2016 IL App (1st) 142484-U

FIFTH DIVISION
DECEMBER 16, 2016

No. 1-14-2484

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 C6 61418
	)	
CLIFTON REYNOLDS,	)	Honorable
	)	Michele Pitman,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE GORDON delivered the judgment of the court.
Justices Lampkin and Reyes concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendant's conviction of aggravated domestic battery affirmed over his contention that he was not proven guilty beyond a reasonable doubt.

¶ 2 Following a jury trial, defendant Clifton Reynolds was convicted of aggravated domestic battery resulting in great bodily harm (720 ILCS 5/12-3.3(a) (West 2010)) and sentenced to 67 days in the Cook County Department of Corrections and 30 months of felony probation. On appeal, defendant contends that insufficient evidence supports his conviction. Defendant further

contends that the trial court improperly assessed various fees and failed to apply his $5-per-day presentence custody credit toward creditable fines. We affirm defendant's conviction and order the fines and fees order corrected.

¶ 3 Defendant was initially charged with aggravated domestic battery for strangling the victim Veronica Riley (count I), aggravated domestic battery resulting in great bodily harm (count II), aggravated domestic battery resulting in permanent disability (count III), aggravated battery (count IV), and unlawful restraint (count V). Prior to trial the State entered a *nolle prosequi* on counts III and V.

¶ 4 At trial, the victim testified that in November 2011, she was in a dating relationship with defendant for approximately seven months. Although she lived in Milwaukee, Wisconsin, and defendant lived in Calumet City, Illinois, the couple met through social media and various dance events.

¶ 5 On November 15, 2011, the victim's friend drove her from Milwaukee to defendant's apartment in Calumet City. The victim told defendant that she wanted to go shopping and to dinner with a friend, but defendant told her she needed to "take [her] a*** to class," referring to a dance class that he was teaching that night. The two argued, and defendant eventually left to teach his dance class while the victim remained at the apartment. Defendant returned to his apartment around 10:30 p.m. that night, and the victim was sitting on the couch and talking on her cell phone. Defendant asked the victim if she wanted something to eat. The victim responded that she did not want anything to eat and proceeded to defendant's bedroom to continue her phone conversation.

¶ 6 Defendant entered his bedroom and again asked the victim if she wanted something to eat. She again responded, "No." Finally, for a third time, defendant asked the victim if she wanted something to eat, and the victim again answered that she did not. Defendant responded, "B***, f*** you. I don't got to kiss your a***. You can get the f*** out of my house." Defendant also stated, "I'm through f*** with your a***. You want somebody to kiss your a*** and you jealous of me." The victim told defendant not to speak to her in that manner and asked why he was treating her that way. Defendant responded, "B*** f*** you, f*** you." Defendant then pushed the victim in her chest twice, and she asked him to stop. She pushed defendant in his face and asked him to stop hitting her. The two "tussl[ed] and struggl[ed]," and defendant hit the victim's upper body from her chest to her nose. During the altercation, the victim's phone fell on defendant's bed.

¶ 7 Defendant grabbed a nearby golf club and lifted it above the victim's head. As the struggle continued, the victim attempted to force defendant to drop the club to prevent him from hitting her with it and repeatedly stated, "[Y]ou are not going to hit me with that golf club." At some point, the golf club fell to the ground and the victim went to the living room with her suitcases. Defendant said, "B***, you getting the f*** out of my house." She walked to the couch to get her purse, and defendant said, "B***, that's why nobody wants your a***. That's why your *** husband don't want your a***. That's why your husband divorced your a***." The victim responded, "[W]ell, maybe that's why your ex-girlfriend married your best friend." Defendant thereafter grabbed the victim's neck, picked her up, and pushed her into the television stand. Because the glass doors to the television stand were open when defendant "slammed" the

victim into the ground, one of the doors "punctured" her left eye. At this time, the victim was approximately 5'4" and weighed 137 pounds.

¶ 8 Defendant then choked the victim, and applied "full pressure" to her neck so that she was unable to breathe normally. He told her, "B*** I'm going to kill you" and squeezed her neck. Defendant also struck the victim's face twice with a closed fist, and she blacked out and saw "stars, like little specks." When she regained consciousness, defendant was still on top of her and she told him to get off of her. Defendant fell onto the sofa and the victim noticed he was struggling to breathe so she opened the window to get him some air. Defendant jumped off the couch and said, "[B]***, you getting the f*** out of my house now. Get your s***."

