 37 Here, the record fails to reveal prejudice. The jury viewed the surveillance video during trial. We will not presume a second viewing of the video was prejudicial. The record of the courtroom viewing at the request of the jury is devoid of any indication of an attempt to influence the jury's decision. The parties were admonished not to speak and the court remained silent. The parties and the court discussed the procedure for viewing the video and agreed to follow the procedure suggested by the assistant State's Attorney. The jury came into the courtroom, watched the video, and immediately retired to the jury room. Defendant argues the jury was not advised it could watch the video "frequently," and "never had the opportunity to pause the video, discuss the video while it was being played, or rewind portions of the video." The jury, however, continued to deliberate, without requesting to view the video again, a strong indication the jury thoroughly examined and considered this evidence to its satisfaction. Nothing

in the record suggests the court or counsel affected the jury's ability to analyze the video evidence. Thus, we conclude the alleged error upon which defendant bases his ineffective assistance claim did not result in prejudice within the meaning of *Strickland* and we need not address whether appellate counsel was deficient under the first prong. See *Strickland*, 466 U.S. at 697 ("If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed.").

¶ 38 C. Effective Assistance of Counsel

¶ 39 Defendant also argues he was denied the effective assistance of counsel where defense counsel failed to object to "numerous" inadmissible hearsay statements or elicited an inadmissible hearsay statement. Specifically, defendant takes issue with the following *three* statements: (1) Claflin's testimony that he made contact with defendant because he was "informed by the bartenders to remove him because he was being unruly"; (2) Zimmerman's testimony on cross-examination that he was told defendant was asked to leave because "he had been in an altercation"; and (3) Wahl's testimony regarding the nature of the incident involving defendant that "security staff" told Wahl "there was some kind of altercation."

¶ 40 Hearsay testimony is an out-of-court statement offered to prove the truth of the matter asserted. *People v. Banks*, 237 Ill. 2d 154, 180, 934 N.E.2d 435, 449 (2010). Although hearsay is generally inadmissible, "testimony about an out-of-court statement which is used for a purpose other than to prove the truth of the matter asserted in the statement is not 'hearsay.' " *People v. Williams*, 181 Ill. 2d 297, 313, 692 N.E.2d 1109, 1118 (1998).

¶ 41 The general prohibition of hearsay evidence exists because there is no opportunity to cross-examine the declarant, which violates a defendant's constitutionally protected right to confrontation. U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8; *People v. Peoples*, 377

Ill. App. 3d 978, 983, 880 N.E.2d 598, 602 (2007). An exception to this general prohibition permits police officers to testify about statements made by others when such testimony is not offered to prove the truth of the matter asserted, but is instead used to show the investigative steps taken by the officer. *People v. Pulliam*, 176 Ill. 2d 261, 274, 680 N.E.2d 343, 350 (1997). Pursuant to the "course-of-conduct" or "investigatory procedure" exception, an officer may testify that he had a conversation with an individual and acted on the information that he received. *People v. Mims*, 403 Ill. App. 3d 884, 897, 934 N.E.2d 666, 678 (2010). However, this exception does not permit an officer to detail the substance of his conversation with the individual because such testimony constitutes inadmissible hearsay. *Mims*, 403 Ill. App. 3d at 897, 934 N.E.2d at 678. Where an officer's testimony is limited to showing the course of the investigation that led to the defendant's arrest, the testimony does not constitute hearsay and the admission of that testimony does not violate a defendant's constitutional right to confrontation. *Peoples*, 377 Ill. App. 3d at 986, 880 N.E.2d at 605.

¶ 42 Defendant argues the statements by Claflin, Zimmerman, and Wahl that defendant was unruly or involved in an altercation before he was asked to leave the bar were inadmissible hearsay. We note "[t]he determination of whether a statement constitutes inadmissible hearsay does not focus upon the substance of the statement, but rather the purpose for which the statement is being used." *People v. Williams*, 181 Ill. 2d 297, 313, 692 N.E.2d 1109, 1119 (1998). Here, Claflin's testimony explained why he approached defendant. It was not admitted for the truth of the matter asserted. Our conclusion is the same when we consider the complained of testimony of Zimmerman and Wahl. The testimony worked to provide context for the course of events and explain the basis for the officers' actions. The State did not elicit the testimony to prove defendant engaged in a prior altercation, behaved in an unruly fashion, or had

been asked to leave. Thus, the testimony did not constitute hearsay and was admissible. Before we leave this issue, we note that while we agree a limiting instruction would have resolved any question about whether the jury used the testimony as intended, there is nothing in the record to suggest otherwise. Thus, our decision remains the same. As the statements by Claflin, Zimmerman, and Wahl did not amount to inadmissible hearsay, defense counsel cannot be said to have been ineffective for failing to object. In light of defendant's failure to establish the deficiency prong of the *Strickland* standard, his claim of ineffective assistance of trial counsel fails.

¶ 43 D. Public-Defender-Reimbursement Fee

¶ 44 Defendant argues the trial court erred by ordering him to pay a $100 public-defender-reimbursement fee without holding a hearing to assess his ability to pay, as required by section 113-3.1(a) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/113-3.1(a) (West 2014)). Defendant contends we should vacate the fee outright and decline to remand the matter for its reimposition.

¶ 45 Section 113-3.1(a) of the Code provides the following:

> "Whenever under either Section 113-3 of this Code or Rule 607 of the Illinois Supreme Court the court appoints counsel to represent a defendant, the court may order the defendant to pay to the Clerk of the Circuit Court a reasonable sum to reimburse either the county or the State for such representation. In a hearing to determine the amount of the payment, the court shall consider the affidavit prepared by the defendant under Section 113-3 of this Code and any other information pertaining to the defendant's financial

> circumstances which may be submitted by the parties. Such hearing shall be conducted on the court's own motion or on motion of the State's Attorney at any time after the appointment of counsel but no later than 90 days after the entry of a final order disposing of the case at the trial level." 725 ILCS 5/113-3.1(a) (West 2014).

¶ 46 The State concedes the issue and we agree. No hearing was held on defendant's ability to pay the fee in this case. Accordingly, we vacate the fee outright. See *People v. Aguirre-Alarcon*, 2016 IL App (4th) 140455, ¶ 17, 59 N.E.3d 229 (vacating the public-defender-reimbursement fee outright where the trial court did not hold a hearing on the defendant's ability to pay and the statutorily required 90-day time period within which to hold such a hearing had passed).

¶ 47 III. CONCLUSION

¶ 48 For the reasons stated, we vacate outright the trial court's imposition of the public-defender-reimbursement fee and otherwise affirm the trial court's judgment. As part of our judgment, we award the State its $75 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2016).

¶ 49 Affirmed in part and vacated in part.