2017 IL App (4th) 150499-U

NO. 4-15-0499

FILED
December 1, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
JASON E. FONVILLE,	)	No. 11CF1691
Defendant-Appellant.	)	
	)	Honorable
	)	Timothy J. Steadman,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Holder White and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The evidence was sufficient to support the jury's guilty verdict of attempt (first degree murder).

(2) Defendant forfeited his claim that the trial court erred in failing to instruct the jury on a lesser-included offense. Defendant objected during the trial but failed to include the issue in his posttrial motion, precluding the appellate court's review on appeal.

(3) The appellate court vacated the fines improperly imposed by the circuit clerk.

(4) The appellate court ordered the cause remanded for the trial court to correct the sentencing judgment to accurately reflect the sentence imposed.

¶ 2 In April 2015, defendant, Jason E. Fonville, was tried by a jury for attempt (first degree murder). The evidence presented showed that in October 2009, defendant walked up behind the victim, Ed Gunning, as he walked along East William Street in Decatur at approximately 8 p.m. When Gunning turned around to see who was behind him, defendant shot

Gunning in the mouth with a nine-millimeter handgun. The jury found defendant guilty. In May 2015, the trial court sentenced defendant to 30 years in prison, adding a consecutive 50-year term for discharging a firearm and causing great bodily harm.

¶ 3 Defendant appeals, arguing (1) the evidence was insufficient to prove beyond a reasonable doubt that defendant was the shooter, (2) the trial court erred in declining to instruct the jury on a lesser-included offense, and (3) the circuit clerk improperly imposed certain fines. We affirm defendant's conviction, vacate certain fines, and remand the cause with directions for the trial court to amend the sentencing judgment to reflect the sentence imposed.

¶ 4 I. BACKGROUND

¶ 5 In December 2011, defendant was charged with attempt (first degree murder) (720 ILCS 5/8-4(a), (c)(1)(D), 9-1(a)(1) (West 2010)) (count I); aggravated battery with a firearm (720 ILCS 5/12-4.2 (West 2010)) (count II); and being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2010)) (count III). Prior to trial, the State dismissed count II and the trial court allowed the State's motion to sever count III.

¶ 6 In April 2015, the cause proceeded to a jury trial. Decatur police officer Chad Shull testified that at 7:49 p.m. on October 20, 2009, he was dispatched to Steven Brown's residence at 1022 South Martin Luther King Jr. Drive. Brown advised he had heard about five shots fired in the 600 block of East Cleveland Avenue at the intersection of Martin Luther King Jr. Drive. There Shull found four spent nine-millimeter Luger shell casings in the street.

¶ 7 Decatur police officer Warren Hale testified that on the same evening at 8:20 p.m., he was dispatched to Del Carmen's Pizza, 221 North 22nd Street, in reference to a shooting. He found the victim, Gunning, lying facedown inside the business. Employees were trying to stop the bleeding at or near Gunning's face. Hale learned the shooting had taken place a

few blocks away in the 1900 block of East William Street. He went to the scene of the shooting and found two spent nine-millimeter shell casings and human teeth on the sidewalk in front of the old Roach School.

¶ 8 Tesla Henderson testified she was at her grandmother's house at 1857 East William Street when she heard four to five gunshots. She ran outside to the porch and saw somebody dressed in all black running away with a gun in his hand raised above his head. She did not the suspect's face. He ran down East William Street and crossed over 20th Street when she lost sight of him. She saw a guy lying on the ground on the opposite side of the street.

¶ 9 David Ballant testified that at approximately 8 p.m., he was outside of a friend's house on East William Street when he heard five to six gunshots about a block away. Ballant said he saw a black man standing over the victim. He could not see his face. After the first shot, Ballant ran inside. He went back outside and saw somebody run across East William Street onto 20th Street. The suspect was wearing dark clothing.