¶ 9 Shortly thereafter, defendant drove the victim to a nearby hotel and threw her belongings in front of the hotel. She was in a lot of pain in her back and throat at that time and felt numb and disoriented because she was unfamiliar with the area. Once in her hotel room, the victim called a friend with whom she had spoken to earlier in the evening. After that phone call, the police were called and arrived at the hotel with paramedics. The paramedics transported the victim to a hospital where she learned she had a fractured nose, a blood clot in her left eye, bruising to the side of her face, upper back, and shoulder, and swelling to her throat.

¶ 10 On November 17, 2011, the victim went to Calumet City police department to make a report. The victim initially spoke with an officer for approximately five minutes, and later spoke with a detective. The police photographed her injuries. The State introduced into evidence photographs of the victim's injuries and defendant's apartment.

¶ 11 On cross-examination, the victim testified that she did not remember what hand defendant used to grab her by the neck, but stated that he picked her up with one hand while she

was on her knees in front of the couch and slammed her into the ground. She acknowledged that the photographs did not depict blood or glass on the rug or television stand and that she did not have any fractures around her eye. The injury to her eye left it blurry, but she did not have surgery on her eye.

¶ 12 When the victim arrived at the hotel, the clerk asked her if she was okay, but she denied telling him that she was okay. She also denied that the clerk asked her if she needed him to call the police when she checked in. Rather, the clerk asked if she needed him to call the police when he later called up to her room. The victim denied kicking defendant where his medical device was located and also stated that to her knowledge, his hands were not bleeding.

¶ 13 The victim denied telling a police officer that she "escaped and fled" to a hotel in Dolton, Illinois. She acknowledged that she knew defendant had a medical condition and a device attached to his body. She also acknowledged speaking with Detective Randall from the Calumet City police department and a State's Attorney on November 18, 2011. The victim read and signed the statement prepared as a result of her interview with Detective Randall and the State's Attorney and was given the opportunity to make any necessary corrections, but did not remember what was contained in the statement. She acknowledged that her earlier testimony was that she wanted to go shopping and to dinner with her friends, but the statement said that she had plans to go to the Pine restaurant to go dancing and that defendant would meet her there after his dance class. After reviewing the statement, she also acknowledged that it did not include portions of her direct examination testimony.

¶ 14 On December 12, 2011, the victim obtained an order of protection against defendant. The victim acknowledged that the petition did not mention that defendant threatened to kill her, that she slapped defendant, and that defendant threatened to hit her with a golf club.

¶ 15 On redirect, the victim stated that the November 18, 2011, statement with the State's Attorney was a summary of what occurred. The victim obtained an order of protection because she was unsure what defendant was capable of, and the petition recited a summary of what occurred. She went to the hotel with defendant because she did not know where she was and assumed that she could seek help on the busy main street if necessary. She did not immediately call police because she was numb from what occurred.

¶ 16 Dr. Brett Marcotte, the emergency room physician who treated the victim, testified that he was working at St. Margaret Hospital in Hammond, Indiana, on November 16, 2011. Prior to treating the victim, he reviewed the nurse's notes, which indicated that she had swelling and an abrasion on her face and the left eye had redness in the left sclera, the white part of her eye. The victim complained of pain to her face, nose, mouth, neck, and back, and had contusions, or bruises, on her face, nose, shoulder, and neck. He gave her pain medication and conducted a physical exam as well as X-rays on her face, neck, and shoulder. The victim's left eye was swollen and had an abrasion. The X-ray revealed the victim had a nondisplaced nasal bone fracture with a nasal septum deviated to the left. A nasal bone fracture, or broken nose, occurs from trauma to the face.

¶ 17 Detective Randall of the Calumet City police department testified that he spoke with the victim on November 17, 2011. He observed that the victim had bruising on both eyes, her left eye was "very red," her neck was swollen, and her upper back was bruised. Generally, when

Detective Randall is assigned a case, he obtains an initial report that contains a brief summary of the incident. The victim provided additional details regarding the incident than what was provided in the initial report that he received when he was assigned the case. After speaking with the victim, he arrested defendant at his apartment. During the arrest, Detective Randall observed a golf club on the floor of defendant's apartment.

