2018 IL App (1st) 162389-U

No. 1-16-2389

Order filed December 20, 2018

Fourth Division

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 14271
	)	
RONTEZ ROBINSON,	)	Honorable
	)	Colleen Ann Hyland,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE REYES delivered the judgment of the court.
Justices Gordon and Burke concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's 20-year prison term for home invasion while armed with a dangerous weapon is not excessive where it is within the sentencing range for a Class X felony and reflected the court's consideration of aggravating and mitigating factors. Two charges can be offset by defendant's presentence custody credit. The case is remanded to the trial court for recalculation of the total amount of fines, fees and costs owed.

¶ 2 Pursuant to a non-negotiated guilty plea in 2016, defendant was convicted of home invasion while armed with a dangerous weapon other than a firearm (720 ILCS 5/19-6(a)(1)

(West 2012)) and attempted aggravated criminal sexual assault (720 ILCS 5/8-4(a), 5/11-1.30(a)(4) (West 2012)). The trial court sentenced defendant to concurrent, respective, terms of 20 and 12 years' imprisonment. The court also entered an order imposing various fines and fees. On appeal, defendant contends his 20-year sentence for home invasion is excessive given his lack of a violent criminal history, his family support, his rehabilitative potential and his demeanor at sentencing. He also asserts that the fines, fees, and costs order erroneously categorizes several charges as fees not subject to offset by his monetary credit for time spent in custody prior to sentencing, as opposed to fines that can be offset by that credit. In addition, he argues the total amount owed as listed on the fines, fees, and costs order is incorrect and should be reduced. We affirm defendant's sentence and remand to the trial court for recalculation of the total amount of fines, fees, and costs owed by defendant.

¶ 3 Defendant was charged with multiple counts of home invasion and attempted aggravated criminal sexual assault in connection with a 2014 incident involving a female victim, D.U. On April 2, 2016, defendant pled guilty to one count of each offense. The factual basis of defendant's plea was read, indicating that at 3:45 a.m. on July 19, 2014, D.U. was home alone in her condominium on Ridgeland Avenue in Chicago Ridge. D.U. observed defendant inside her condo when she got up to use the bathroom. When she hid in the bathroom, defendant pushed the door open and threatened her with a knife. Defendant's pants were near his ankles, and he told her he did not want to hurt her but wanted to have sex with her. After D.U. and defendant struggled, defendant fled the condo and was observed by a neighbor. Defendant admitted to his participation in these offenses, and blood on an item of his clothing matched that of D.U.

¶ 4 The trial court accepted defendant's plea. As to the attempted aggravated criminal sexual assault count of which defendant was convicted, the aggravating factor was that the attempted assault occurred during the course of committing the additional felony of home invasion. 720 ILCS 5/11-1.30(a)(4) (West 2012).

¶ 5 At defendant's sentencing hearing, six witnesses testified in aggravation, including the victim. D.U. testified that at the time of these events, she lived alone in a condominium building on Ridgeland Avenue in Chicago Ridge. On July 19, 2014, at about 3:45 a.m., D.U. got out of bed and walked into the hallway toward the bathroom. As she did so, she observed defendant standing inside her condo near her front door. D.U. went into the bathroom and shut the door almost all the way, pushing against it; however, a doorstop prevented the door from completely closing. D.U. screamed and shouted to defendant that he should leave. Defendant stood outside the bathroom door and told her she was in danger and he was there to help her. D.U. continued screaming and pushing the door shut, falling at one point and urinating on the floor.

¶ 6 Defendant pushed himself into the bathroom. Defendant held a butcher knife that D.U. recognized as belonging to her. Defendant told her, several times, "I don't want to hurt you, I just want to f*** you." D.U. grabbed defendant's hand that held the knife, and they struggled for about five minutes. As D.U. tried to prevent defendant from harming her with the knife, he groped her and pulled his pants down to reveal his penis. During their struggle, defendant said he would not hurt her and told her to take her hand off of his hand, which was holding the knife.

¶ 7 Defendant and D.U. continued to struggle and moved into the living room, where she pushed him onto the couch and the knife fell from defendant's hand. As D.U. leaned over to try to pick up the knife, defendant punched her in the face with his fist at least four times. D.U.

grabbed a television remote control and hit defendant over the head with it several times. Defendant walked to the kitchen, and D.U. grabbed two steak knives from a knife block. Defendant called her a "psychotic b****" and ran out of the condo. D.U. locked the door and called police.