¶ 10 Larry Knell testified that he lived at 1857 East William Street, the same address as Henderson's grandmother. He said he was walking with his two-year-old son on the sidewalk in front of the old Roach School the next day and found a shell casing with a spot of blood on it laying under some leaves.

¶ 11 Steven Brown testified that at approximately 8 p.m., he was sitting with his mother watching television at her house at 1022 South Martin Luther King Jr. Drive when he heard four to six shots fired. He waited until it was quiet and he went outside but saw no one.

¶ 12 Next, the victim, Ed Gunning, testified. He said, at the time of trial, he was 55 years old and had worked as a self-employed accountant for 35 years. He regularly shot pool at the A-Frame bar. On October 20, 2009, he left his office at approximately 4 p.m. and walked to

the bar. He left the bar at approximately 7:30 p.m. to go to Del Carmen's for dinner. As he walked along the sidewalk on East William Street, he heard footsteps coming up behind him. He said he knew he was in some sort of trouble. As he turned to see who was approaching, an assailant pointed a handgun at his face from about 30 feet away. He said the assailant was a black man with facial hair, somewhat slim build, and wearing boots. He said he could hear the clicks from his boots as the assailant approached. The assailant was very calm and very intent on what he was about to do. Gunning identified defendant in court as the assailant.

¶ 13 Gunning said he cried out, " ' Lord Jesus help me,' " knowing he was going to get shot. Defendant pulled the trigger and shot Gunning in the mouth, knocking several teeth out. The bullet bounced off the back of his jaw, came out his neck, and lodged in his left shoulder. Gunning fell onto his back but rolled over so he did not choke on the blood. Defendant stood over him and shot at the back of his head. The bullet grazed his right ear. Gunning played dead until he thought he heard defendant leave on foot. Gunning struggled down the street and made it to Del Carmen's. Defendant did not take anything from Gunning.

¶ 14 Gunning testified he was in the hospital for approximately two weeks for reconstructive surgery to his jaw. He said while in the hospital, he hallucinated from the drugs. He thought the nurses were trying to kill him. During his stay, the police interviewed him twice. He told police he thought maybe Cory Walker was behind the shooting. He said he chose to end his accounting contract with Walker, who Gunning described as a "difficult person to walk away from."

¶ 15 Upon his release from the hospital, Gunning viewed several police photo lineups. On both November 4, 2009, and November 20, 2009, the police showed him two different line-ups. Gunning did not recognize anyone in the four lineups. On December 17, 2010, he was

shown another photo lineup and identified defendant as the shooter. Gunning said he was not 100% certain, as he needed to see him in person. He identified him in court.

¶ 16 On cross-examination, Gunning testified he arrived at the A-Frame at approximately 4:30 p.m. and left around 7:30 p.m. While there, he drank approximately six beers. When asked if he was intoxicated, Gunning replied he "would have been too intoxicated to drive a vehicle." He used to make that same walk, from the A-Frame to Del Carmen's, probably three to four times per week. Gunning said he was "quite certain" defendant was the person who shot him. He admitted he first told the police he believed it was Verdie Dotson that shot him, but then he thought maybe it was someone who looked like Dotson.

¶ 17 Gunning again explained he thought perhaps Walker was behind the shooting since Walker was upset about Gunning terminating their accounting-services contract. He believed Walker was upset because Gunning was aware of Walker's questionable business practices. Dotson worked for Walker.

¶ 18 Decatur police detective Tim Carlton testified he interviewed Gunning on October 30, 2009, while he was in intensive care. Gunning's jaw was wired shut and he had a "trache," so communication was difficult. At one point, Gunning wrote on a piece of paper that Dotson had shot him, but then said he really was not sure about that. Later, Carlton showed Gunning a photo lineup with Dotson's photo included. Gunning pointed to Dotson and indicated he knew him and he was not the shooter.

