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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. 14 CR 8549
)	
DWAYNE ROEBUCK, JR.,)	Honorable
)	Thomas J. Byrne,
Defendant-Appellant.)	Judge, presiding.

JUSTICE ELLIS delivered the judgment of the court.
Justices McBride and Gordon concurred in the judgment.

ORDER

¶ 1 *Held:* Fines, fees and costs are modified under second prong plain error review.

¶ 2 Following a bench trial, defendant Dwayne Roebuck was convicted of burglary (720 ILCS 5/19-1(a) (West 2014)) and possession of a stolen motor vehicle (625 ILCS 5/4-103(a)(1) (West 2014)). The court sentenced defendant to two concurrent terms of 10 years' imprisonment and imposed \$519 in fines, fees, and costs.

¶ 3 On appeal, defendant contends that the assessed fines, fees, and costs should be reduced from \$519 to \$130. Defendant did not challenge his fines and fees in the court below, however,

so this issue is forfeited. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Defendant nonetheless urges that we review these claims all the same, either as plain-error (see Ill. S. Ct. R. 615(b)) or as ineffective assistance of counsel.

¶ 4 With respect to defendant’s first contention, the State maintains that the erroneous imposition of fines and fees against a criminal defendant is not reviewable under the plain-error doctrine. We cannot agree. As Justice Gordon recently wrote for this panel in *People v. Cox*, 2017 IL App (1st) 151536, ¶¶ 97-103, unpreserved errors pertaining to the imposition of fines and fees affect a defendant’s substantial rights, reviewable under the second prong of plain-error review.

¶ 5 As we noted there (see *id.*, ¶ 98), the Illinois Supreme Court has held that “ ‘[t]he imposition of an unauthorized sentence affects substantial rights’ and, thus, may be considered by a reviewing court even if not properly preserved in the trial court.” *People v. Fort*, 2017 IL 118966, ¶ 19 (quoting *People v. Hicks*, 181 Ill. 2d 541, 545 (1998)); see also *People v. Lewis*, 234 Ill.2d 32, 48–49 (2009) (plain-error review appropriate to consider imposition of fine in contravention of statute because it implicates defendant’s right to fair sentencing hearing).

¶ 6 And a fine is simply the financial component of a criminal sentence. *People v. Johnson*, 2011 IL 111817, ¶ 16; *People v. Johnson*, 2015 IL App (3d) 140364, ¶¶ 10 (“fines may only be imposed by an order of the trial court,” because they are “the financial component of a felony sentence”); *Cox*, 2017 IL App (1st) 151536, ¶ 99.

¶ 7 We therefore find that claimed errors in the imposition of fines or fees are reviewable under the plain-error doctrine because, as a component of the defendant’s criminal sentence, they affect substantial rights. See *Cox*, 2017 IL App (1st) 151536, ¶ 99; accord *People v. Mullen*,

2018 IL App (1st) 152306, ¶ 38 (“We can and should review these legal errors in the assessment of fines and fees as plain error.”); *but see People v. Griffin*, 2017 IL App (1st) 14388, ¶¶ 9, 24-25, *appeal allowed*, No. 122549, 93 N.E.3d 1087 (Ill. Nov. 22, 2017) (denying plain-error review to alleged errors in imposition of fines and fees).

¶ 8 A defendant incarcerated on a bailable offense who does not supply bail, and against whom a fine is levied, is allowed a credit of \$5 for each day spent in presentence custody. 725 ILCS 5/110-14(a) (West 2014). Defendant spent 320 days in presentence custody and is, therefore, entitled to up to \$1,600 in presentence custody credit.

¶ 9 We begin by noting that defendant is entitled to use his presentence credit to offset the following fines: \$10 mental health court (55 ILCS 5/5-1101(d-5) (West 2014)), \$5 youth diversion/peer court (55 ILCS 5/5-1101(e) (West 2014)), \$5 drug court (55 ILCS 5/5-1101(f) (West 2014)), and \$30 children’s advocacy center (55 ILCS 5/5-1101(f-5) (West 2014)). Although the fines and fees order states that these fines should be offset by the credit, the order does not actually reflect the offset.

¶ 10 Next, we consider defendant’s argument that we should vacate the \$5 electronic citation fee (705 ILCS 105/27.3e (West 2014)) and \$25 violent crime victims assistance fund fine (725 ILCS 240/10(c)(2) (West 2014)) assessed against him. With respect to the \$5 electronic citation fee, defendant maintains, the State concedes, and we agree, that this fee was erroneously assessed because this was not a traffic, misdemeanor, municipal ordinance, or conservation case. See 705 ILCS 105/27.3e (West 2014). Likewise, with respect to the \$25 violent crime victims assistance fund fine, defendant argues, the State concedes, and we agree, that this fine was

improperly assessed because defendant was assessed other fines. See 725 ILCS 240/10(c)(2) (West 2014) (imposing \$20 fine if “no other fine has been imposed”).

¶ 11 Next, defendant maintains that he is entitled to presentence credit for the \$15 state police operations fee and the \$50 Court System fee. The State concedes this point, and we accept the State’s concession. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31 (“Despite its statutory label, the State Police operations assistance fee is also a fine.”); *People v. Smith*, 2013 IL App (2d) 120691, ¶ 21 (court system fee is properly understood as fine).

¶ 12 Next, defendant argues he is entitled to credit for a \$2 public defender records automation fee (55 ILCS 5/3-4012 (West 2014)) and a \$2 State’s Attorney records automation fee (55 ILCS 5/4-2002.1(c) (West 2014)) which was assessed against him. In *People v. Camacho*, 2016 IL App (1st) 140604, a panel of this court concluded that these “fees” are actually fines. See *id.* ¶¶ 47-56. Nonetheless, the vast weight of authority from this court holds that the public defender and State’s Attorney records automation fees are in fact fees. See *People v. Brown*, 2017 IL App (1st) 150146, ¶ 38 (“[T]he bulk of legal authority has concluded that [the Public Defender and State’s Attorney records automation charges] are fees rather than fines.”). We decline to follow *Camacho*. See *People v. Jones*, 2017 IL App (1st) 143766, ¶ 53 (declining defendant’s “invitation to digress from the weight of established precedent by classifying the records automation fees as fines”).

¶ 13 Defendant next maintains that he is entitled to presentence credit for a \$190 felony complaint filing fee (705 ILCS 105/27.2a(w)(1)(A) (West 2014)), a \$15 automation fee (705 ILCS 105/27.3a(a)(1) (West 2014)), a \$15 document storage fee (705 ILCS 105/27.3c(a) (West 2014)), and a \$25 court services fee (55 ILCS 5/5-1103 (West 2014)) which was imposed against

him because these fees are actually fines. We disagree. See *People v. Tolliver*, 363 Ill. App. 3d 94, 97 (2006) (felony complaint filing fee, automation fee, document storage fee, and court services fee are fees, not fines).

¶ 14 Based on the foregoing, we correct defendant's mittimus to reflect \$379 in fines and fees.

¶ 15 Mittimus corrected.