

**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) 150855-U

NO. 4-15-0855

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

December 22, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
DEZMOND J. JENKINS,	)	No. 15CF819
Defendant-Appellant.	)	
	)	Honorable
	)	Heidi N. Ladd,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.  
Presiding Justice Turner and Justice Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed, concluding the trial court properly imposed fines against defendant, but modified the judgment to properly apply defendant's *per diem* credit.

¶ 2 In September 2015, after defendant, Dezmond J. Jenkins, was convicted of domestic battery and violation of an order of protection, the trial court sentenced him to a term of imprisonment and assessed certain fines. Defendant also received credit for 102 days' imprisonment, for which the court awarded \$510 in *per diem* credit to be applied toward any creditable fines.

¶ 3 On appeal, defendant asserts a State Police services fund assessment was improperly imposed by the circuit clerk, and that the clerk failed to apply his *per diem* incarceration credit toward all of his creditable fines. We affirm as modified.

¶ 4 I. BACKGROUND

¶ 5 Following a jury trial, defendant was convicted of domestic battery (720 ILCS 5/12-3.2(a)(2) (West 2014)) and violation of an order of protection (720 ILCS 5/12-3.4(a), (d) (West 2014)). Subsequent to his conviction, the trial court sentenced defendant to concurrent terms of six years of imprisonment on the domestic-battery charge and three years of imprisonment for violation of an order of protection. Defendant received credit for 102 days of time served toward his sentence and \$510 in *per diem* credit to offset any fines. As part of the sentence, the court imposed several assessments, including (1) a \$200 domestic-violence fine, (2) a \$50 court-finance fee, (3) a \$30 juvenile expungement fund assessment on each count, and (4) a \$15 State Police operations assessment. A printout from the circuit clerk's office also reflects the imposition of a \$20 State Police services fund fee.

¶ 6 This appeal followed.

## ¶ 7 II. ANALYSIS

¶ 8 On appeal, defendant argues the trial court (1) improperly assessed a State Police services fund Assessment, and (2) failed to apply defendant's *per diem* credit toward his applicable fines. We address these arguments in turn.

### ¶ 9 A. State Police Services Fund Assessment

¶ 10 Defendant argues the circuit clerk improperly imposed a State Police services fund assessment. Circuit clerks lack the authority to impose fines and, therefore, any fines imposed by the circuit clerk are void from their inception. *People v. Daily*, 2016 IL App (4th) 150588, ¶ 28, 74 N.E.3d 15. "The propriety of the imposition of fines and fees presents a question of law, which this court reviews *de novo*." *Id.* ¶ 27.

¶ 11 In asserting the circuit clerk improperly imposed the State Police services fund assessment, defendant relies on section 5-9-1.1(d) of the Unified Code of Corrections (730 ILCS

5/5-9-1.1(d) (West 2014)). However, this provision concerns fines and fees for drug-related convictions not relevant in this case. Instead, as the State asserts, the State Police services fund assessment is part of the juvenile expungement fund assessment properly imposed by the trial court. Section 5-9-1.17 of the Unified Code of Corrections (730 ILCS 5/5-9-1.17 (West 2014)) requires the trial court to impose a \$30 fine for every count upon which a defendant is convicted, apportioned as follows: \$10 to the State Police services fund, \$10 to the State's Attorney's office, and \$10 to the circuit clerk for administrative costs. Because defendant was convicted on two separate counts, he was required to pay a total of \$60, with \$20 apportioned to each of the entities mentioned above.

¶ 12 Notably, here, the circuit clerk's record does not contain a reference to the juvenile expungement fund assessment. Instead, the record reflects the juvenile expungement fund assessment was apportioned to the entities that receive those funds under the statute—\$20 to the State Police services fund, \$20 to the State's Attorney's office, and \$20 to the circuit clerk for administrative costs. 730 ILCS 5/5-9-1.17 (West 2014)). Thus, we conclude the trial court properly imposed the State Police services fund assessment as part of the juvenile expungement fund.

¶ 13 *B. Per Diem Credit*

¶ 14 Defendant next asserts his *per diem* credit was not correctly applied to all of his fines. A defendant is entitled to \$5 *per diem* credit for each day spent in pretrial detention, which can be applied to any creditable fines. 725 ILCS 5/110-14(a) (West 2012). The issue of *per diem* credit is one of statutory interpretation, which we review *de novo*. See *People v. Caballero*, 228 Ill. 2d 79, 82, 885 N.E.2d 1044, 1046 (2008).

¶ 15 The parties agree the circuit clerk properly applied defendant's *per diem* credit to the domestic-violence fine. The State further concedes the \$50 court-finance fee (55 ILCS 5/5-1101(f) (West 2014)) and the \$15 State Police operations assessment (705 ILCS 105/27.3a(1.5) (West 2014)) constitute fines. We accept the State's concession, as this court has previously determined these assessments are fines. See *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 147, 55 N.E.3d 117 (holding the State Police operations assessment is a fine); and *People v. Smith*, 2014 IL App (4th) 121118, ¶ 54, 18 N.E.3d 912 (concluding the court-finance fee is a fine).

¶ 16 Additionally, the State concedes the State Police services fund assessment is a fine, and we accept the State's concession. As noted above, the State Police service fund assessment is part the juvenile expungement fund assessment, which this court has determined to be a fine. *Warren*, 2016 IL App (4th) 120721-B, ¶ 133, 55 N.E.3d 117. Accordingly, not only should defendant receive \$20 in credit to offset the State Police services fund assessment, but he should also receive \$20 in credit toward both the circuit clerk operations and administrative fund and State's Attorney's office. We note that the circuit clerk's sheet reflects \$40 is allotted for the State's Attorney's office, but only \$20 is apportioned as part of the juvenile expungement fund assessment.

¶ 17 Accordingly, we conclude defendant's *per diem* credit must be applied to (1) the \$50 court-finance fee, (2) the \$15 State Police operations assessment, (3) the \$20 State Police services fund assessment, (4) the \$20 circuit clerk operations and administrative fund, and (5) \$20 of the \$40 State's Attorney's assessment.

¶ 18 III. CONCLUSION

¶ 19 For the foregoing reasons, we affirm the assessment of fines, but modify the judgment as follows. Defendant's *per diem* credit is to be applied toward and, as a result, offsets (1) the \$50 court-finance fee, (2) the \$15 State Police operations assessment, (3) the \$20 State Police services fund assessment, (4) the \$20 circuit clerk operations and administrative fund, and (5) \$20 of the State's Attorney's assessment. As part of our judgment, we grant the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2016).

¶ 20 Affirmed as modified.