

No. 1-16-0342

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County
)	
v.)	No. 15 CR 5832
)	
ALMA ARAMBULA-ALVARADO,)	Honorable
)	Alfredo Maldonado,
Defendant-Appellant.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Reyes and Justice Lampkin concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant's fines, fees, and costs order modified; judgment of the circuit court affirmed in all other respects.
- ¶ 2 Following a bench trial, defendant-appellant, Alma Arambula-Alvarado, was convicted of possession of a controlled substance in violation of 720 ILCS 570/402(a)(2)(A) (West 2010), and sentenced to 24 months' probation. On appeal, defendant challenges only the trial court's assessment of certain fines and fees. We direct the clerk of the circuit court to modify defendant's fines, fees, and costs order and affirm the judgment of the circuit court in all other respects.

¶ 3 Defendant was charged with possession of a controlled substance with intent to deliver 15 grams or more, but less than 100 grams of cocaine, in violation of 720 ILCS 570/401(a)(2)(A) (West 2013). The evidence at trial established that, on March 9, 2015, police officers executed a search warrant for an apartment located at 2431 South 50th Avenue. When no one answered the door, the police forcibly entered the apartment, where they found defendant in the bathroom with the door locked. The police forced open the bathroom door and saw defendant standing near a black sock which held three Ziplock bags containing 23.1 grams of cocaine. Officers searched the apartment and found another Ziplock bag containing 0.8 grams of cocaine, two guns, \$14,480 in cash, and a kilo press. After being taken into custody, defendant admitted to police that she lived in the apartment.

¶ 4 Based on the evidence, the trial court found defendant guilty of the lesser-included offense of possession of a controlled substance. Defendant was subsequently sentenced to 24 months' probation with "credit for three days time considered served, time actually served." The court also assessed a total of \$2,754 in fines, fees, and costs. Defendant appeals, challenging the court's imposition of certain fines and fees.

¶ 5 On appeal, defendant contends that the assessed fines, fees, and costs should be reduced from \$2,754 to \$2,729, and argues that the trial court failed to give her a \$5-per-day credit for the 3 days spent in presentence custody pursuant to section 110-14 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-14(a) (West 2014)). She also contends that the electronic citation fee (\$5) and the court system fee (\$5) should be vacated because they were improperly assessed.

¶ 6 Initially, we note that defendant did not raise these challenges at trial and they are, therefore, arguably forfeited. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Nevertheless,

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defendant requests that we review her claims under the plain-error doctrine, citing *People v. Lewis*, 234 Ill. 2d 32, 47-49 (2009). Defendant, citing *People v. Caballero*, 228 Ill. 2d 79 (2008), also asserts that the issue of whether she received her presentence credit pursuant to section 110-14, can be raised at any time..

¶ 7 We agree with defendant (see *Caballero*, 228 Ill. 2d at 88 (holding that “a claim for monetary credit under section 110-14 is a statutory claim *** and may be raised at any time and at any stage of court proceedings”). “Granting credit is a simple ministerial act that promotes judicial economy by ending any further proceedings over the matter.” *People v. Brown*, 2017 IL App (1st) 150203, ¶ 36 (citing *People v. Woodward*, 175 Ill. 2d 435, 456-57 (1993)). As it is undisputed that defendant’s appeal is properly before the court, we will address the issue of whether she properly received credit for her presentence custody. *Brown*, 2017 IL App (1st) 150203, ¶ 37.

¶ 8 We do not find, however, that defendant’s claim is reviewable under the plain-error doctrine (*People v. Griffin*, 2017 IL App (1st) 143800, ¶ 9, pet. for leave to appeal granted, No. 122549 (Nov. 22, 2017)), as the plain-error doctrine is not the appropriate vehicle for addressing the clerical mistakes raised in the “majority of [fines and fees] cases.”

¶ 9 That said, the rules of forfeiture and waiver also apply to the State, and where, as here, the State fails to argue that defendant has forfeited the issue, it waives the forfeiture. *People v. Bridgeforth*, 2017 IL App (1st) 143637, ¶ 46. As such, we will review the entirety of defendant’s claim. We review *de novo* the propriety of a court-ordered fine or fee. *People v. Bryant*, 2016 IL App (1st) 140421, ¶ 22.

¶ 10 A defendant, incarcerated on aailable offense who does not supply bail, and against whom a fine is levied, is allowed a credit of \$5-per-day for each day spent in presentence

custody. 725 ILCS 5/110-14(a) (West 2014). Defendant spent 3 days in presentence custody and is, therefore, entitled to up to \$15 in presentence custody credit.

¶ 11 The parties correctly agree that defendant is entitled to use this credit to offset the applicable fines assessed against her. According to her costs order, defendant was assessed a total of \$20 based upon the following fines: a \$10 mental health court fee (55 ILCS 5/5-1101(d-5) (West 2013)); a \$5 youth diversion/peer court fee (55 ILCS 5/5-1101(e) (West 2013)); and a \$5 drug court fee (55 ILCS 5/5-1101(f) (West 2013)). Accordingly, the fines and fees order must be modified to reflect that defendant is entitled to a \$15 reduction in fees, for a total due of \$5.

¶ 12 The parties also agree, as do we, that the \$5 electronic citation fee (705 ILCS 105/27.3e (West 2011)), and the \$5 court system fee (55 ILCS 5/5-1101(a) (2013)) must be vacated, as those fees do not apply to defendant's felony conviction for possession of a controlled substance. See 705 ILCS 105/27.3e (West 2013) (fee assessed "in any traffic, misdemeanor, municipal ordinance, or conservation case upon a judgment of guilty or grant of supervision") and 55 ILCS 5/5-1101(a) (West 2013) (fee assessed for violation of the Illinois Vehicle Code).

¶ 13 In sum, we vacate the \$5 electronic citation fee and the \$5 court systems fee and find that defendant is entitled to have her fees offset by \$15. The fines, fees, and costs order should reflect a new total due of \$2,729. Pursuant to Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967), we direct the clerk of the circuit court to modify the fines, fees, and costs order accordingly. The judgment of the circuit court is affirmed in all other respects.

¶ 14 Affirmed as modified.