2018 IL App (1st) 151521-U
No. 1-15-1521
Order filed January 16, 2018

Second Division

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 20279
	)	
SIMON LEE,	)	Honorable
	)	Jorge Luis Alonso,
Defendant-Appellant.	)	Thomas J. Byrne,
	)	Judges, presiding.

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Neville concurred in the judgment.
Justice Mason concurred in part and dissented in part.

ORDER

¶ 1 *Held*: We affirm defendant's burglary conviction where the circuit court did not abuse its discretion in admitting evidence of a nearby burglary committed three weeks later as other crimes evidence. We remand to trial court to correct fines and fees order.

¶ 2 A jury convicted defendant Simon Lee of burglary (720 ILCS 5/19-1(a) (West 2012)). The trial court sentenced him to nine years' imprisonment and assessed fines and fees in the amount of $649. On appeal, Lee argues he was denied a fair trial where the trial court erred in

admitting other crimes evidence regarding an October 2, 2012 burglary occurring a block away. Lee does not contest the State's use of other crimes evidence regarding a burglary of the same building as the charged crime. Lee further argues his fines and fees order should be modified.

¶ 3 We affirm but remand to the trial court with directions to correct the fines and fees order. We cannot say the trial court abused its discretion in admitting evidence of other crimes with respect to the October 2 burglary, as (i) the evidence was relevant, (ii) the risk of unfair prejudice did not substantially outweigh it's probative value, and (iii) the evidence was neither excessive nor turned the proceedings into a "mini-trial" on this other burglary.

¶ 4 Background

¶ 5 An indictment charged Lee with one count of burglary and one count of theft stemming from acts on September 12, 2012, at a building in the 7100 block of South Halsted Street, Chicago. Before trial, the State filed a motion to admit other crimes evidence pertaining to Lee.

¶ 6 Specifically, the State sought to admit evidence of the September 10, 2012 burglary of the same building (charged in Case No. 12 CR 20278) and the October 2, 2012 burglary at a building in the 7100 block of South Green Street (charged in Case No. 12 CR 20280), which was a block away from the building burglarized on September 12. The State initially elected to proceed on Case No. 12 CR 20280, which stemmed from events occurring on October 2, 2012. The State later changed its election to Case No. 12 CR 20279, and adopted the other crimes motion previously filed.

¶ 7 The State, in its proffer of the facts, stated that on September 10, Lee drove his green Ford Explorer to a residence at 71st Street and South Halsted where he removed objects from the building and placed them into his car. There was damage to the basement door and to a second

floor rear door. Furnaces, water tanks, and a large amount of copper piping were missing. Lee was identified as the individual who sold water tanks to a nearby used goods store.

¶ 8 The State further stated that, on September 12, Lee was again seen removing items from the same building at 71st and Halsted and placing them into his green Ford Explorer. There was forced entry through the basement door and the second floor rear door. Copper piping and construction materials were taken from the building. A witness followed Lee to a nearby scrap yard and saw him sell the piping.

¶ 9 Finally, the State presented that, on October 2, 2012, police responded to a burglary in progress at a building in the 7100 block of South Green Street. When they arrived, they saw, at the rear of the building, Lee's green Ford Explorer with a pile of damaged duct work next to it. Lee was walking down the side of the building covered in drywall dust and indicated to officers that the duct work was his. The officers observed damaged drywall and duct work inside of the building.

¶ 10 The State argued the evidence was proper to establish identity, intent, knowledge, absence of mistake, *modus operandi*, and motive. The trial court granted the State's motion to introduce other crimes evidence over Lee's objection. The court reasoned it was "admissible to show absence of mistake, motive, intent," and it was "not so prejudicial so as to outweigh the probative value."

¶ 11 Lee, who later chose to proceed to trial *pro se*, filed a written response renewing his objection to the admissibility of other crimes evidence, arguing the evidence was too prejudicial. The trial court again allowed the State to offer evidence of other burglaries, reasoning "[it] does

go to issues of intent, lack of mistake, et cetera, but it also goes to identity in this case." It further found that "clearly the two other cases involving the same address are intertwined."

¶ 12 The case then proceeded to trial. After opening statements, the trial court instructed the jury that it could only consider the other crimes evidence for identity, "presence," intent, and knowledge.