¶ 19 Carlton interviewed Gunning again at police headquarters on November 5, 2009. Carlton showed Gunning two photo lineups. Gunning did not identify anyone as the shooter. Approximately one year later, Carlton interviewed Gunning again at police headquarters on December 16, 2010. Carlton said Gunning's injuries had completely healed. Carlton showed

Gunning a photo lineup which included Dotson's photo, but Gunning did not identify anyone as the shooter. He also showed him a fourth photo lineup and Gunning identified defendant as the shooter. Carlton asked how sure Gunning was and, according to Carlton, Gunning said: "'[W]ell, I'm not a hundred percent sure the guy is the guy that shot me, but he looks like the guy that shot me.' "

¶ 20 On cross-examination, Carlton explained that Gunning had said the shooter looked similar to Dotson, but was about 20 years younger. In Carlton's opinion, defendant looked similar to Dotson, and he was approximately 20 years younger.

¶ 21 Defendant's estranged wife, Latesha Fonville, testified she and her five children lived at 2142 East Decatur Street on October 20, 2009. Defendant lived at his mother's house in Decatur, but he had clothes and personal items at Latesha's house. At approximately 7:30 p.m., Latesha was "chirping" with defendant. She explained "chirping" as talking back and forth after pushing a button on a Nextel cellular telephone. She said they were arguing. She went to pick him up from his father's house on Monroe Street so they could further discuss their relationship. Defendant sat in the passenger seat of her car. He was wearing a black long sleeve shirt and blue jeans. She described his demeanor as "[a]ggressive." They immediately began arguing about her "messing with other people." She said she was heading to Huck's when, near East Cleveland Avenue and South Main Street, defendant shot his gun "a couple times out the window." Before he fired the gun, he pushed the slide on it and said " '[O]h, I love the way that sounds.' "

¶ 22 Latesha said she continued driving to East William Street. She told defendant he was not allowed at her house around her children. They argued again and he wanted out of the vehicle. She let him out on East William Street approximately one block from the East Side Market. He said: " '[Y]ou going to make me do something to you.' " Latesha said she went home

because she was scared. She received a telephone call from defendant approximately 30 minutes later. He told Latesha to watch the news as a warning for what was going to happen to her. On the news, she heard about the shooting victim at Del Carmen's Pizza, within seven blocks of Latesha's house. After a week or so after this incident, defendant would spend the night "off and on."

¶ 23 Latesha testified that, on November 28, 2009, she was at home with her mother, her daughter, and her daughter's friend. Defendant came over and kicked in both doors to her home. He began physically attacking her. He tore her clothes off. A neighbor must have called the police. When the police arrived, Latesha asked that they remove defendant from her home. The police arrested him and placed him in the police car. Police asked if they could search her home and she agreed. During the search, police found what Latesha assumed was the same gun defendant had fired out the window of her vehicle two years earlier. It was a Ruger nine-millimeter handgun. Latesha said she did not tell police that she believed that was the gun used in the shooting because she was "scared of [her] husband."

¶ 24 However, on November 29, 2011, Latesha was arrested on an outstanding Champaign County warrant and was taken to jail. Latesha said she asked to speak to a detective because a window had been "busted out of [her] house" and she was afraid defendant had done it. Her daughter was home alone, so Latesha wanted police to know about the window and "whatever else [she] wanted to say." At that time, she told police everything she knew about the Del Carmen's shooting. She did not ask, nor did she receive, any consideration on her pending offense in exchange for her information. She admitted she had prior convictions for theft, obstructing justice, aggravated battery, and delivery of a controlled substance.

¶ 25 Hospital staff and a pharmacist testified about the drugs administered to Gunning while he was hospitalized and the side effects of those drugs. Apparently the drugs, or a combination of the drugs, that had been given to him caused drowsiness, dizziness, confusion, lack of coordination, abnormal dreams, memory loss, hallucinations, and delusions.