¶ 8 D.U. was treated at Palos Community Hospital for multiple hand lacerations that required five stitches. She testified the "entire right side" of her face was swollen, she had a black eye and "multiple earrings" were torn from her ears, which were bleeding. Her lip was also cut. D.U. identified several photographs of her injuries, and those photos were entered into evidence.

¶ 9 D.U. read a victim impact statement to the court, and it was entered into evidence. In her statement, D.U. recounted the events described in her testimony and noted that defendant only ran out the door when she had steak knives in her possession. She also recounted her physical injuries and testified that she missed a week of work due to physical and emotional trauma. D.U. further recounted that, "due to the ongoing stress," she had headaches and stomach issues for a year following the attack.

¶ 10 D.U. explained that, after her encounter with defendant, her condominium had to be cleaned and the carpet replaced due to blood stains. She suffers from anxiety when remembering the attack and can no longer live in the unit, especially because she knew that defendant had a family member living in the same complex. At the time of her statement, D.U. was still paying for insurance, assessments and other expenses, and her credit score was affected. D.U. said the attack took a large emotional toll on her as a person and "seems unceasing." She has difficulty feeling comfortable with men or relaxing in general, is easily startled and sometimes sleeps with a knife nearby. D.U. testified that the incident would affect her for the rest of her life.

¶ 11 Chicago Ridge police officers Jonathan Hill and Tony Layman testified as to the events following the incident. Hill was dispatched to D.U.'s condo and when he arrived, D.U. was crying hysterically. The screen door to her patio had been cut. Layman arrived at the condo later and obtained a description of the offender. Layman also spoke to some of D.U.'s neighbors.

¶ 12 Layman was familiar with defendant and went to a nearby condo where defendant and his mother, Janice Robinson, lived. Defendant told Layman he had been at a nearby bar called The Crossing. Layman obtained surveillance camera footage from the bar in which defendant was wearing clothing consistent with D.U.'s description of the offender.

¶ 13 Defendant was arrested and made a statement that was entered into evidence. In defendant's statement, he said he was with friends at The Crossing and another bar in the early morning hours of July 19, 2014. When the second bar closed at 3 a.m., defendant returned to the condo complex where he lived with his mother. He climbed up to the balcony of D.U.'s unit, which was on the third floor. Defendant did not know D.U.; however, he knew a woman lived there alone because he had seen her and there was only one chair on her balcony.

¶ 14 Once on the balcony, defendant forced open the locked screen door, walked through the unit and made sure D.U. was asleep in the bedroom. Defendant unlocked the front door of the unit so he could escape quickly if necessary. Defendant said he was looking for food and "things to easily steal" and thought he "could get some easy sex." Defendant said he saw D.U. peeking at him from the bathroom and he was "not sure who it was." Defendant took a large knife from the knife block in the kitchen. He entered the bathroom when she opened the door. They struggled as she tried to take the knife from him. Defendant told D.U. he did not want to hurt her, and "may

or may not have told her he wanted to have sex with her." Defendant ran out of the condo after D.U. obtained a knife. He threw his sweatshirt in the garbage because it was blood-stained.

¶ 15 The State then presented three witnesses who testified as to defendant's prior offenses. Katie Rabenda, an assistant Will County state's attorney, testified that in 2013, defendant committed multiple violations of an order of protection, which was a misdemeanor offense, and also violated his subsequent probation. Rabenda testified that the order of protection complainant was Bernice Sainsberry.[1] In the complaint, Sainsberry stated that on July 4, 2013, she argued with defendant about having "girls in his room" and told him to leave.

¶ 16 Rabenda further testified that on July 25, 2013, Sainsberry encountered defendant at an unspecified location and asked him how it was going. Defendant shoved Sainsberry against a wall, put a fist against her neck, and dug his fingernails into her neck. Defendant told her he had decided he was going to stay at the house and have girls in his room and said, "If you f*** with me, me and my homies are going to burn down your house with your retarded kid in it."