¶ 13 Maxwell Frempong testified that, in February 2012, he was hired by Felicia Snell-Ervin to perform construction and renovation work at her building at 71st and Halsted. The work entailed constructing four residential apartments with a daycare on the first level. Frempong was to do the framing, electrical, roofing, masonry, duct work, and plumbing needed to complete the project. On September 10, 2012, Frempong was still working on the building and had completed the copper and electrical piping, installed the furnaces and hot water tanks, and finished the duct work. The copper piping was still exposed on the first floor but had been covered by drywall on the second floor. Frempong had installed five new water heaters and four furnaces in the building. When he arrived at the building on September 10, he discovered the building had been broken into and all the water tanks and furnaces were gone, along with "a lot of pipe" from the walls.

¶ 14 After this discovery, Frempong contacted the building owner and the police. He then went looking for the stolen property around the neighborhood and found one water tank at a nearby resale shop. After showing the receipt that contained the tank's serial number, Frempong was able to retrieve the tank, and secure the building by boarding it up.

¶ 15 Frempong returned to the building on September 12, and discovered that it had been broken into again. Someone had removed much of the electrical piping and duct work, as well as

nails, wires, and copper piping. Also missing was siding from the back of the building. Frempong again contacted the owner and the police and returned to the resale shop. At the resale shop, he found furnaces and four hot water tanks with serial numbers matching those taken from the building.

¶ 16 A security guard at the gas station across the street from the building, Adderly McCall, testified that, on September 10, 2012, he saw a green and beige SUV with temporary plates parked in the alley near the building. An African-American man was carrying "shiny objects" out of the building and placing them into the SUV. Later, the building's owner, Snell-Ervin, approached McCall and asked if he had seen anything. He exchanged contact information with her and agreed to call her if he again saw the green SUV.

¶ 17 On September 12, McCall, while working, noticed the same green SUV with temporary plates in the parking lot behind Snell-Ervin's building, and an African-American man. McCall called Snell-Ervin, who arrived at the gas station, but the green SUV had left. Later, McCall and Snell-Ervin saw the green SUV driving down the alley. Snell-Ervin followed the SUV. McCall was not able to identify Lee but did identify a picture of the green SUV he saw behind Snell-Ervin's building.

¶ 18 Snell-Ervin testified that she owned the building that was in the process of renovation. On September 10, 2012, someone broke into the rear of the building and stole the furnaces and water heaters along with the new duct work. After the police arrived, Snell-Ervin accompanied them to the resale shop where she identified the furnaces and water heaters based on the serial numbers.

¶ 19 On September 12, Snell-Ervin received a call from McCall and went to her building. She saw a green Ford Explorer in the alley and saw copper and other materials in the back. She followed the green SUV to a metal scrap yard and called the police. After the green SUV left the scrap yard, Snell-Ervin went inside and spoke with an employee, who gave her a copy of Lee's driver's license and a photograph of his car. Snell-Ervin positively identified Lee at trial and testified that she never gave him permission to enter or remove items from her building. Later, on September 12, she returned to the resale shop and recovered the remainder of her property.

¶ 20 Archie Thomas testified that, on September 10, 2012, he was working at his resale shop when Lee, whom he identified in court, sold him some hot water tanks and furnaces for $400. Lee told Thomas that he was a contractor and the items were not stolen. Later, a contractor showed up and presented a receipt for a water heater, which Thomas then returned. On September 12, 2012, a woman and a police officer came to the store and showed Thomas a receipt for a water heater. Thomas allowed the woman to take back whatever was her property. He identified copies of the receipts and identified a picture of Lee as the individual who had sold him the items.

¶ 21 Chicago police officer William Stec testified that, on September 10, 2012, he was working as a crime scene investigator and examined Snell-Ervin's building. Stec described damage to the first floor walls and the areas around where the furnaces and water heaters would be. Officer Michelle Reed testified that she met Snell-Ervin at the scrap yard on September 12. She was given receipts from Lee's sale to the scrap yard as well as photographs of Lee's identification card and license plate of his SUV.

¶ 22 Officer Michelle Krofta testified that, on October 2, 2012, she and her partner responded to a theft in progress call at the 7100 block of Green, which was about a block away from 71st and Halsted. In the rear of the building, she saw a parked green Ford Explorer with its rear hatch open and large pile of metal duct work directly behind it. Lee, whom she identified in court, was walking through the gangway covered in drywall dust. The padlock of the building's front door had been forcibly removed, and plywood that had been used to board up the rear had been pushed to the side. Inside the building, there were "several holes in the drywall" and duct work in the basement had been cut out.