¶ 26 Illinois State Police forensic scientists testified that all six nine-millimeter shell casings, including the one found by Knell the next day, found on the street were fired from the nine-millimeter weapon recovered at Latesha's house.

¶ 27 Defendant did not testify.

¶ 28 At the jury-instruction conference, defendant requested the trial court instruct the jury on the lesser-included offense of aggravated battery with a firearm (720 ILCS 5/123.05(e)(1) (West 2010)). The court rejected defendant's request, finding no rational basis for giving a lesser-included-offense instruction. The court explained it was undisputed that someone committed attempted murder. The only disputed issue was whether it was defendant who committed the crime. Defense counsel indicated he objected to "any instructions that conflict with the ones [he] tendered."

¶ 29 The jury found defendant guilty of attempt (first degree murder) and that the State had sufficiently proved defendant personally discharged a firearm that proximately caused great bodily harm (see 720 ILCS 5/8-4(c)(1)(D), 9-1(a)(1) (West 2010)). After a May 2015 sentencing hearing, the trial court sentenced defendant to 30 years in prison plus a consecutive 50 years for personally discharging a firearm that caused great bodily harm. The circuit clerk later imposed various monetary assessments.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 Defendant claims (1) the evidence was insufficient to prove him guilty beyond a reasonable doubt, (2) the trial court erred in refusing to instruct the jury on the lesser-included offense of aggravated battery with a firearm, and (3) the circuit clerk improperly imposed certain fines. We affirm defendant's conviction and vacate various fines.

¶ 33 A. Sufficiency of the Evidence

¶ 34 Defendant first claims the State failed to prove he shot Gunning. He claims the State relied on Gunning's questionable identification and Lakesha's untrustworthy testimony placing him near the scene and in possession of the weapon.

¶ 35 We review a challenge to the sufficiency of the evidence by determining "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 in original.) *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). In doing so, we draw all reasonable inferences from the record in favor of the prosecution. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). This standard of review applies when reviewing the sufficiency of evidence in all criminal cases, including cases based on direct or circumstantial evidence. *People v. Pollock*, 202 Ill. 2d 189, 217 (2002). "Circumstantial evidence alone is sufficient to sustain a conviction where it satisfies proof beyond a reasonable doubt of the elements of the crime charged." *Pollock*, 202 Ill. 2d at 217. The trier of fact has the responsibility to resolve conflicts in witnesses' testimony, determine whether witnesses are credible, and draw reasonable inferences from all the evidence presented. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). We may not reverse a conviction "unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217 (2005).

¶ 36 We find the evidence was sufficient for the jury to find defendant was the one who shot Gunning. First, Gunning testified he heard someone coming up behind him, he heard the clink of boots, and he turned around. Defendant had a handgun pointed at Gunning's face from a distance of what he thought was about 30 feet. Gunning described defendant as calm, cool, and collected, intent on what he was going to do. Although it was dark outside, Gunning said the street was lit from an overhead streetlight. Gunning said defendant had facial hair with a somewhat slim build. He was wearing boots. Latesha testified defendant was wearing blue jeans and a black shirt when she picked him up that evening. Ballant, a witness who was in the area, said he ran toward the shots after hearing them, and he saw a black male wearing blue jeans and a black coat holding a pistol.

¶ 37 Further, Gunning viewed several photographs of suspects in various photo lineups. Of all the photos, Gunning picked defendant and was "quite certain" defendant was the shooter. He was not 100% certain only because he was seeing a photograph and not the real person. Gunning then made an in-person identification of defendant as the shooter in open court. We find the jury was entitled to reasonably accept Gunning's identification of defendant as the shooter. See *People v. Cunningham*, 212 Ill. 2d 274, 279-80 (2004) (a reviewing court must decide whether, in light of the record, a fact finder could reasonably accept the testimony as true beyond a reasonable doubt).