¶ 18 On cross-examination, Detective Randall testified that defendant let him in his apartment. The glass door from the television stand was not broken and he did not observe glass or blood on the floor or the television stand. He did not notice defendant's hands, but he acknowledged that had he observed bruising or blood on defendant's hands, he likely would have noted that in the police report.

¶ 19 After the State rested, the parties stipulated that Sergeant Sandridge, of the Calumet City police department, would testify that he took a desk report from the victim on November 16, 2011, around 5 p.m. that recounted her statement. The victim stated that she and her boyfriend had a heated argument, and he choked her and pushed her to the floor. The victim's head struck the glass door on a television stand and she blacked out. When she regained consciousness, defendant was choking her. The victim was able to escape and flee to a hotel in Dolton, Illinois.

¶ 20 Nathan Peoples testified that he was employed as a front desk clerk at The Best Hotel and Suites in Dolton, Illinois and was working on November 16, 2011. Around 3 a.m., an African American woman entered the hotel crying. Peoples asked if she needed medical or police assistance, and the woman responded that she did not. The woman rented a room, and he gave her keys to a room at the back of the building. He stated that he would not recognize the woman at the time of trial.

¶ 21 On cross-examination, Peoples stated that the woman had a cut over her eye, but her face was not bruised. She called down to the front desk approximately 35 to 45 minutes after checking in and asked him to call the police. He met with a Calumet City detective on November 17, 2011, but did not remember telling the detective that the victim's face was bruised. Peoples only remembered telling the detective that the woman had a cut above her left eye.

¶ 22 Officer Kory Bland of the Calumet City police department testified that he was on duty on November 18, 2011, and was assigned to pick defendant up from St. Margaret Mercy Hospital in Hammond, Indiana, where he was receiving medical treatment. Defendant was in custody at that time and was released from the hospital back into police custody. On cross-examination, Officer Bland acknowledged that he was not involved in the investigation of the incident that led to defendant's arrest; he merely transported defendant from the hospital to the police department.

¶ 23 Defendant testified that after completing school, he was employed until 1999 when he was diagnosed with sarcoidosis. Sarcoidosis is an infection of the lymph node system and damaged defendant's liver so he had biliary tubes installed to help drain his liver. The tubes are permanent and located on the outside of his body. If the tubes were pulled out, bile would leak from his body and would possibly damage his liver. The tubes cannot be pushed too far into his body. The victim knew of defendant's condition. Defendant cannot lift anything heavy due to the biliary tubes and on November 15, 2011, was unable to lift heavy objects, including something weighing 137 pounds.

¶ 24 On November 15, 2011, defendant had been in a relationship with the victim for approximately eight months. He weighed approximately 135 or 138 pounds. The victim was at

his apartment and he was preparing to teach a dance class from 7 p.m. to 9 p.m. His medical condition does not affect his ability to teach the dance class. The victim planned on either going to defendant's class or going out dancing at Oakwood Pines Restaurant, where defendant would meet her after his class.

¶ 25 After his class, defendant stopped to purchase food on his way home, despite the victim declining his offer of food. When defendant returned, the victim was sitting in his bedroom in the dark talking on her cell phone. She asked defendant why they could not go to the club to dance, and he responded that it would be closed by the time they arrived. The victim yelled at defendant and asked why he did not end his class early. Defendant told her that people paid for the class so he was unable to end early. The victim stood up from the bed, yelled, and put her fingers in defendant's face. She slapped him, and defendant was stunned and attempted to leave the room. As he was leaving, the victim grabbed the back of defendant's shirt. In an attempt to leave the room, defendant knocked over a golf bag, picked up a club that fell, and ran out of the room. The victim subsequently grabbed the golf club from defendant.

¶ 26 Defendant told the victim that he was done with their relationship because she was too violent. The victim called defendant a "punk" and said, "Now I see why your ex-girlfriend married your *** friend." He responded, "Well, I see you can't keep nobody. You too violent. That's why your husband left you." The victim thereafter became violent, and they entered the living room where the victim pointed the golf club at defendant. Defendant took the club from the victim and threw it on the ground because he feared she would hit him with it. Defendant sat on the couch, but the victim continued to argue with him. Defendant stated, "Let's just sit down, you know, watch TV. We will *** do this later."