¶ 23 Krofta identified several photographs of the building, Lee's SUV, and the contents of the SUV. These photographs depicted the duct work Krofta saw, as well as a sledge hammer and crowbar inside Lee's SUV. Krofta did not arrest Lee for the October 2 burglary because she did not know who owned the building. She eventually placed him under arrest when she learned that he was a named offender in a September burglary. A custodial search of Lee recovered a large serrated knife in his pants pocket.

¶ 24 The State introduced a copy of a title from the Illinois Secretary of State showing that Lee was the owner of the green Ford Explorer. During the jury instruction conference, the parties agreed to instruct the jury regarding the limited admissibility of other crimes evidence. See Illinois Pattern Jury Instructions, Criminal, No. 3.14 (4th ed. 2000).

¶ 25 Lee presented the testimony of Detective Tanya Lazaro, who first testified regarding her investigation of the October 2 burglary. Lazaro testified that no gloves or fingerprints were recovered from the any items or from Lee's SUV. She further testified that the building on the 7100 block of Green was in foreclosure at the time of the burglary.

¶ 26 Lazaro investigated the burglaries occurring on September 10 and 12 at the building on 71st and Halsted. She further testified that, while Thomas was found with the stolen property, he was never considered a suspect in the burglaries. Lee then introduced a stipulation that, after Frempong recovered a water heater from Thomas's shop, Thomas was not arrested.

¶ 27 During closing arguments, Lee asserted that he was innocent of the charged crime and did not know anything about the burglary. Following closing arguments, over Lee's objection, the trial court sent back to the jury the photographs of the October 2 burglary. The jury found Lee guilty. Lee, through appointed counsel filed a motion for a new trial arguing, *inter alia*, that the trial court erred in allowing other crimes evidence. The trial court denied the motion and later sentenced Lee to nine years' imprisonment.

¶ 28 Analysis

¶ 29 On appeal, Lee argues he was denied a fair trial where the trial court erred in admitting other crimes evidence. He further contends his fines and fees order should be corrected.

¶ 30 Other Crimes Evidence

¶ 31 Evidence of other crimes is not admissible to prove a criminal defendant's propensity to commit crimes. *People v. Wilson*, 214 Ill. 2d 127, 135 (2005); see Ill. R. Evid. 404(b) (eff. Jan. 1, 2011).But, other crimes evidence may be admitted to show intent, motive, identity, *modus operandi*, or the absence of mistake. *People v. Pikes*, 2013 IL 115171, ¶ 11; see Ill. R. Evid. 404(b) (eff. Jan. 1, 2011). For admissibility, other crimes evidence must have some threshold similarity to the charged crimes. *Wilson*, 214 Ill. 2d at 136.

¶ 32 Even if admissible for a proper purpose, other crimes evidence nevertheless may be excluded if the prejudicial effect of the evidence substantially outweighs its probative value.

Pikes, 2013 IL 115171, ¶ 11. We will not reverse the trial court's decision admitting other crimes evidence absent an abuse of discretion. *People v. Peterson*, 2017 IL 120331, ¶ 125. An abuse of discretion occurs when "the trial court's evaluation is unreasonable, arbitrary, or fanciful, or where no reasonable person would adopt the trial court's view." *People v. Johnson*, 406 Ill. App. 3d 805, 808 (2010).

¶ 33 Lee concedes that evidence regarding the September 10, 2012 burglary is relevant as other crimes evidence. Instead, he argues that the trial court abused its discretion in admitting evidence of other crimes with respect to the October 2 burglary at the building on the 7100 block of Green introduced through Officer Krofta's testimony. Specifically, Lee contends that this other crimes evidence was irrelevant, its prejudicial effect substantially outweighed any probative value, and the court failed in its duty to protect against prejudice.

