2018 IL App (1st) 151955-U

FIRST DIVISION
September 28, 2018

No. 1-15-1955



IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the |
| | ) | Circuit Court of |
| Plaintiff-Appellee, | ) | Cook County. |
| | ) | |
| v. | ) | No. 10 CR 15798 (01) |
| | ) | |
| ROOSEVELT HALL, | ) | Honorable |
| | ) | William Timothy O'Brien, |
| Defendant-Appellant. | ) | Judge Presiding. |

PRESIDING JUSTICE MIKVA delivered the judgment of the court.
Justices Pierce and Walker concurred in the judgment.

**O R D E R**

¶ 1 *Held*: Defendant's right to confrontation was not violated. The State proved beyond a reasonable doubt that defendant was guilty of aggravated kidnapping, that the kidnapping was not incidental to the attempted armed robbery, and that defendant's discharge of the firearm was a continuation of the kidnapping. The trial court is directed to modify the fines and fees order.

¶ 2 After a bench trial, defendant Roosevelt Hall was convicted of aggravated kidnapping, attempted armed robbery, being an armed habitual criminal, and aggravated assault. He was also

charged with but acquitted of attempted murder and aggravated discharge of a firearm. The trial court imposed an aggregate sentence of 30 years' imprisonment. On appeal, Mr. Hall argues that (1) the trial court erroneously considered the codefendant's inculpatory statement; (2) his conviction for aggravated kidnapping based on personal discharge of a weapon during the commission of the kidnapping should be reversed because the kidnapping was incidental to the armed robbery, or in the alternative, that the State did not prove that he discharged a firearm during the commission of that offense; (3) the trial court abused its discretion when it sentenced Mr. Hall to 30 years' imprisonment without providing a reason for the sentence; and (4) the trial court imposed several unauthorized assessments and failed to properly credit Mr. Hall for time served in presentence custody. For the following reasons, we affirm Mr. Hall's convictions and direct the trial court to correct the fines and fees order.

¶ 3 I. BACKGROUND

¶ 4 On August 14, 2010, Mr. Hall was arrested in connection with an attempted armed robbery of the T-Mobile retail store located at 4000 West Fullerton Avenue in Chicago, Illinois (the Fullerton store), that occurred on August 2, 2010. Mr. Hall's codefendant, Jarvis Winfield, who is not a party to this appeal, was also arrested. The court held severed but simultaneous bench trials for Mr. Hall and Mr. Winfield.

¶ 5 The Fullerton store was set up with a showroom in the front, where employees worked with customers. There was a back room in the northeast corner of the store that could be accessed with a code or a company key. The back room functioned as a break room with a table and chairs for employees. The door leading from the showroom into the back room was metal and would automatically swing shut and lock. Behind the back room was a safe room that contained the company's phones.

¶ 6 In July 2010, another T-Mobile store, four or five blocks away from the Fullerton store, had been robbed, and a text message describing the robbers had been sent out to all the employees at the Fullerton store. On August 1, 2010, two individuals who matched the descriptions from the text came to the Fullerton store. During the afternoon of August 2, and again that evening at approximately 8 p.m., one of the individuals matching that description came to the Fullerton store. At that point, the Chicago Police Department was contacted and an officer arrived at the store at around 8:30 p.m.

¶ 7 At trial, the State's main evidence came from the three employees who were working at the Fullerton store the night of August 2—Cindy Hernandez, Issa Khoury, and Edgar Valentin—and Chicago police officer Matthew Scott who responded to Mr. Valentin's call to the Chicago Police Department.

¶ 8 When Officer Scott arrived, he and Mr. Valentin went into the back room. Mr. Khoury testified that about five minutes after Officer Scott got there, an individual, who Mr. Khoury identified at trial as Mr. Hall, arrived. Mr. Hall asked Mr. Khoury about upgrading his phone, which was not a T-Mobile phone. After observing Mr. Hall for 20 seconds, Ms. Hernandez walked to the back room and told Mr. Valentin there was someone there to see him, giving him a look to warn him that something was wrong.

