

**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).

2019 IL App (4th) 160704-U

NO. 4-16-0704

**FILED**  
March 12, 2019  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
GERMEL A. BUTLER,	)	No. 15CF1341
Defendant-Appellant.	)	
	)	Honorable
	)	Jeffrey B. Ford,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.  
Justices Cavanagh and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant’s argument alleging the trial court erred in not specifying how defendant’s monetary custody credit should be applied is moot.

¶ 2 On August 15, 2016, after revoking defendant Germel A. Butler’s probation, the trial court sentenced defendant to 4 years and 6 months in prison with credit for 244 days served. The court ordered defendant to pay all outstanding financial obligations previously imposed and all other fines, fees, and costs authorized by statute. Defendant received \$880 in credit for 176 days he spent in presentence custody. On September 26, 2016, the court entered an amended sentencing order, finding defendant was entitled to 287 days, not 244 days, credit against his prison sentence. Defendant appeals, arguing the court erred by not specifying how his monetary presentence custody credit should be applied toward the fines imposed against him. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 On December 28, 2015, the trial court entered an order accepting defendant's guilty plea to retail theft with a prior forgery conviction. On February 22, 2016, defendant was ordered to serve a period of 30 months' probation pursuant to the Champaign County Drug Court Probation program. Defendant was given credit for 117 days served. The court also entered a written order requiring defendant to pay various fines and fees. Defendant was provided \$585 in presentence custody credit for 117 days.

¶ 5 On June 8, 2016, the State filed a petition to revoke defendant's probation, alleging defendant committed the offense of unlawful possession with intent to deliver cannabis (more than 10 but not more than 30 grams of a substance containing cannabis) (720 ILCS 550/5(c) (West 2014)). On June 29, 2016, the trial court found defendant violated his probation. On August 15, 2016, the court sentenced defendant to 4 years and 6 months in prison with credit for 244 days previously served. The court ordered defendant to pay all outstanding financial obligations previously imposed and all other fines, fees, and costs as authorized by statute. Defendant received \$880 in monetary credit for 176 days he spent in custody.

¶ 6 On September 13, 2016, defendant filed a motion to reconsider or correct his sentence, in part arguing he was entitled to credit for additional days served. On September 26, 2016, the trial court entered an amended sentencing judgment, finding defendant was entitled to credit against his sentence for 287 days he previously served. This did not change the amount of monetary credit he was eligible to receive.

¶ 7 This appeal followed.

¶ 8

## II. ANALYSIS

¶ 9 In defendant's opening brief, he argued this case should be remanded so the trial court could instruct the circuit clerk how to apply defendant's \$585 in credit against the assessments imposed by the court. According to defendant, the court "should specifically delineate which fines are subject to the \$5 credit so that the clerk does not have to guess."

¶ 10 The State noted the trial court awarded defendant \$585 in credit in its February 22, 2016, order granting defendant probation. Defendant violated his probation and was resentenced. When resentenced, the trial court ordered defendant to pay the fines previously imposed and allowed defendant a credit of \$880. As a result, we lack jurisdiction to review the February 22, 2016, order. *People v. Speed*, 318 Ill. App. 3d 910, 915, 743 N.E.2d 1084, 1087 (2001).

¶ 11 In his reply brief, defense counsel notes he cited the wrong date for the court order defendant is appealing. According to defense counsel, this court has jurisdiction over the final order entered on September 26, 2016. The notice of appeal correctly notes defendant is appealing the trial court's September 26, 2016, final order. Defense counsel argues his analysis of the issues is still the same. We do have jurisdiction over the trial court's September 26, 2016, final order. *People v. Rexroad*, 2013 IL App (4th) 110981, ¶ 43, 992 N.E.2d 3.

¶ 12 Regardless, the State contends defendant's argument the trial court erred by not instructing the circuit clerk how it should distribute defendant's monetary custody credit is moot. The State notes the \$880 credit defendant received was sufficient to cover all the fines he was ordered to pay, even including defendant's Violent Crimes Victims Assistance Fund (VCVA) fine and arrestee's medical fine to which the credit cannot be applied. See 725 ILCS 240/10(c) (West 2014) (VCVA fine); 730 ILCS 125/17 (West 2014) (arrestee's medical fine). Defendant does not contest this point in his reply brief.

