

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).

2018 IL App (4th) 160131-U

NO. 4-16-0131

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 6, 2018
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Adams County
SHAWN L. SCHRODER,)	No. 14CF628
Defendant-Appellant.)	
)	Honorable
)	Robert K. Adrian,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Holder White and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court vacated the fines improperly imposed against defendant.

¶ 2 In December 2015, the trial court found defendant, Shawn L. Schroder, guilty of unlawful possession of methamphetamine precursors without a prescription. The court sentenced him to 18 months in prison and imposed various fines and fees.

¶ 3 On appeal, defendant argues the trial court erred in assessing certain fines. We agree and vacate the improperly imposed fines.

¶ 4 I. BACKGROUND

¶ 5 In November 2014, the State charged defendant by information with three counts of unlawful possession of methamphetamine precursors without a prescription (720 ILCS 646/120 (West 2014)). The State alleged defendant knowingly purchased or possessed products

containing pseudoephedrine without a prescription and he had been previously convicted of unlawful possession of methamphetamine. Defendant pleaded not guilty.

¶ 6 In December 2015, the State moved to dismiss two counts, and the parties agreed to proceed with a stipulated bench trial. The State asked the trial court to take judicial notice of defendant's prior felony conviction for unlawful participation in methamphetamine production. If the case proceeded to trial, the State's evidence indicated defendant's National Precursor Log Exchange (NPLeX) record would show he purchased pseudoephedrine pills from Brown Drug Company on January 8, 2014. The State would also call the company's owner, who would testify that a purchaser's information would be entered into the NPLeX if the purchaser did not have a prescription for pseudoephedrine.

¶ 7 The trial court found defendant guilty. Following the court's ruling, the State sought leave to amend the sole remaining count that defendant had been previously convicted of, which was unlawful participation in methamphetamine production, not unlawful possession of methamphetamine.

¶ 8 In February 2016, the trial court sentenced defendant to 18 months in prison and imposed various fines and fees, including \$100 for methamphetamine law enforcement, \$100 for the trauma fund, \$5 for the spinal cord fund, \$25 for criminal justice information projects, \$20 for prescription pill and drug disposal, and \$10 for Crime Stoppers. This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 Defendant argues the trial court erred in assessing various fines. The State concedes, and we agree.

¶ 11 The propriety of the imposition of fines and fees presents a question of law, which we review *de novo*. *People v. Guja*, 2016 IL App (1st) 140046, ¶ 69, 51 N.E.3d 970.

¶ 12 In the case *sub judice*, the trial court imposed a \$100 fine for methamphetamine law enforcement pursuant to section 5-9-1.1-5 of the Unified Code of Corrections (Unified Code) (730 ILCS 5/5-9-1.1-5 (West 2014)), which provides, in part, as follows:

“When a person has been adjudged guilty of a methamphetamine related offense involving possession or delivery of methamphetamine or any salt of an optical isomer of methamphetamine or possession of a methamphetamine manufacturing material as set forth in Section 10 of the Methamphetamine Control and Community Protection Act with the intent to manufacture a substance containing methamphetamine or salt of an optical isomer of methamphetamine, in addition to any other penalty imposed, a fine shall be levied by the court at not less than the full street value of the methamphetamine or salt of an optical isomer of methamphetamine or methamphetamine manufacturing materials seized.

(b) In addition to any penalty imposed under subsection (a) of this Section, a fine of \$100 shall be levied by the court, the proceeds of which shall be collected by the Circuit Clerk *** for deposit into the Methamphetamine Law Enforcement Fund[.]”

¶ 13 This court has noted a defendant is eligible for this fine only if (1) he possesses or delivers methamphetamine or (2) the trial court finds he intended to manufacture methamphetamine with the pseudoephedrine in his possession. *People v. Lewis*, 2016 IL App

(4th) 140852, ¶ 18, 78 N.E.3d 967. Here, the trial court did not find defendant guilty of possession or delivery of methamphetamine. Moreover, the court never made a finding that defendant had the intent to manufacture methamphetamine with the pseudoephedrine in his possession. Thus, as defendant was not eligible for this \$100 fine, it must be vacated.

¶ 14 The trial court also imposed various fines for drug-related offenses pursuant to section 5-9-1.1 of the Unified Code (730 ILCS 5/5-9-1.1 (West 2014)), which states, in part, as follows:

“When a person has been adjudged guilty of a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance, other than methamphetamine *** , in addition to any other penalty imposed, a fine shall be levied by the court at not less than the full street value of the cannabis or controlled substances seized.”

In addition to any penalties imposed under the above language, the section authorizes a \$100 fine for the trauma center fund; \$5 for the spinal cord injury paralysis cure research trust fund; \$25 for the criminal justice information projects fund; and \$20 for, in part, the prescription pill and drug disposal fund. 730 ILCS 5/5-9-1.1(b)-(c), 5-9-1.1(e)-(f) (West 2014). Section 5-9-1.1 of the Unified Code authorizes the stated fines for those convicted of possession or delivery of cannabis or a controlled substance, other than methamphetamine. 730 ILCS 5/5-9-1.1 (West 2014). As defendant was not convicted of possessing or delivering cannabis or a controlled substance, these fines must be vacated.

¶ 15 Defendant also argues the trial court improperly assessed a \$10 Crime Stoppers fine pursuant to section 5-6-3(b)(13) of the Unified Code (730 ILCS 5/5-6-3(b)(13) (West

2014)), which pertains to conditions of probation and conditional discharge. When considering this section, this court has found the imposition of a fine inappropriate “when a sentence of incarceration is imposed.” *People v. Beler*, 327 Ill. App. 3d 829, 837, 763 N.E.2d 925, 931 (2002). As defendant received a sentence of imprisonment here, this assessment is void and must be vacated.

¶ 16

III. CONCLUSION

¶ 17 For the reasons stated, we vacate the fines improperly imposed against defendant. We otherwise affirm the trial court’s judgment.

¶ 18 Affirmed in part and vacated in part.