¶ 9 Mr. Khoury testified that he saw Mr. Hall turn toward the front door as another individual—wearing a white shirt and a Jamaican hat with fake dreadlocks—was walking toward the store. The second individual was later identified as Mr. Winfield. Mr. Khoury testified that, as the second individual approached the store, Mr. Hall took out a gun, held it to Mr. Khoury's back, and said, "go to the back, go to the back." Mr. Khoury testified that he walked toward the back room of the store. Ms. Hernandez testified that she saw Mr. Hall had a gun to Mr. Khoury's

back and that Mr. Hall told both of them that they "had to go to the back room." Ms. Hernandez then turned around and walked toward the back room, followed by Mr. Khoury. Both employees were followed by Mr. Hall.

¶ 10 In the back room, Officer Scott held open the door leading to the showroom with his left hand and put his right hand on his handgun. He positioned himself between the door and the wall in a way that he was hiding behind the door. Mr. Khoury testified that as he walked to the back room he could see the door was open. Ms. Hernandez, Mr. Khoury, and Mr. Hall entered the back room. Once Mr. Hall was in the room, Officer Scott announced "police, police." Mr. Hall turned towards the officer, the officer fired his handgun, and Mr. Hall ran back into the showroom. Officer Scott fired his gun four times in Mr. Hall's direction while the door to the showroom was still open but, while firing, Officer Scott let go of the showroom door. Once the door to the showroom closed, Officer Scott heard two shots coming from the showroom. He testified Mr. Hall was the only person he saw in the showroom before the door closed.

¶ 11 Mr. Winfield was arrested that night near the Fullerton store. He gave a statement to Chicago police detective Richard Green that implicated Mr. Hall in the crimes at the Fullerton store. That statement is discussed in more detail when we address Mr. Hall's claim that the admission of that statement denied him his constitutional right to confrontation.

¶ 12 The night of the robbery, the three employees were shown a photo array. Ms. Hernandez picked out Mr. Hall as the man who she saw with the gun. Mr. Valentin did not recognize anyone in the photos. Mr. Khoury did not pick out anyone, stating he "wasn't 100 percent sure" of any identification from the photo array.

¶ 13 Mr. Hall was arrested on August 14, 2010. Detective Brian Tedeschi interviewed Mr. Hall and testified that Mr. Hall admitted to robbing the Fullerton store with Mr. Winfield. He

told the detective that he went to the service counter and asked about a cell phone upgrade. Mr. Hall told the detective that after he saw Mr. Winfield enter the store, he pulled the gun out of his waistband and said to the employee, "you know what time it is, walk me to the back room." Once he walked through the doorway leading to the back room, he heard gunshots. Mr. Hall told Detective Tedeschi he immediately ran from the storeroom, dropped the gun before exiting the store, and followed Mr. Winfield out of the store. Mr. Hall said he ran west on Fullerton Avenue, then changed directions and went south on Pulaski Road to an unknown street. He stopped and vomited several times because he was shocked when he heard the gunshots. Mr. Hall continued to run, made it to Maypole and Kostner Avenues where he stopped, purchased some alcohol, and slept in an unknown vehicle.

¶ 14 On August 14 and 15, 2010, Officer Scott and at least two of the T-Mobile employees, Ms. Hernandez and Mr. Khoury, identified Mr. Hall in a lineup as the person who attempted to rob the store. Mr. Valentin testified that he also identified Mr. Hall, but Detective Tedeschi testified that Mr. Valentin was unable to make a positive identification at that lineup. Forensic evidence showed that two cartridges recovered had been fired from the Ruger firearm that Officer Scott had collected at the scene and four had been fired from Officer Scott's gun.

¶ 15 At the end of the State's case, Mr. Hall moved for a directed verdict which the court granted with respect to all of the attempted murder charges, but not as to any of the other charges.

¶ 16 Mr. Hall testified in his own defense. He claimed that he did not participate in any robbery and that, during his interview with the police, he told the officers he did not recall where he was on the night of August 2, 2010. Mr. Hall testified that during the interview, he did not admit to the officers that he attempted to rob the Fullerton store.

¶ 17 In rebuttal, the State called Assistant State's Attorney (ASA) Michele Popielewski, who testified that when she interviewed Mr. Hall the night he was arrested, he admitted to robbing the Fullerton store, admitted that he was armed with a black semiautomatic handgun and admitted that he pulled the gun on the man and woman at the store's counter, and admitted that he moved the employees to the back room. Mr. Hall told ASA Popielewski that he heard several shots and then ran out toward the main showroom. Mr. Hall said he dropped his gun as he left the store and ran down Pulaski Road. Mr. Hall's statement to Ms. Popielewski was not memorialized.