¶ 34 Lee first argues irrelevancy. Evidence is generally admissible if relevant. See Ill. R. Evid. 402 (eff. Jan. 1, 2011). Relevant evidence refers to evidence that has any tendency to make the existence of a fact of consequence more or less probable than it would be without the evidence. Ill. R. Evid. 401 (eff. Jan. 1, 2011). The use of other crimes evidence to show identity "links the defendant to the offense at issue through some evidence, typically an object, from the other offense." *People v. Quintero*, 394 Ill. App. 3d 716, 727 (2009).

¶ 35 We find the trial court did not abuse its discretion as the evidence linked Lee to the charged burglary and was therefore relevant for purposes of identity. The evidence presented established that Snell-Ervin's building was burglarized on September 10 and 12, 2012. But, no direct evidence connected Lee to the September 12, 2012 burglary. McCall testified that on September 10, 2012, he saw a green Ford Explorer at Snell-Ervin's building and witnessed a

man removing "shiny objects" from the building and placing them into a car. McCall again saw the same car at Snell-Ervin's building on September 12, 2012. McCall, however, was not able to identify Lee at trial as the man he saw burglarizing the building.

¶ 36 Further, Thomas testified that Lee sold him furnaces and water heaters at his resale shop, but did not testify that he saw Lee burglarizing Snell-Ervin's building. Additionally, neither Snell-Ervin nor Frempong testified that they saw Lee burglarizing the building. Rather, their testimony provided circumstantial evidence. This circumstantial evidence included Snell-Ervin's testimony regarding the recovery of photographs of Lee's identification card and license plate from the scrap yard. So identity was still at issue and evidence regarding the October 2 burglary would be admissible for purposes of identity.

¶ 37 Krofta testified that, on October 2, 2012, she responded to a call of a theft in progress at a building in the 7100 block of Green, one block from Snell-Ervin's building. At the rear, she saw a green Ford Explorer with its rear hatch open and metal duct work directly behind it. Lee was walking in the gangway covered in drywall dust. Later the green Ford Explorer was determined to be owned by Lee.

¶ 38 The same green Ford Explorer described in the September 12, 2012 burglary served as a sufficient link to admit evidence involving the October 2 burglary for purposes of identity. We reject Lee's contention that identity was not a legitimate reason for this evidence because Lee's identity was established by the photocopy of his identification card and license plate. See *People v. Rutledge*, 409 Ill. App. 3d 22, 25-26 (2011) ("Although the State could have proved its case without this evidence, there is no rule that requires the State to present a watered-down version of events simply because otherwise highly probative evidence is unflattering to defendant").

¶ 39 Lee next contends the prejudicial effect of the admission of other crimes evidence regarding the October 2 burglary substantially outweighs any probative value. When assessing other crimes evidence we acknowledge that "it is not all prejudicial evidence that must be excluded but, rather, only that which is *unfairly* prejudicial." (Emphasis in original.) *Id.* at 25.

¶ 40 We cannot say the trial court abused its discretion in determining the risk of unfair prejudice did not substantially outweigh the evidence's probative value. The trial court properly considered and balanced the prejudicial impact and the probative value of the evidence concerning the October 2 burglary and found it was "not so prejudicial so as to outweigh the probative value." The evidence of the October 2 burglary was highly probative where the same green Ford Explorer from the September 12 burglary was seen a block away with its rear hatch open and metal duct work directly behind it. As this green Ford Explorer belonged to Lee, it was highly probative to show identity. We cannot find that the trial court's decision to admit the evidence of the October 2 burglary was unreasonable, arbitrary, or fanciful.

¶ 41 Lee argues the other crimes evidence related to the October 2 burglary was excessive and turned the proceedings into a "mini-trial" regarding this other burglary. When evidence of other crimes evidence is found to be relevant and probative, it must not become a focal point of the trial. *People v. Smith*, 406 Ill. App. 3d 747, 755 (2010). "That is, the trial court should not permit a 'mini-trial' of the other, uncharged offense, but should allow only that which is necessary to 'illuminate the issue for which the other crime was introduced.' " *People v. Bedoya*, 325 Ill. App. 3d 926, 938 (2001) (quoting *People v. Nunley*, 271 Ill. App. 3d 427, 432 (1995)).