¶ 27 As the victim was yelling, defendant told her that he "already [has] somebody anyway." In response, the victim attempted to scratch his face. To stop her from scratching him, defendant grabbed the victim's wrists. They struggled, and defendant attempted to push the victim away, but their legs became entangled and they fell to the ground. The victim fell on top of the golf club. Defendant kneeled over the victim and she attempted to kick him. One of the victim's kicks connected with defendant's chest and pushed his biliary tube into his chest. As a result, defendant could not breathe. When the victim walked towards defendant, he pushed her away because he was uncertain about what she would do. Defendant then fell to his knees, and the victim helped him over to the couch and opened the window to obtain air. The victim said, "Oh, I'm so sorry. All I wanted to do was take care of you." After defendant caught his breath, he told the victim that the relationship was over and asked her to gather her belongings. Defendant did not observe the victim's head hit the television stand, and he did not threaten to kill her, choke her, or threaten to hit her with a golf club.

¶ 28 Defendant left his apartment briefly to find security guards but returned when he was unable to find any. He told the victim that he would take her to a nearby hotel and drove her to The Best Hotel. They did not speak during the drive. Upon arrival at the hotel, the victim went inside briefly, and defendant drove her around to the back of the hotel where her room was located. He brought her bags to her room and then returned to his apartment.

¶ 29 The following morning around 11 a.m., approximately five police officers arrived at defendant's apartment and asked if he knew the victim. The police officers informed defendant that he was under arrest for battery and transported him to the police station.

¶ 30 On November 18, 2011, defendant was transported to the hospital because he was having chest pains near his biliary tube. The tube leaked fluid and "was starting to get red."

¶ 31 On cross-examination, defendant testified that he is 6 feet tall and denied weighing 170 pounds in November 2011. Defendant did not hit, punch, or push the victim in her chest. He did not observe any injuries to her eye or nose the night of the incident. Defendant had a scratch on his lip, but it was covered by his moustache. He later acknowledged that he pushed the victim and grasped her wrists but denied injuring her. The injuries on the victim's back were a result of her falling on top of the golf club on the floor. The pictures of the injuries to the victim's back depict bruises on both of her shoulders because they were rolling on the ground while they were arguing, but defendant did not cause the victim's injuries. Defendant acknowledged that he did not call the police about the victim kicking him, and he did not tell the police that he was injured or in pain when he was arrested. However, he told police when he was in custody that he had chest pain and his biliary tubes were leaking.

¶ 32 The defense entered into evidence the victim's initial police report to Sergeant Sandridge and the victim's petition for order of protection.

¶ 33 In rebuttal, the parties stipulated that if called, Detective Pieczul from the Calumet City police department would testify that on November 17, 2011, around 2:15 p.m., he spoke with Nathan Peoples, who told him that the victim's face was bruised.

¶ 34 Officer Rick Dudley testified that he was working as a police officer on November 18, 2011. At 11:45 a.m. he was in the lockup area of the police department and did an intake of defendant. Officer Dudley asked defendant questions, such as his date of birth, height, and weight, and defendant answered that he was 6'2" and 170 pounds. Officer Dudley obtained that

information directly from defendant, not from his driver's license. Defendant was not in pain during processing, but he indicated that he had a medical condition. Officer Dudley did not observe injuries on defendant.

¶ 35 At the close of evidence, the State entered a *nolle prosequi* on count IV, aggravated battery. During closing arguments, defense counsel argued that the victim was the initial aggressor and defendant acted in self-defense. Defense counsel also argued that the victim's testimony was inconsistent and therefore, not credible. During deliberations, the jury sent the trial court a note asking, "Could you describe 'great bodily harm.' " The court, after conferring with counsel, responded, "Ladies and gentlemen, you have heard all the evidence in the case, it is for you to determine what is great bodily harm. Please continue to deliberate."

¶ 36 The jury found defendant guilty of aggravated domestic battery resulting in great bodily harm but not guilty of aggravated domestic battery for strangling the victim. The trial court denied defendant's posttrial motion for a new trial and sentenced defendant to 67 days in the Cook County Department of Corrections, 30 months of felony probation, and imposed various fines and fees totaling $672.