¶ 18 The trial court found Mr. Hall guilty of two counts of aggravated kidnapping based on possession of a firearm during the commission of a kidnapping (720 ILCS 5/10-2(a)(6) (West 2010)); two counts of aggravated kidnapping based on discharge of a firearm during the commission of a kidnapping (720 ILCS 5/10-2(a)(7) (West 2010)); two counts of attempted armed robbery while armed with a firearm (720 ILCS 5/8-4(a), 18-2(a)(2) (West 2010)); one count of being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2010)); one count of unlawful use of a weapon by a felon, and one count of aggravated assault (720 ILCS 5/12-2(a)(6) (West 2010)). The trial court found Mr. Hall not guilty of aggravated discharge of a firearm (720 ILCS 5/24-1.2(a)(3) (West 2010)). At the time Mr. Hall was sentenced, the trial court vacated its findings of guilty with respect to the charges of aggravated kidnapping based on possession of a weapon, citing the one-act, one-crime doctrine. The trial court also vacated the finding of guilty for the unlawful use of a weapon charge on the same basis.

¶ 19 The trial court then imposed prison sentences of 30 years each for the offenses of aggravated kidnapping based on discharge of a firearm, being an armed habitual criminal, and attempted armed robbery. It imposed a prison sentence of 3 years for the aggravated assault. All sentences were to run concurrently.

¶ 20 II. JURISDICTION

¶ 21 The trial court sentenced Mr. Hall on June 2, 2015, and Mr. Hall timely filed his notice of appeal that same day. Accordingly, this court has jurisdiction pursuant to article VI, section 6 of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6), and Illinois Supreme Court Rules 603 and 606, governing appeals from final judgments of conviction in criminal cases (Ill. S. Ct. Rs. 603, 606 (eff. Feb. 6, 2013)).

¶ 22 III. ANALYSIS

¶ 23 A. Defendant's Right to Confrontation

¶ 24 Mr. Hall argues that the trial court improperly relied on the admission from his codefendant, Mr. Winfield, in finding Mr. Hall guilty in violation of *Bruton v. United States,* 391 U.S. 123, 137 (1968). The State responds that Mr. Hall failed to overcome the presumption that the trial court did not consider this incompetent evidence in reaching its verdict against him. The State also argues that even if there was some consideration of Mr. Winfield's statement, this was harmless error.

¶ 25 Mr. Hall failed to raise his *Bruton* claim in his posttrial motion, which would generally mean that this claim would be subject to forfeiture. *People v. Cregan*, 2014 IL 113600, ¶ 16. However, the State agrees that there is no forfeiture here because this is a constitutional issue that was properly raised at trial and is therefore not subject to forfeiture, even if it was not raised in a posttrial motion. *Id.*

¶ 26 In *Bruton,* the United States Supreme Court held "that the admission of a statement, at a joint trial, by a nontestifying codefendant that expressly implicates the defendant in the crime violates the defendant's constitutional right to confront witnesses against him." *People v. Ousley*, 235 Ill. 2d 299, 303 (2009) (citing *Bruton*, 391 U.S. at 137). We have held that in a bench trial,

"it can usually be presumed that no prejudice has occurred to a defendant who has been implicated by a co-defendant's confession because, unlike a jury, a judge, being trained in the law, will refuse to consider the statement made by the co-defendant in determining the defendant's guilt." *People v. Pettis*, 104 Ill. App. 3d 275, 277 (1982). A defendant can overcome this presumption if he can show the trial court relied on the codefendant's inculpatory statement in determining the defendant's guilt. *Id.* at 277-78. If a reviewing court does find that the court may have considered the codefendant's statement, the reviewing court then weighs the properly admitted evidence of guilt against the possible prejudicial effect of the codefendant's admission to determine whether the admission was harmless beyond a reasonable doubt. *People v. Kubik*, 214 Ill. App. 3d 649, 659 (1991).