¶ 42 The State presented Krofta's testimony in a limited manner to establish the identity of Lee. She testified to the condition of the building on the 7100 block of Green, the presence of

Lee's green Ford Explorer at the building, and the circumstances surrounding Lee's arrest for the September 12, 2012 burglary. She did not testify that she arrested Lee for the October 2 burglary or that he was otherwise charged with any crime. Further, her testimony that there was a sledgehammer and crowbar in Lee's SUV served to bolster his identity for the charged offense, which showed Lee broke into Snell-Ervin's building and removed electrical piping and duct work. Additionally, the testimony that a knife was recovered from Lee does not suggest, as Lee argues, he is a "dangerous man, worthy of punishment" but instead simply shows another burglary tool was found which could possibly be used to remove piping or metal from the building. Any photographs of Lee's SUV from the October 2 burglary allowed the jury to compare with the photographs of Lee's license plate obtained from the scrap yard following the September 12, 2012 burglary. Thus, Krofta's testimony did not create a "mini-trial" regarding the October 2 burglary but rather served to establish Lee's identity.

¶ 43 While we have focused our analysis of the other crimes evidence regarding the October 2 burglary as being proper to show identity and finding the trial court did not abuse its discretion in admitting it, we briefly note the other crimes evidence was also properly admitted to show intent and absence of mistake.

¶ 44 Testimony regarding the October 2 burglary would be admissible to show Lee's intent on September 12 to commit a felony, namely a theft, as required to sustain the conviction for the burglary. Moreover, the evidence that, on October 2, Lee entered a building and removed duct work would be proper to show Lee's absence of mistake when he entered Snell-Ervin's building on September 12 and removed electrical piping and duct work. See *Wilson*, 214 Ill. 2d at 136 ("Other-crimes evidence may also be permissibly used to show, by similar acts or incidents, that

the act in question was not performed inadvertently, accidently, involuntarily, or without guilty knowledge").

¶ 45 Assessment of Fees

¶ 46 Lee next argues two fees were improperly assessed and should be vacated, and four fees are actually fines, subject to presentence incarceration credit. Lee did not raise this argument regarding the improper imposition of fines and fees in the trial court. He argues, however, that we may review this issue under the plain-error doctrine. We reject the assertion that we may address Lee's challenge to the fines and fees order under the plain-error doctrine. *People v. Grigorov*, 2017 IL App (1st) 143274, ¶¶ 13-14; *People v. Griffin*, 2017 IL App (1st) 143800, ¶ 9, *pet. for leave to appeal allowed*, No. 122549 (Nov. 22, 2017); *contra People v. Cox*, 2017 IL App (1st) 151536, ¶ 102 (holding improper imposition of fines and fees affect "substantial rights" and therefore may be reviewed under the second prong of the plain-error doctrine).

¶ 47 But, because the State fails to argue against Lee's forfeiture of the issue, we will address the merits of Lee's challenge to his fines and fees order. See *People v. Reed*, 2016 IL App (1st) 140498, ¶ 13 ("By failing to timely argue that a defendant has forfeited an issue, the State waives the issue of forfeiture"). We review *de novo* the propriety of a court-ordered fine or fee. *Id.*

¶ 48 Lee argues, and the State correctly concedes, the $5 electronic citation fee (705 ILCS 105/27.3e (West 2012)) was improperly assessed and must be vacated. The $5 electronic citation fee is only imposed on a defendant "in any traffic, misdemeanor, municipal ordinance, or conservation case upon a judgment of guilty or grant of supervision." See 705 ILCS 105/27.3e (West 2012). Lee was convicted of burglary, an offense not enumerated in the statute. We vacate the $5 electronic citation fee. See *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 115.

¶ 49 Lee disputes the $20 violent crime victims assistance fund fine (725 ILCS 240/10(c) (2) (West 2012)), and the State again correctly concedes that it was improperly assessed and must be vacated. The parties assert the violent crime victims assistance fund fine is only applicable where a defendant has not been assessed any other fines and, Lee has been assessed other fines. See 725 ILCS 240/10(c) (West 2012). Further, effective July 16, 2012, the statute was amended and the section authorizing this particular assessment was removed. See Pub. Act 97-816 § 10 (eff. July 16, 2012) (amending 725 ILCS 240/10(b)); *People v. Glass*, 2017 IL App (1st) 143551, ¶ 23. When Lee committed the offense of burglary on September 12, 2012, the statutory section allowing for this $20 fine was no longer in effect and thus, the fine was improperly assessed. We vacate the $20 violent crime victims assistance fund fine. *Glass*, 2017 IL App (1st) 143551, ¶ 23.