¶ 38 Gunning's identification of defendant as the shooter was supported by Latesha's testimony of her encounter with defendant around the same time as the shooting. She said she picked up defendant from his father's house around 7:30 p.m. They had been arguing, with defendant accusing her of cheating. She described defendant's demeanor that evening as aggressive. He pulled a handgun out of his waistband, rolled down the window, and fired it in the

air somewhere around Main Street or East Cleveland Avenue. Brown, another witness, had testified he heard shots fired near his home in the 600 block of East Cleveland Avenue. Officer Shull found four spent nine-millimeter shell casings in that area.

¶ 39 Latesha said their argument made defendant so angry he wanted out of the car. When he exited, he threatened she was going to make him do something to her. Defendant was without a vehicle and was traveling on foot. Witnesses saw the shooter leave the area on foot. Latesha said defendant called her approximately 30 minutes later and told her to watch the news because that was what was going to happen to her. This time frame fits the evidence of Gunning's shooting.

¶ 40 When the police responded to Latesha's residence in response to her and defendant's fight on November 28, 2009, they found the nine-millimeter pistol which matched the spent casings found on East Cleveland Avenue and the spent casings found on East William Street at the scene of the shooting.

¶ 41 Viewing this evidence in the light most favorable to the State, as we must, the evidence in this case was not so unreasonable, improbable, or unsatisfactory that it created a reasonable doubt of defendant's guilt. See *People v. Wheeler*, 226 Ill. 2d 92, 115 (2007) ("a conviction will be reversed where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt"). The evidence presented was sufficient to find defendant guilty of attempt (first degree murder) as well as the allegation he personally discharged a firearm causing great bodily harm to Gunning. We affirm.

¶ 42 B. Jury Instruction

¶ 43 Next, defendant claims the trial court erred in refusing his request to instruct the jury on the lesser-included offense of aggravated battery with a firearm. The State contends

defendant forfeited this claim by not raising it in his posttrial motion. We agree with the State. Although defendant made a continuing objection during the jury instruction conference "to any instructions that conflict with the ones [he] tendered," he did not include any contention of instructional error in his posttrial motion.

¶ 44 Our supreme court has been resolute in its application of forfeiture in criminal cases. "[A] defendant generally forfeits review of any instructional issue if he does not object to the instruction or offer an alternative at trial, and he does not raise the issue in a posttrial motion." *People v. Hudson*, 228 Ill. 2d 181, 190 (2008). See also *People v. Piatkowski*, 225 Ill. 2d 551, 564 (2007); *People v. Herron*, 215 Ill. 2d 167, 175 (2005). " '*Both* a trial objection *and* a written post-trial motion raising the issue are required for alleged errors that could have been raised during trial.' " (Emphases in original.) *People v. Bannister*, 232 Ill. 2d 52, 65 (2008) (quoting *People v. Enoch*, 122 Ill. 2d 176, 186 (1988)). Therefore, we adhere to the supreme court's rule of forfeiture and find defendant forfeited this issue by failing to raise it in his posttrial motion.

¶ 45 C. Fees and Fines

¶ 46 Last, defendant contends the circuit clerk, not the trial court, imposed the following fines: (1) $25 automation; (2) $15 document storage; (3) $15 State Police Ops; (4) $2 SA automation fee; (5) $5 drug court; (6) $50 Court; (7) $5 youth diversion; (8) $28.50 child advocacy fee; (9) $10 medical costs; (10) $20 lump sum surcharge; (11) $75 violent crime; and (12) $10 State Police Svcs.

¶ 47 This court has previously addressed the impropriety of the circuit clerk imposing judicial fines. See *People v. Larue*, 2014 IL App (4th) 120595, ¶¶ 55-73. "Although circuit clerks can have statutory authority to impose a fee, they lack authority to impose a fine, because

the imposition of a fine is exclusively a judicial act." (Emphases omitted.) *People v. Smith*, 2014 IL App (4th) 121118, ¶ 18. Thus, "any fines imposed by the circuit clerk are void from their inception." *Larue*, 2014 IL App (4th) 120595, ¶ 56. 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.