¶ 27 During trial, Detective Green recounted Mr. Winfield's post-arrest statement as follows:

> "Q. [ASA]: What did he [Mr. Winfield] tell you happened next?
>
> A. [DETECTIVE GREEN]: He says well, while they were driving over, they pulled—parked in the parking lot of the T-Mobile Store. He said he observed Roosevelt Hall had a black semi-automatic weapon. Roosevelt Hall exited the van, entered the—started walking into the T-Mobile.
>
> * * *
>
> Q. What did the Defendant Jarvis Winfield tell you next?
>
> A. He said that as Hall walked in, he followed shortly after him and he stood by the door, he was doing what he was told to do.
>
> Q. Did Jarvis Winfield tell you what occurred next?
>
> A. He said that when he got up there, he observed Roosevelt Hall walking employees into the backroom while holding the black handgun."

¶ 28 In his brief, Mr. Hall points to the following statement by the trial court at the conclusion of the evidence: " 'You couple that [referencing the testimony of the eyewitnesses] with the *statements*, the subsequent *statements* that the *Defendants* had given ***, as well as the physical evidence and forensic evidence ***, it substantiates and corroborates the testimony of the witnesses.' " (Emphases in original.) The State responds that this statement must be considered in context, and so viewed it is apparent that it is only part of a general summarization of the evidence before the court made any findings.

¶ 29 While it would have been helpful for the trial court to specifically say that it had not considered Mr. Winfield's statement in any finding of Mr. Hall's guilt, we do not believe such a statement was necessary or that the presumption that the trial court considered only competent evidence has been overcome. The trial court's general summation of the evidence was followed by five pages in the trial transcript of extraordinarily detailed findings on each charge as to each defendant. There was no reference in any of these detailed findings to Mr. Winfield's statement. This is sufficient to assure us that no *Bruton* violation occurred.

¶ 30 In addition, we agree with the State that any erroneous consideration of Mr. Winfield's inculpatory statement in finding Mr. Hall guilty would have been harmless. As the Supreme Court has recognized, "[i]n some cases the properly admitted evidence of guilt is so overwhelming, and the prejudicial effect of the codefendant's admission is so insignificant by comparison, that it is clear beyond a reasonable doubt that the improper use of the admission was harmless error." *Schneble v. Florida*, 405 U.S. 427, 430 (1972)

¶ 31 Considering the record as a whole, Mr. Winfield's statement added almost nothing to the weight of the evidence against Mr. Hall. The three Fullerton store employees and Officer Scott identified Mr. Hall as the individual who was in the store the night of the attempted robbery. The

employees and Officer Scott offered consistent testimony that Mr. Hall had a firearm and moved the employees to the back room using the gun. Officer Scott testified he saw Mr. Hall holding a Ruger handgun, a Ruger handgun was found in the foyer of the Fullerton store, and two fired cartridges from the Ruger handgun were found in the store. Mr. Hall also made his own statement admitting his participation in these crimes and while he denied making that statement when he testified at trial, the trial court clearly did not believe him. Any error in consideration of Mr. Winfield's statement would have been harmless beyond a reasonable doubt.

¶ 32 B. Aggravated Kidnapping

¶ 33 Mr. Hall next argues that his conviction for aggravated kidnapping based on personal discharge of a weapon during the commission of a kidnapping should be reversed because the kidnapping was incidental to the attempted armed robbery. Mr. Hall also asserts that, even if a kidnapping had occurred, the State's evidence was insufficient to prove that Mr. Hall discharged his firearm during the commission of that offense. We review these two arguments separately.

¶ 34 1. Separate Crime of Kidnapping

¶ 35 A kidnapping occurs when a person knowingly by force or threat of imminent force carries a person from one place to another with intent to secretly confine that person against his will. 720 ILCS 5/10-1(a)(2) (2010). When considering whether a separate crime of kidnapping occurred, Illinois courts apply the *Levy-Lombardi* doctrine that states "a defendant cannot be convicted of kidnapping where the asportation or confinement of the victim was merely incidental to another crime, such as robbery, rape or murder." *People v. Eyler*, 133 Ill. 2d 173, 199 (1989) (citing *People v. Levy*, 204 N.E.2d 842 (N.Y. 1965); *People v. Lombardi*, 229 N.E.2d 206 (N.Y. 1967)). This doctrine ensures kidnapping convictions are not sustained when the asportation (carrying away) or confinement " 'constitute[s] only a technical compliance with the

statutory definition but is, in reality, incidental to another offense.' " *Id.* at 200 (quoting *People v. Enoch*, 122 Ill. 2d 176, 197 (1988)).