¶ 50 Lee next asserts that four fees on his fines and fees order are actually fines, subject to presentence incarceration credit. See *People v. Jones*, 223 Ill. 2d 569, 599 (2006) ("the credit for presentence incarceration can only reduce fines, not fees").

¶ 51 According to Lee, and the State concedes, the $15 state police operations charge (705 ILCS 105/27.3a (1.5) (West 2012)) and the $50 court system fee (55 ILCS 5/5-1101(c) (1) (West 2012)) are fines subject to presentence incarceration credit. We agree with the parties that these fees are actually fines. See *People v. Brown*, 2017 IL App (1st) 150146, ¶ 36 (finding the $15 state police operations charge to be a fine subject to offset by presentence incarceration credit); see *People v. Blanchard*, 2015 IL App (1st) 132281, ¶ 22 ("we hold that the $50 Court System fee imposed in this case pursuant to section 5-1101(c) is a fine for which defendant can receive credit for the *** days he spent in presentence custody").

¶ 52 Lee next contends the $2 State's Attorney records automation fee (55 ILCS 5/4-2002.1(c) (West 2012)) and the $2 public defender records automation fee (55 ILCS 5/3-4012 (West 2012)) are actually fines because they do not compensate the State for prosecuting Lee. The State argues these charges are fees and not subject to presentence credit. We agree with Lee that these charges are fines and not fees. *People v. Camacho,* 2016 IL App (1st) 140604, ¶¶ 47-56; *contra People v. Bowen,* 2015 IL App (1st) 132046, ¶¶ 62-65 (finding the State's Attorney records automation assessment and the public defender records automation assessment are both fees because they are meant to reimburse the State for expenses related to automated record-keeping systems); *Reed,* 2016 IL App (1st) 140498, ¶¶ 16-17 (same).

¶ 53 Lee next requests a $5 *per diem* credit for the 928 days he spent in presentence incarceration to offset the imposed fines. We note that Lee's fines and fees order doesn't reflect a calculation regarding the 928 days he spent in custody before trial, or any associated offset of applicable fines. A defendant incarcerated on a bailable offense who does not post bail and against whom a fine is imposed is allowed a $5 credit for each day spent in presentence custody. 725 ILCS 5/110-14(a) (West 2012). While Lee did not raise this issue in the trial court, claims for statutory monetary credit pursuant to section 110-14 of the Code of Criminal Procedure of 1963 may be raised at any time, and we address this issue. *People v. Caballero*, 228 Ill. 2d 79, 88 (2008); *People v. Brown*, 2017 IL App (1st) 150203, ¶¶ 36-38.

¶ 54 Lee spent 928 days in presentence custody, which entitles him to $4640 credit to offset the imposed fines. Applying this credit to his fines, which include the $10 mental health court fine, the $30 children's advocacy center assessment, the $5 youth diversion / peer court charge, the $5 drug court fine, as well as the recharacterized $15 state police operations charge, the $50

court system fee, the $2 State's Attorney records automation fee, and the $2 public defender records automation fee, Lee's new total should reflect a balance due of $505.

¶ 55 Conclusion

¶ 56 We affirm Lee's conviction over his contention the trial court abused its discretion in admitting other crimes evidence. We vacate the $5 electronic citation fee and the $20 violent crime victims assistance fund fine, and find the $15 state police operations charge, the $50 court system fee, the $2 State's Attorney records automation fee, and the $2 public defender records automation fee are fines subject to presentence incarceration credit. The fines and fees order should reflect a new total due of $505. Pursuant to Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967), we remand and direct the trial court to modify the fines and fees order accordingly.

¶ 57 Affirmed; fines and fees order corrected; remanded with directions.

¶ 58 JUSTICE MASON, concurring in part and dissenting in part.

¶ 59 I concur in the majority's decision to affirm the circuit court's judgment and to vacate certain assessments and allow the *per diem* credit against fines.

¶ 60 But I have previously concluded that the $2 Public Defender Records Automation Fee and the $2 States Attorney Record Automation Fee are not fines and I adhere to that determination. *People v. Taylor*, 2016 IL App (1st) 141251, ¶ 29. Therefore, I respectfully dissent from the majority's conclusion that these assessments are fines against which Lee is entitled to *per diem* credit.