

2019 IL App (1st) 160645-U

No. 1-16-0645

Order filed January 15, 2019

Second Division

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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|----------------------------------|---|-------------------|
| PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the   |
|                                  | ) | Circuit Court of  |
| Plaintiff-Appellee,              | ) | Cook County.      |
|                                  | ) |                   |
| v.                               | ) | No. 14 CR 21355   |
|                                  | ) |                   |
| RODNEY REYNOLDS,                 | ) | Honorable         |
|                                  | ) | Raymond Myles,    |
| Defendant-Appellant.             | ) | Judge, presiding. |

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PRESIDING JUSTICE MASON delivered the judgment of the court.  
Justices Lavin and Pucinski concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's fines and fees order corrected.

¶ 2 Following a bench trial, defendant Rodney Reynolds was found guilty of possession of a controlled substance with intent to deliver between 1 and 15 grams of heroin, delivery of less than one gram of heroin within 1000 feet of a park, and delivery of less than one gram of heroin. Reynolds was sentenced to four years in prison for his conviction of possession of a controlled substance with intent to deliver between 1 and 15 grams of heroin and to a concurrent four-year

sentence for the delivery of less than one gram of heroin within 1000 feet of a park conviction. On appeal, Reynolds raises no claims of error regarding his trial or sentence; rather, he challenges only the imposition of certain fines and fees.

¶ 3 At the time that the trial court sentenced Reynolds, it also assessed fines, fees and costs totaling \$2569. Reynolds was also awarded 451 days of presentence custody credit.

¶ 4 Reynolds acknowledges that he did not challenge the fines and fees order in the trial court. These issues, are, therefore, forfeited. See *People v. Smith*, 2018 IL App (1st) 151402, ¶ 4 (citing *People v. Hillier*, 237 Ill. 2d 539, 544 (2010)). Reynolds, however, requests that we review his claims under the plain error doctrine. He also argues that this issue may be raised for the first time on appeal, citing *People v. Woodard*, 175 Ill. 2d 435, 457 (1997), and that we have the authority to modify the fines and fees order without remand pursuant to Illinois Supreme Court Rule 615(b) (eff. Aug. 27, 1999).

¶ 5 The State responds that Reynolds has forfeited his claims by failing to raise them in the trial court. The State does then address the merits of Reynolds's claims "should this Court review [defendant's contentions] for second-prong plain error as defendant requests."

¶ 6 We disagree with Reynolds that his challenge to the fines and fees order is reviewable under plain error or that we may review these unpreserved errors under Rule 615(b). Reynolds does not claim that the trial court failed to provide a fair process for determining his fines and fees. "Therefore, his complained-of errors do not affect substantial rights and are not reviewable under the plain error doctrine." *Smith*, 2018 IL App (1st) 151402, ¶ 5. "Rule 615(b) likewise provides no stand-alone basis for modification of the fines and fees order, as it must be read in conjunction with subsection (a)'s mandate that errors not affecting substantial rights 'shall be

disregarded.’ ” *Id.* (quoting Ill. S. Ct. R. 615(a)). See also *People v. Grigorov*, 2017 IL App (1st) 143274, ¶¶ 13-14; *People v. Griffin*, 2017 IL App (1st) 143800, ¶ 9, *pet. for leave to appeal granted*, No. 122549 (Nov. 22, 2017).

¶ 7 However, “forfeiture is a limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just result.” *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65. We note the State generally fails to argue that a defendant has forfeited his or her right to challenge the assessment of fines and fees and so its invocation of forfeiture here is on the norm. Moreover, considering that Reynolds would not be able to challenge his fines and fees order in a collateral proceeding in the same way that he can in his direct appeal, in the interest of judicial economy, we will address the merits of his claims. See *People v. Brown*, 2017 IL App (1st) 150203, ¶ 40 (determining that a defendant “cannot resurrect issues on the merits of those assessments (which would have been properly raised, if preserved, in his direct appeal) under the guise of applying for the ministerial correction of a mathematical calculation”). The propriety of court-ordered fines and fees is reviewed *de novo*. *People v. Price*, 375 Ill. App. 3d 684, 697 (2007).

¶ 8 The parties agree, as do we, that the \$5 electronic citation fee (705 ILCS 105/27.3e (West 2014)), must be vacated as this assessment does not apply in felony cases.

¶ 9 Reynolds next contends that he is entitled to use presentence custody credit to offset certain fines. Reynolds is potentially entitled to a \$2255 credit based upon 451 days spent in presentence custody. See 725 ILCS 5/110-14(a) (West 2014).

¶ 10 The State concedes that the \$15 State Police operations fee (705 ILCS 105/27.3a(1.5) (West 2014)), and the \$50 court system fee (55 ILCS 5/5-1101(c)(1) (West 2014)), are fines

subject to be offset by Reynolds's presentence custody credit. We agree. *People v. Ackerman*, 2014 IL App (3d) 120585, ¶ 30 (concluding that the court system fee is actually a fine); *People v. Milsap*, 2012 IL App (4th) 110668, ¶ 31 ("the State Police operations assistance fee is also a fine"). Accordingly, both assessments should be offset by Reynolds's presentence custody credit.

¶ 11 In *People v. Clark*, 2018 IL 122495, our supreme court found that the remaining assessments challenged by Reynolds—the \$190 felony complaint filing fee (705 ILCS 105/27.2a(w)(1)(A) (West 2014)), the \$15 automation (clerk) fee (705 ILCS 105/27.3a(1) (West 2014)), the \$15 document storage (clerk) fee (705 ILCS 105/27.3c(a) (West 2014)), the \$2 public defender records automation fee (55 ILCS 5/3-4012 (West 2014)), and the \$2 State's Attorney records automation fee (55 ILCS 5/4-2002.1(c) (West 2014))—are fees not offset by the *per diem* credit. *Id.* ¶¶ 22 (public defender records automation charge), 27 (state's attorney records automation fee), 34 (felony complaint filing fee), 41 (court automation fee). Consequently, Reynolds is not entitled to offset these assessments with the *per diem* credit.

¶ 12 For the reasons stated above, we vacate \$5 Electronic Citation fee. We order the circuit court to correct Reynolds's fines and fees order to reflect that the \$15 State Police operations fee and the \$50 court system fee are offset by Reynolds's presentence custody credit and the vacation of the \$5 Electronic Citation fee. We further direct the circuit court on remand to calculate the assessments remaining after applying the *per diem* credit. Given the "lasting repercussions" of unpaid fines and fees on criminal defendants (*People v. Smith*, 2018 IL App (1<sup>st</sup>) 151402, ¶ 9), Reynolds is entitled to an order clearly setting forth the assessments remaining after calculation of his *per diem* credit.

¶ 13 Affirmed; fee vacated; remanded with directions.