¶ 17 Chicago Ridge police detectives Jim Jarolimek and Scott Gutkowski testified as to defendant's juvenile adjudications and adult misdemeanor convictions. In August 2004, when defendant was a juvenile, he committed a residential burglary in which he forced his way into a home and took food, drink and a compact disc. Also in August 2004, defendant admitted to setting two additional fires in residential buildings. In one incident, he set a carpet on fire in a building where his friend lived. Defendant told Jarolimek that he set the fire because he was bored and was carrying a lighter. In September 2004, defendant admitted to starting a fire at a

[1] Janice Robinson, defendant's mother, would later testify that as a juvenile, defendant was in the care of the Illinois Department of Children and Family Services (DCFS) for some time and that defendant lived with Sainsberry, a DCFS employee.

park by igniting a wooden sign and a tree using WD-40. In 2005, defendant admitted to being a lookout for a residential burglary in Chicago Ridge.

¶ 18 Defendant's mother and half-brother testified in mitigation. Janice Robinson testified that she and her oldest son, Eugene Walker, resided in the condo complex where the instant offenses occurred. Robinson said that when defendant was about 12 years old, he began to break his curfew, sneak out of the house and was arrested. Due to his behavioral issues, defendant was placed in DCFS custody. Robinson continued to see defendant, who lived with her "on and off." Defendant did not display any violent or inappropriate sexual behavior.

¶ 19 When the instant offenses took place in 2014, defendant had just secured a job and was working to attain a high school equivalency degree. Robinson said she was aware defendant was going to prison but that she would support him upon his release.

¶ 20 Walker testified he is 10 years older than defendant and they have different fathers. According to Walker, defendant's father was never in defendant's life. Defendant, as a boy, was playful, loving and not violent. As a teen, defendant was often unsupervised because Walker and their mother were working. Although Walker acknowledged being aware of defendant's earlier offenses when they occurred, Walker expressed shock at the current offense and said he would visit defendant in prison and continue to be in his life.

¶ 21 In aggravation, the State pointed to the predatory nature of the crime, noting defendant targeted D.U. as a woman who lived alone. The State argued the only reason she was not sexually assaulted was her act of fighting back against defendant. The State also recounted several of defendant's prior offenses and asked the court to impose the maximum Class X term of 30 years in prison.

¶ 22 In response, defense counsel argued no harm resulted from defendant's juvenile offenses and no evidence was presented that defendant was stalking the victim. Counsel also noted the testimony as to defendant's childhood and requested a sentence of between 12 and 15 years in prison.

¶ 23 In allocution, defendant noted the seriousness of the charges and requested leniency from the court. As to his family, defendant said he was three years old when his father left. At age six, defendant was diagnosed with attention deficit hyperactivity disorder, among other conditions. He testified that after being placed in DCFS custody at age 12, he made "terrible decisions," including drinking and drug use. Defendant remained in DCFS care until he turned 21 in 2013. Defendant expressed remorse and apologized to D.U., his mother, the court, the prosecution and the community, saying he was not a bad person and had potential but had made poor choices.

¶ 24 In imposing defendant's sentence, the court noted its consideration of the presentence investigation (PSI) report and the evidence presented in aggravation and mitigation, as well as defendant's statement. According to the PSI report, defendant's juvenile history included the 2004 adjudication for residential burglary for which he received five years of probation. Defendant was sentenced to home confinement for committing criminal damage to property later in 2004. Defendant went on to violate his probation numerous times between 2004 and 2009. As an adult offender, defendant violated the Sainsberry order of protection in 2013 and received conditional discharge, which was later revoked.

¶ 25 The court indicated that it would consider in mitigation of defendant's sentence numerous statutory sentencing factors, set out in section 5-5-3.1 of the Unified Code of Corrections (730 ILCS 5/5-5-3.1 (West 2012)). These factors included whether; defendant's criminal conduct

neither caused nor threatened serious physical harm to another; he contemplated that fact; he acted under a strong provocation or if substantial grounds existed to excuse or justify his conduct; his criminal conduct was induced or facilitated by someone other than himself; he had no history or prior delinquency or criminal activity; his conduct was the result of circumstances that were unlikely to recur; the character and attitudes of defendant indicate he is unlikely to commit another crime; and he was particularly likely to comply with the terms of probation.

¶ 26 After concluding none of those mitigating factors applied, the court found defendant's conduct caused physical harm to D.U. after he acted deliberately to reach and enter her condo. The court recounted portions of defendant's juvenile criminal history, including his adjudications for criminal damage to property and residential burglary. The court found that defendant had violated his probation at least six times.