¶ 37 On appeal, defendant asserts that his conviction for aggravated domestic battery should be reversed because the State failed to prove beyond a reasonable doubt that defendant did not act in self-defense. Defendant also argues that the State failed to prove that the victim suffered great bodily harm.

¶ 38 On a challenge to the sufficiency of the evidence, we inquire " 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis omitted.)

Davison, 233 Ill. 2d 30, 43 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In so doing, we draw all reasonable inferences in favor of the State (*Davison*, 233 Ill. 2d at 43) and we do not retry the defendant (*People v. Collins*, 106 Ill. 2d 237, 261 (1985)). The State must prove each element of an offense beyond a reasonable doubt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). We will not overturn a criminal conviction "unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *People v. Givens*, 237 Ill. 2d 311, 334 (2010).

¶ 39 It is well established that "[t]he testimony of a single witness, if it is positive and the witness credible, is sufficient to sustain a conviction." *People v. Smith*, 185 Ill. 2d 532, 541 (1999). Further, it is within the province of a jury "to determine the credibility of witnesses, to weigh the evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *Siguenza-Brito*, 235 Ill. 2d at 228. A defendant's claim that a witness was not credible, standing alone, is insufficient to reverse a conviction. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 40 We first address defendant's contention that the State failed to prove his guilt beyond a reasonable doubt because it failed to establish that defendant did not act in self-defense. In support of that assertion, he alleges that the victim was the initial aggressor and that the victim's testimony was too inconsistent to be credible. The State responds that the jury, as fact finder, was not required to accept defendant's version of events, and that the victim's testimony was corroborated by other evidence. Further, the State argues that the evidence established that defendant was the aggressor, which negates his self-defense claim.

¶ 41 "A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such

other's imminent use of unlawful force." 720 ILCS 5/7-1(a) (West 2010). Self-defense is an affirmative defense, and unless the State's evidence raises the issue, the defendant must present some evidence as to each of the elements of the defense. *People v. Everette,* 141 Ill. 2d 147, 157 (1990). "The elements of self-defense are: (1) that unlawful force was threatened against a person; (2) that the person threatened was not the aggressor; (3) that the danger of harm was imminent; (4) that the use of force was necessary; (5) that the person threatened actually and subjectively believed a danger existed that required the use of the force applied; and (6) the beliefs of the person threatened were objectively reasonable." *People v. Lee,* 213 Ill. 2d 218, 225 (2004). Once a defendant raises the affirmative defense, the State has the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense, in addition to proving the elements of the charged offense. *Lee,* 213 Ill. 2d at 224. Whether a defendant acted in self-defense is a question for the jury to determine. *People v. Hayes,* 2011 IL App (1st) 100127, ¶ 31. The jury is "not obligated to accept a defendant's claim of self-defense," but instead must consider the probability or improbability of the testimony, the surrounding circumstances, and the testimony of other witnesses. *People v. Rodriguez,* 336 Ill. App. 3d 1, 15 (2002).

¶ 42 Here, defendant and the victim gave differing versions of what occurred on November 15, 2011. The victim alleged that defendant initiated the violence by pushing her upper body, threatening her with the golf club, and slamming her body into the ground, leaving her with a fractured nose, multiple contusions, and an injured eye. Defendant alleged that the victim was the initial aggressor because she put her fingers in his face and slapped him, and he grasped her wrists out of fear of her violence. While defendant contends that his version of events was more credible, it is the jury's responsibility to determine witness credibility and the weight given to

testimony, and resolve conflicts in the evidence. See *Siguenza-Brito*, 235 Ill. 2d at 228. Taking the evidence in the light most favorable to the prosecution, as we must, we conclude that the State presented sufficient evidence to show that defendant was the initial aggressor, based on the victim's testimony. We therefore find that the State met its burden in negating one of the elements of self-defense and, accordingly, presented sufficient evidence to establish defendant's guilt beyond a reasonable doubt. See *Lee,* 213 Ill. 2d at 225 (noting that if the State negates any of the elements of self-defense, the defendant's claim of self-defense must be rejected).

