

2019 IL App (1st) 162409-U

No. 1-16-2409

Modified Upon Denial of Rehearing June 3, 2019

First 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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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 15 CR 20344
	)	
CORNELL DOTSON,	)	Honorable
	)	Maura Slattery Boyle,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE WALKER delivered the judgment of the court.  
Presiding Justice Mikva and Justice Griffin concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm defendant's conviction and sentence, and remand to the trial court for consideration of defendant's fines and fees claim pursuant to Illinois Supreme Court Rule 472 (eff. May 17, 2019).

¶ 2 Defendant Cornell Dotson was charged with one count of possession of between 1 and 15 grams of heroin with intent to deliver within 1000 feet of a school (720 ILCS 570/401(c)(1), 407(b)(1) (West 2014)). Prior to defendant's bench trial, the State struck language from the information alleging the offense occurred within 1000 feet of a school. The trial court found

defendant guilty of the lesser included offense of possession of a controlled substance (720 ILCS 570/402(c) (West 2014)), and sentenced him to 3½ years' imprisonment. On appeal, defendant raises no claims of error regarding his trial or sentence, but challenges only certain assessed fines and fees. We affirm defendant's conviction and sentence, and remand to the trial court for consideration of defendant's fines and fees claim pursuant to Illinois Supreme Court Rule 472 (eff. May 17, 2019).

¶ 3

### BACKGROUND

¶ 4 The evidence at trial established that on November 20, 2015, a Chicago police officer observed defendant approach a group of people near a vacant lot, accept currency from three of the people, and hand them small items in return. The group disbursed and two officers approached defendant, who acknowledged having a bag of cannabis. The officers arrested and searched him, discovering 12 Ziplock bags of suspect heroin, 20 Ziplock bags of suspect crack cocaine, and \$53. An evidence technician tested the contents of the 12 bags of suspect heroin, and determined they were positive for heroin and weighed four grams.

¶ 5 The trial court found defendant guilty of possession of a controlled substance and sentenced him to 3½ years' imprisonment. Defendant's mittimus reflected 260 days of presentence custody, but the fines, fees, and costs order, which assessed \$1094, did not reflect *per diem* monetary credit for time served.

¶ 6

### ANALYSIS

¶ 7 On appeal, defendant contends his fines, fees, and costs order should be corrected in several respects. Specifically, he claims the \$100 Methamphetamine Law Enforcement Fund Fee (730 ILCS 5/5-9-1.1-5(b) (West Supp. 2015)), \$5 Electronic Citation Fee (705 ILCS 107.27.3e

(West 2014)), and \$5 Court System Fee (55 ILCS 5/5-1101(a) (West 2014)) were wrongly assessed, and that he should receive presentence custody credit against the \$15 State Police Operations charge (705 ILCS 105/27.3a(1.5) (West 2014)), and the \$50 Court System charge (55 ILCS 5/5-1101(c) (West 2014)).

¶ 8 On February 26, 2019, while this appeal was pending, our Supreme Court adopted new Illinois Supreme Court Rule 472, which sets forth the procedure in criminal cases for correcting sentencing errors in, as relevant here, the “imposition or calculation of fines, fees, and assessments or costs” and “application of *per diem* credit against fines.” Ill. S. Ct. R. 472(a)(1), (2) (eff. Mar. 1, 2019). Subsequently, on May 17, 2019, Rule 472 was amended to provide that “[i]n all criminal cases pending on appeal as of March 1, 2019, or appeals filed thereafter in which a party has attempted to raise sentencing errors covered by this rule for the first time on appeal, the reviewing court shall remand to the circuit court to allow the party to file a motion pursuant to this rule.” Ill. S. Ct. R. 472(e) (eff. May 17, 2019). “No appeal may be taken” on the ground of any of the sentencing errors enumerated in the rule unless that alleged error “has first been raised in the circuit court.” Ill. S. Ct. R. 472(c) (eff. May 17, 2019). Therefore, pursuant to Rule 472, we “remand to the circuit court to allow [defendant] to file a motion pursuant to this rule,” raising the alleged errors regarding his fines and fees and the application of *per diem* presentence custody credit. Ill. S. Ct. R. 472(e) (eff. May 17, 2019).

¶ 9

#### CONCLUSION

¶ 10 Affirmed; remanded for consideration of defendant’s fines and fees claim.