¶ 36 Our supreme court has approved use of a four-factor test to determine whether a kidnapping is incidental to an offense. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225-26 (2009). Those factors are (1) the duration of the detention or asportation, (2) whether the detention or asportation occurred during the commission of a separate offense, (3) whether the asportation or detention was inherent in the separate offense, and (4) whether the asportation or detention created a significant danger to the victim independent of that posed by the separate offense. *Id.* The court also made clear that, contrary to Mr. Hall's insistence that we consider this issue *de novo*, in applying this test we must defer to the trier of fact and affirm if any rational trier of fact could have found an independent offense of kidnapping. *Id.* at 227.

¶ 37 Here, while the duration of the movement and confinement of the employees was brief, the short duration of confinement does not prevent a separate kidnapping conviction. See, *e.g.*, *People v. Ware*, 323 Ill. App. 3d 47, 54 (2001) ("a kidnaping conviction is not precluded by the brevity of the asportation or the limited distance of the movement."). Also, of course, the kidnapping occurred during the commission of the unsuccessful attempted armed robbery, but that is also not determinative. See, *e.g.*, *People v. Thomas*, 163 Ill. App. 3d 670, 678 (1987) (this factor "also does not preclude a kidnapping conviction").

¶ 38 The third factor weighs heavily in favor of the State because the movement and confinement of the individuals were not inherent to the attempted armed robbery. Mr. Hall argues that the confinement of the employees was simply a way to get to the safe and thereby accomplish the armed robbery. But, even if this were so, as the trial court pointed out, "if the motive was just to rob the store, to open the safe, why not just bring the manager back?" There

was no need to move all of the employees at gunpoint to rob the store and in doing so, Mr. Hall committed what the trial court concluded was an additional crime.

¶ 39 The final factor, too, weighs in the State's favor because the movement and confinement of the employees posed a significant danger to the employees separate from the attempted armed robbery. The trial court noted that Mr. Hall moved the employees from a "very public location" into the back. We have found that this kind of movement creates a "significant and independent danger." *People v. Lloyd*, 277 Ill. App. 3d 154, 164-65 (1995).

¶ 40 We conclude that a rational trier of fact could have found Mr. Hall guilty of a separate crime of kidnapping.

¶ 41 2. Discharge of a Weapon During the Kidnapping

¶ 42 Mr. Hall, but not his codefendant, was convicted in this case of aggravated kidnapping for personally discharging a firearm during the commission of a kidnapping under section (a)(7) of the kidnapping statute (720 ILCS 5/10-2 (West 2010)), which required the trial court to add 20 years to his sentence under section (b) of that same statute (*id.*). Mr. Hall argues that even if the kidnapping was a separate crime, the evidence did not establish that he discharged a firearm during the commission of that crime because any discharge of the firearm occurred after the kidnapping had been completed. The State responds that the discharge of the firearm was accompanying force that properly continued the commission of the kidnapping.

¶ 43 The State relies on *People v. Dennis*, 181 Ill. 2d 87 (1998), where our supreme court recognized that the "commission of an armed robbery ends when force and taking, the elements which constitute the offense, have ceased," but that "[i]n many instances, flight or an escape is effectuated by use of force. It is the accompanying force which properly continues the commission of the offense." *Id.* at 103.

¶ 44 The State argues that Mr. Hall continued the crime of kidnapping because he discharged the gun in "effectuating" his escape under *Dennis*. While the court found that the State failed to show that Mr. Hall was pointing the gun at Officer Scott or trying to kill anyone, the gun was clearly discharged during Mr. Hall's successful escape. The evidence was sufficient to sustain the verdict on these counts.

¶ 45 C. Sentence

¶ 46 Mr. Hall argues that the trial court abused its discretion when it sentenced him to 30 years' imprisonment. He argues that this extreme sentence is unjustified based on both the case facts and Mr. Hall's criminal and personal history, particularly the many years that had passed since his last conviction and his lengthy employment history. He also argues that such a sentence is particularly inappropriate because the trial court did not offer any explanation for imposing it. The State responds that the trial court properly exercised its discretion in sentencing Mr. Hall, because the sentence was within the sentencing range and fit the seriousness of the offense, and asserts that reasons are not required.