¶ 43 Furthermore, we reject defendant's claim that "split verdicts" indicate that the jury found the victim's testimony unbelievable. Defendant relies on *People v. Fletcher*, 335 Ill. App. 3d 447 (2002), to support his contention that had the jury believed the victim, it would not have acquitted defendant of the charge relating to strangulation. However, *Fletcher* concerned an ineffective assistance of counsel claim and contrary to defendant's assertion, split verdicts do not necessarily indicate that the jury questioned the victim's credibility. Instead, split verdicts may indicate that "the evidence may not have been evenly convincing as to each charge." *People v. Cowan*, 105 Ill. 2d 1307, 1310 (1985). Additionally, we note that the jury's split verdicts could be attributed to defendant's admission that he pushed the victim but denial that he strangled her. However, we need not attempt to read the jury's mind. *People v. Kirkland*, 2013 IL App (4th) 120343, ¶ 24 (citing *People v. Crite*, 261 Ill. App. 3d 1041, 1046 (1994) ("The court's attempt to interpret a straightforward, unambiguous verdict was an attempt to venture into the minds and deliberations of the jury and its understanding and meaning of its verdict. It was not the trial court's function, nor is it ours, to speculate on the jury's verdict.")). Rather than speculate about

the jury's rationale for acquitting defendant of some charges, we have limited our inquiry to whether there was sufficient evidence to support the guilty findings it did issue.

¶ 44 We next address defendant's contention that the State failed to prove great bodily harm. To sustain the conviction for aggravated domestic battery, the State was required to show that defendant knowingly caused great bodily harm to a family or household member without legal justification. 720 ILCS 5/12-3.3(a) (West 2010). There is no precise legal definition for "great bodily harm" (*People v. Doran*, 256 Ill. App. 3d 131, 136 (1993), but it requires an injury greater and more serious than a simple battery (*People v. Figures*, 216 Ill. App. 3d 398, 401 (1991)). Whether an injury rises to the level of great bodily harm is a question for a jury. *People v. Cisneros*, 2013 IL App (3d) 110851, ¶ 12. In making that determination, "the relevant question for the trier of fact to answer is not what the victim did or did not do to treat the injury but what injuries the victim in fact received." *People v. Edwards*, 304 Ill. App. 3d 250, 254 (1999).

¶ 45 Here, the evidence established that the victim had a fractured nose as a result of the altercation with defendant. The victim additionally had bruising to her back, a bloodshot eye, and swelling of the face and neck. The victim was transported to the hospital, underwent X-rays, and received pain medication. Furthermore, her treating physician testified that she complained of pain in her face, nose, mouth, neck, and back. After viewing the record in the light most favorable to the State, we cannot say that no rational trier of fact could have found that the victim suffered great bodily harm. *Davison*, 233 Ill. 2d at 43.

¶ 46 Defendant's contention that the victim did not require medical treatment and that her injuries did not rise to the level of "great bodily harm" are unpersuasive. See *People v. Matthews*, 126 Ill. App. 3d 710 (1984) (finding great bodily harm where victim, who was struck on the head

with a gun and struck several times on the head and arms with a baseball bat, only received a bruise on her head and did not require medical attention). Although the victim did not require further medical treatment, she was still treated at the hospital and received pain medication. Moreover, photographs depicting a victim with bruises under her eyes, back, and arm, and scratches or cuts on her throat and on one leg have been sufficient corroboration to uphold a finding of great bodily harm. *People v. Milligan,* 327 Ill. App. 3d 264, 267 (2002).

¶ 47 We are also unpersuaded by defendant's reliance on *In re J.A.,* 336 Ill. App. 3d 814 (2003), and *In re T.G.,* 285 Ill. App. 3d 838 (1996). In each of those cases, the victims described their injuries as minor, and neither complained that their injury required serious medical attention. See *In re J.A.,* 336 Ill. App. 3d at 818 (the victim described stab wound as feeling like a pinch); see also *In re T.G.,* 285 Ill. App. 3d at 846 (the victim compared being stabbed to being poked with a pen). By contrast, in this case, the evidence at trial revealed the victim was in pain as a result of defendant's actions, sought medical attention after arriving at the hotel, and suffered a nasal fracture that required pain medication. Accordingly, we decline to reduce defendant's conviction to domestic battery.