¶ 27 The court also reviewed defendant's adult criminal history, which included a 2009 conviction for possession of cannabis for which he received court supervision. The court noted defendant's history included "other allegations of threatening individuals," namely his violation of the order of protection as to Sainsberry and his threat to burn down her house with her child inside. The court pointed out that defendant's criminal history demonstrated he "has had in his short life more contact with the criminal justice system than most people have in a lifetime."

¶ 28 The court said it would balance those facts with the statements of support by defendant's family members and that it had considered defendant's own statement. After indicating it had balanced the aggravating and mitigating factors, the court sentenced defendant to 20 years in prison for home invasion and a concurrent term of 12 years for attempted aggravated criminal sexual assault. The court imposed $749 in fines and fees.

¶ 29 Defendant filed a motion to reconsider sentence, arguing, *inter alia*, that his sentence was excessive in light of his criminal background and the nature of his participation in the offense. In denying defendant's motion, the court stated it considered the facts of the case, which it deemed "egregious and serious" and noted its balancing of defendant's background and criminal history with the mitigating factors and the testimony at the sentencing hearing. The court ended by pointing out that defendant's sentence was well within the applicable sentencing range.

¶ 30 On appeal, defendant first contends the trial court abused its discretion in imposing a 20-year sentence for home invasion. In setting forth that argument, defendant notes the sentencing range of between 6 and 30 years for a Class X felony but argues his 20-year term is excessive given his lack of a significant or violent criminal history, including the absence of any adult felony convictions. Defendant also emphasizes the support exhibited by his family members as well as his rehabilitative potential, and points out that in his remarks to the court, he took responsibility for the offenses he committed and expressed remorse for his actions.

¶ 31 The Illinois Constitution requires that a trial court impose a sentence that reflects both the seriousness of the offense and the objective of restoring the defendant to useful citizenship. Ill. Const. 1970, art. I, § 11; *People v. McWilliams*, 2015 IL App (1st) 130913, ¶ 27. In reaching this balance, a trial court must consider a number of aggravating and mitigating factors, including the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Alexander*, 239 Ill. 2d 205, 213 (2010). In reviewing a defendant's sentence, this court will not reweigh the factors and substitute its judgment for that of the trial court merely because it would have weighed the factors differently. *People v. Busse*, 2016 IL App (1st) 142941, ¶ 20. Because the trial court is in a better position than the reviewing court to weigh the

relevant sentencing factors its sentencing determination is entitled to great deference and will not be reversed on appeal absent an abuse of discretion. *People v. Cunningham*, 2018 IL App (4th) 150395, ¶ 48; *People v. Barnes*, 2017 IL App (1st) 143902, ¶ 91.

¶ 32 At the outset, we note, as the trial court did in imposing defendant's 20-year term, that his sentence is well within the applicable range for a Class X felony. See 730 ILCS 5/5-4.5-25 (West 2012) (the sentencing range for that offense is 6 to 30 years in prison). A sentence within the statutory range is presumed to be proper and will not be deemed excessive unless it greatly varies from the spirit or purpose of the law or is "manifestly disproportionate to the nature of the offense." *Cunningham*, 2018 IL App (4th) 150395, ¶ 48 (quoting *People v. Harris*, 2015 IL App (4th) 140696, ¶ 55); *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46. In order to overcome this presumption and prevail on his argument, defendant "must make an affirmative showing [that] the sentencing court did not consider the relevant factors." *People v. Burton*, 2015 IL App (1st) 131600, ¶ 38.

¶ 33 Defendant cannot make such a showing here because the record reflects that the court considered all evidence in mitigation. In imposing a sentence of 20 years—a term which is only two years greater than the 18-year midpoint of the Class X sentencing range and 10 years lower than the maximum possible term—the court expressly stated it had considered all factors in aggravation and mitigation, as well as the defendant's PSI report and his statement in allocution. See *People v. Bryant*, 2016 IL App (1st) 140421, ¶ 19.

¶ 34 Although defendant points to his lack of adult felony convictions, his criminal record includes numerous juvenile offenses and misdemeanor adult convictions that were recounted for the court and detailed in his PSI report. At sentencing, the court restated some of defendant's

convictions and noted he had violated his probation numerous times. Where, as here, a defendant has a number of prior criminal convictions or adjudications, the trial court does not abuse its discretion in imposing a longer term where it appears the previous sentences had no rehabilitative or deterrent impact. See *People v. Nesbit*, 2016 IL App (3d) 140591, ¶ 68; *People v. Etherton*, 2017 IL App (5th) 140427, ¶ 28 (the seriousness of the offense is one of the most important factors for the court to consider and the spirit and purpose of the law are promoted when the trial court's sentence reflects both the seriousness of the offense and gives sufficient consideration to the defendant's rehabilitative potential). Additionally, even though defendant had no prior felony convictions as an adult, his juvenile offenses include crimes that threatened physical harm to the public, such as setting a fire in an occupied building.