¶ 47 While we agree with Mr. Hall that 30 years seems like a very lengthy sentence for a crime where no one was injured and nothing was even taken, we recognize that we are constrained by our need to defer to the trial court's discretion in sentencing. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). We are aware of Mr. Hall's lengthy, if somewhat remote, criminal record. We also recognize that Mr. Hall's conviction for aggravated kidnapping based on discharge of a firearm carried a mandatory 20-year enhancement, resulting in a sentencing range of 26 to 50 years on that Class X offense. 720 ILCS 5/10-2(b) (West 2010)). Thus, Mr. Hall's 30-year sentence was only 4 years above the minimum allowed.

¶ 48 We also note, and Mr. Hall concedes, that a trial court is not required to give its reasoning

for imposing a particular sentence. *People v. Davis*, 93 Ill. 2d 155, 162-63 (1982). Under these circumstances, we cannot find that the trial court abused its discretion.

¶ 49 D. Fines and Fees

¶ 50 Finally, Mr. Hall asks that we amend his fines and fees order, arguing that the trial court (1) improperly assessed the $5 electronic citation fee against him and (2) improperly categorized certain assessments as fees rather than fines when, if properly categorized as fines, they would have been subject to offset by Mr. Hall's presentence incarceration credit. These challenged assessments include the $30 children advocacy assessment, the $2 public defender records automation assessment, the $2 state's attorney records automation assessment, the $15 state police operations assessment, the $15 automation assessment, the $15 document storage assessment, and the $50 court system assessment. Mr. Hall argues that because of these mischaracterizations, he was overcharged $134. The State concedes that some, but not all, of these assessments were improper.

¶ 51 Even though Mr. Hall did not challenge these assessments before the trial court, they are reviewable both under the plain error doctrine and pursuant to section 110-14(a) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-14(a) (West 2010)). *People v. Mullen*, 2018 IL App (1st) 152306, ¶¶ 38-39. The State concedes that the $5 electronic citation fee was improperly assessed and that the $30 children's advocacy assessment, the $15 state police operations assessment, and the $50 court system assessment should have been categorized as fines for which Mr. Hall was entitled to offset by his presentence incarceration credit. Thus, we consider the characterization of the remaining challenged assessments.

¶ 52 Section 110-14(a) of the Code provides that any person who is "incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense

shall be allowed a credit of $5 for each day so incarcerated upon application of the defendant." 725 ILCS 5/110-14(a) (West 2010). Thus, pursuant to section 110-14(a), when a defendant is incarcerated prior to trial, he is entitled to a credit that may be applied to offset fines, but not fees. *People v. Johnson*, 2011 IL 111817, ¶ 8; *Mullen*, 2018 IL App (1st) 152306, ¶ 21. "A charge is considered a fee where it [is] assessed in order to recoup expenses incurred by the state, or to compensate the state for some expenditure incurred in prosecuting the defendant." (Internal quotation marks omitted.) *People v. Brown*, 2017 IL App (1st) 150146, ¶ 35. Fines, in contrast, are "punitive in nature" and "a pecuniary punishment imposed as part of a sentence on a person convicted of a criminal offense." (Internal quotation marks omitted.) *Id.*

¶ 53 The assessments at issue, then, are the public defender and state's attorney records automation assessments of $2 each, the $15 automation assessment, and the $15 document storage assessment. We have already repeatedly held that each of these assessments was properly categorized by the court as a fee, and therefore is not subject to offset by presentence incarceration credit. *Mullen*, 2018 IL App (1st) 152306, ¶¶ 46-47 (public defender and state's attorney records automation assessments); *People v. Smith*, 2018 IL App (1st) 151402, ¶ 15 ($15 automation assessment and $15 document storage assessment are both fees that cannot be offset).

¶ 54 Mr. Hall spent 1754 days in presentence custody, giving him $8770 in presentence custody credit. The fines and fees order included in the record reflects that, in total, Mr. Hall was charged $694 in fines and fees. Because we have vacated the $5 electronic citation fee, that total is reduced to $689. From this new total, Mr. Hall is entitled to have $95 offset by his presentence incarceration credit, which includes the three assessments that the State agrees should have been characterized as fines. On remand, we direct the trial court to modify the fines and fees order to reflect the $95 offset to be applied against the $689 that Mr. Hall owes, bringing the total amount

that he owes to $594.

¶ 55 IV. CONCLUSION

¶ 56 For the foregoing reasons, we affirm in part, reverse and vacate in part, and remand for sentencing consistent with this opinion.

¶ 57 Affirmed in part, reversed and vacated in part, and remanded.