¶ 48 Next, defendant contends that this court must correct the fines and fees order to (1) vacate the $5 Electronic Citation fee; (2) vacate the $5 Court System fine; (3) apply defendant's presentence custody credit towards the $15 State Police Operations fine and the $50 Court System fine; and (4) vacate the $2 Public Defender and $2 State's Attorney Records Automation Fees. Defendant did not contest the fines and fees in the trial court, but we note that a reviewing court may modify the fines and fees order without remanding the case back to the circuit court.

See Ill. S. Ct. R. 615(b)(1) (eff. Aug. 27, 1999). We review a trial court's imposition of fines and fees *de novo*. *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 60.

¶ 49 Defendant contends, and the State concedes, that the $5 Electronic Citation fee and $5 Court System fee should be vacated. We agree, and vacate the $5 Electronic Citation fee because defendant was not convicted in "any traffic, misdemeanor, municipal ordinance, or conservation case." 705 ILCS 105/27.3e (West 2010). Likewise, we vacate the $5 Court System fine because defendant was not convicted of a violation of the Illinois Vehicle Code or a similar municipal ordinance. See 55 ILCS 5/5-1101(a) (West 2010).

¶ 50 We also agree that defendant's presentence incarceration credit should apply to his $15 State Police Operations fine and the $50 Court System fine. Defendant was incarcerated for 72 days, and under section 110-14(a) of the Code of Criminal Procedure, defendant is entitled to $5-per-day presentence custody credit applied toward his fines. 725 ILCS 5/110-14(a) (West 2010). Both the State Police Operations fine and the Court System fine were previously determined to be creditable fines. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31; see also *People v. Ackerman*, 2014 IL App (3d) 120585, ¶ 30. Accordingly, defendant's presentence incarceration credit should be applied to the State Police Operations fine and the Court System fine.

¶ 51 Defendant next contends that the $2 Public Defender and $2 State's Attorney's records automation fees should be vacated because they were enacted after the date of defendant's offense and therefore violate *ex post facto* principles. Defendant also asks this court to find, pursuant to *People v. Graves*, 235 Ill. 2d 244 (2009), that the two assessments are fines that may be offset by his presentence incarceration credit because they do not reimburse the State for costs related to defendant's prosecution. The States responds that the two $2 fees were properly

assessed because they are fees, not punishments, and accordingly do not violate *ex post facto* principles.

¶ 52 Fines and fees differ according to their purpose. *Graves*, 235 Ill. 2d at 250. Fees are "intended to reimburse the state for a cost incurred in a defendant's prosecution," while a fine is punitive and "part of the punishment for conviction." *Bowen*, 2015 IL App (1st) 132046, ¶ 63 (citing *People v. Jones*, 223 Ill. 2d 569, 582 (2006)). Both the State's Attorney and Public Defender records automation fees require defendant to pay $2 to discharge the expenses of the respective offices "for establishing and maintaining automated record keeping systems." 55 ILCS 5/4-2002.1(c) (West 2012); 55 ILCS 5/3-4012 (West 2012). This court has previously determined that both assessments are fees, and therefore not subject to the prohibition against *ex post facto* principles. See *Bowen*, 2015 IL App (1st) 132046, ¶¶ 63-65 (*contra People v. Camacho*, 2016 IL App (1st) 140604, ¶ 56 (finding that the State's Attorney and Public Defender records automation assessments are fines)).

¶ 53 However, unlike in *Bowen*, we note that here, the public defender's office did not represent defendant, and therefore, the $2 assessment could not be a fee intended to reimburse the public defender's office for the costs associated with defending defendant. Under these facts, we conclude that the $2 public defender automation assessment is inapplicable and must be vacated because defendant was represented at all times in the proceedings by private counsel. *People v. Taylor*, 2016 IL App (1st) 141251, ¶ 30. Accordingly, we affirm the trial court's assessment of the State's Attorney records automation fee, but we vacate the Public Defender records automation fee.

¶ 54 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed. We vacate the $5 Electronic Citation fee, the $5 Court system fee, and the $2 Public Defender records automation fee and order the clerk of the circuit court to correct the fines and fees order accordingly, as well as apply defendant's presentence incarceration credit to the $15 State Police Operations fine and $50 Court System fine, reducing the fines and fees order to $595. See *People v. McGee*, 2015 IL App (1st) 130367, ¶ 82 (noting that this court has the authority to order the clerk of the circuit court to make necessary corrections to the fines and fees order).

¶ 55 Affirmed; fines and fees order corrected.