¶ 35 Defendant emphasizes several other factors that would support a lower sentence, including his family members' vows to assist him, his rehabilitative potential and his statement in allocution. Defendant's mother and brother testified before the court. If evidence has been offered in mitigation of a defendant's sentence, a reviewing court presumes that the trial court took that evidence into consideration, absent a contrary indication. *Etherton*, 2017 IL App (5th) 140427, ¶ 29. Here, there is no such contrary indication. Indeed, the trial court expressly stated that it considered the statements of defendant's family along with aggravating factors such as his criminal history. Given this record, defendant's argument is, essentially, asking us to reweigh the sentencing factors and substitute our judgment for that of the trial court. As mentioned, this we cannot do. See *Busse*, 2016 IL App (1st) 142941, ¶ 20 (a reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently).

¶ 36 Furthermore, in imposing a sentence, the trial court is not required to give greater weight to the defendant's rehabilitative potential, or to any mitigating factor, than it gives to the seriousness of the offense. *People v. Whitfield*, 2014 IL App (1st) 123135, ¶ 41; *People v. Smith*, 362 Ill. App. 3d 1062, 1090 (2005). In this case, the court noted the nature of the offense, which it appropriately characterized as "egregious and serious." To review the testimony of the victim, defendant entered D.U.'s third-floor residence in the middle of the night, threatened to sexually assault her and attacked her with a knife. Defendant left the residence only after D.U. obtained a knife to defend herself. D.U. sustained multiple injuries and continued to experience anxiety at the time of trial as a result of this crime. The trial court did not abuse its discretion in sentencing defendant to 20 years in prison for home invasion.

¶ 37 Defendant's remaining contentions involve the trial court's imposition of various fines and fees as part of its judgment. He contends the order lists seven charges as fees that are, in fact, fines that can be offset by his monetary credit for days spent in custody prior to sentencing.

¶ 38 These arguments pertain to the $5 credit to which a defendant is entitled for each day he is incarcerated; that amount is put toward the fines levied against him as part of his conviction. 725 ILCS 5/110-14(a) (West 2012). In this case, the trial court granted defendant credit for 700 days spent in custody. Thus, at $5 per day, defendant accumulated $3,500 worth of credit that could potentially be applied toward his eligible fines.

¶ 39 This credit can be applied only to fines, and not fees. A "fee" is "a charge that seeks 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. Graves*, 235 Ill. 2d 244, 250 (2009) (citing *People v. Jones*, 223 Ill. 2d 569, 582 (2006)). In contrast, a "fine" is

"punitive in nature" and is "a pecuniary punishment imposed as a part of a sentence on a person convicted of a criminal offense." (Internal quotation marks omitted.) *Graves*, 235 Ill. 2d at 250, citing *Jones*, 223 Ill. 2d at 581, quoting *People v. White*, 333 Ill. App. 3d 777, 781 (2002). The labeling of a charge as a "fee" or a "fine" by the legislature is not dispositive. *Graves*, 235 Ill. 2d at 250-51 ("the most important factor is whether the charge seeks to compensate the state for any costs incurred in prosecuting the defendant").

¶ 40 Defendant did not challenge the characterization of these charges as "fees" in the trial court, but asserts, citing *People v. Woodard*, 175 Ill. 2d 435, 444-48 (1993), that he can request for the first time on appeal that his credit be applied against the charges. The State does not argue that defendant forfeited these issues; rather, the State addresses defendant's arguments on their respective merits. Thus, the State has waived the defendant's forfeiture. See *People v. Bridgeforth*, 2017 IL App (1st) 143637, ¶ 46; *People v. Reed*, 2016 IL App (1st) 140498, ¶ 13. We therefore address the merits of his claims. This court reviews the imposition of fines and fees *de novo*. *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 68.

¶ 41 The State correctly concedes that two charges are fines to which defendant's presentence custody credit can be applied. This court has held that the $50 Court System charge (55 ILCS 5/5-1101(c)(1) (West 2012)) is a fine. See *Reed*, 2016 IL App (1st) 140498, ¶ 15; *People v. Blanchard*, 2015 IL App (1st) 132281, ¶ 22. This court held in *People v. Smith*, 2013 IL App (2d) 120691, ¶¶ 17-21, that charge was punitive because its amount depends on the degree of a defendant's offense. See also *Graves*, 235 Ill. 2d at 253 (costs assessed under section 5-1101 of the Counties Code are "monetary penalties to be paid by a defendant" upon a judgment of guilty). The State also concedes the $15 State Police Operations charge (705 ILCS 105/27.3a-1.5

(West 2012)) is a fine subject to offset. See *People v. Jackson*, 2018 IL App (1st) 150487, ¶ 61; *People v. Brown*, 2017 IL App (1st) *150146*, ¶ 74; *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31 (that charge is a fine because it does not reimburse the State for costs incurred in the defendant's prosecution). Accordingly, defendant's presentence custody credit should be applied to offset those two charges totaling $65.

¶ 42 Defendant next argues that five additional charges are fines: the $190 felony complaint fee (705 ILCS 105/27.2a(w) (West 2012)); the $25 clerk automation fee (705 ILCS 105/27.3a(1), (1.5) (West 2012)); the $15 document storage fee (705 ILCS 105/27.3c(a) (West 2012)); 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)).

¶ 43 As defendant acknowledges, the applicability of presentence custody credit to those charges is currently before the Illinois Supreme Court in *People v. Clark*, 2017 IL App (1st) 150740-U, ¶¶ 21-23, *appeal allowed*, No. 122495 (Sept. 27, 2017), in which this court held the credit does not apply to offset those charges. Numerous other appellate court decisions have addressed these assessments and found them to be fees. *People v. Smith*, 2018 IL App (1st) 151402, ¶¶ 15-16 (felony complaint charge and clerk's automation and document storage charges, along with the State's Attorney and Public Defender automation fund assessments, are fees, not fines, because they "represent part of the costs incurred for prosecuting a defendant" and compensate departments for expenses incurred while prosecuting and defending cases); See also *Brown*, 2017 IL App (1st) 150146, ¶ 38 (collecting cases); *People v. Larue*, 2014 IL App (4th) 120595, ¶¶ 62-68 (felony complaint filing, clerk's automation and document storage charges are fees); *Bowen*, 2015 IL App (1st) 132046, ¶¶ 62-65 (finding "no reason to

distinguish" between the State's Attorney and Public Defender automation fund charges and concluding they are fees that reimburse those offices for expenses); *contra People v. Camacho*, 2016 IL App (1st) 140604, ¶¶ 47-56 (the State's Attorney and Public Defender assessments are fines because they do not compensate the State for any costs associated in prosecuting a particular defendant). We continue to follow *Clark, Smith* and the other cases that have found the felony complaint charge, the clerk's automation and document storage charges, and the State's Attorney and Public Defender assessments are fees not subject to offset by a defendant's presentence custody credit.

¶ 44 Defendant's remaining contention is that the fines and fees order features a handwritten total of $749 but, he asserts, the listed charges only add up to $739. Defendant asks this court to "modify the judgment to reflect a total of all assessments of $739[.]" The State does not address this argument.

¶ 45 After reviewing the record, we cannot determine whether the trial court's order contains a mathematical error. All of the dollar amounts listed cannot be attributed to a particular charge, and the total amount of charges imposed does not add up to either $739 or $749. Moreover, the order states that the total amount should be reduced by $80, applying the presentence credit to offset fines that are not disputed in this appeal. The trial court retains jurisdiction "to correct nonsubstantial matters of inadvertence or mistake." *People v. Nelson*, 2016 IL App (4th) 140168, ¶ 39; see also *People v. Coleman*, 2017 IL App (4th) 160770, ¶ 22 (distinguishing mathematical errors from the determination of presentence credit). Therefore, we remand to the trial court for recalculation of the total amount owed pursuant to our instructions.

¶ 46 In conclusion, the $50 court system charge and $15 State Police Operations assessment are fines that should be offset by defendant's presentence custody credit. We remand to the trial court for recalculation of the total amount owed and for the application of defendant's presentence custody credit to be applied to that total. The trial court's judgment is affirmed in all other respects.

¶ 47 Affirmed; remanded with instructions.