¶ 48 The State concedes 9 out of the 12 fines mentioned by defendant were improperly imposed by the circuit clerk and must be vacated as void. We agree, accept the State's concession and vacate those fines.

¶ 49 The State disputes the $25 automation assessment, the $15 document storage assessment, and the $2 SA automation fee are fines. The State contends these assessments are fees, as they represent a portion of the overall costs incurred to prosecute defendant, and as such, the circuit clerk may properly assess them.

¶ 50 In *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 115, we held that, because the legislature intended the assessment to reimburse the State's Attorneys for their expenses related to automated record-keeping systems, the assessment was not punitive in nature and thus constituted a fee. Thus, we found the circuit clerk could properly impose the assessment. *Warren*, 2016 IL App (4th) 120721-B, ¶ 115. We decline to depart from our decision in *Warren*. Thus, we do not vacate the $2 SA automation fee. See *People v. Daily*, 2016 IL App (4th) 150588, ¶ 30.

¶ 51 Additionally, *Warren* is equally applicable to the automation assessment, which is intended to defray the expense of establishing and maintaining an automated record keeping system in clerks' offices (705 ILCS 105/27.3a(1) (West 2014)), and the document storage assessment, which is intended to defray the expense of establishing and maintaining a document

storage system in clerks' offices (705 ILCS 105/27.3c(a) (West 2014)). See *People v. Tolliver*, 363 Ill. App. 3d 94, 97 (2006) (holding the automation and document storage assessments were fees because they were compensatory in nature); *People v. Carter*, 2016 IL App (3d) 140196, ¶ 60 (holding the automation and document storage assessments were properly made by the circuit clerk). These charges are not punitive in nature but, instead, are intended to reimburse clerks' offices for certain expenses.

¶ 52 Consistent with *Warren*, we find assessments for States' Attorney automation, court automation, and court document storage constitute fees rather than fines. Thus, they were properly assessed by the circuit clerk.

¶ 53 As stated, the fines improperly imposed by the circuit clerk must be vacated. However, we decline to remand to the trial court to reimpose the vacated fines. See *People v. Wade*, 2016 IL App (3d) 150417, ¶ 16.

¶ 54 D. The Sentencing Judgment

¶ 55 The State requests this court to correct the mittimus or the sentencing judgment to reflect the actual sentence imposed by the trial court. The written sentencing judgment reflects a sentence of 30 years plus a consecutive term of 25 years for the discharge of a firearm that caused great bodily harm. See 730 ILCS 5/5-8-1(d) (West 2014). During the sentencing hearing, the court pronounced the sentence of 30 years in prison plus a consecutive 50-year term for the fired handgun and great-bodily-harm elements. We note the court's docket entry likewise referenced the 50-year term for the fired handgun and great bodily harm. Defendant acknowledges the sentence imposed by the trial court at the sentencing hearing included the added 50 years but, he claims any amendment to the mittimus or sentencing judgment would

increase defendant's sentence in violation of *People v. Castleberry*, 2015 IL 116916. We disagree.

¶ 56 Here, both sides agree the mittimus or sentencing judgment erroneously indicated 25 years for the added prison term. Contrary to defendant's claim, in the case of a conflict between the oral pronouncement of the sentence and the written sentencing order, the oral pronouncement controls. *People v. Moore*, 301 Ill. App. 3d 728, 735 (1998); *People v. Smith*, 242 Ill. App. 3d 399, 402 (1993); *People v. Smith*, 2014 IL App (4th) 121118, ¶ 19.

¶ 57 A court's act of correcting a mittimus is a ministerial act and does not change the underlying sentence. See, *e.g.*, *People v. Evans*, 45 Ill. 2d 265, 269 (1970); *People v. Miles*, 117 Ill. App. 3d 257, 259-60 (1983). The mittimus is a document directed to a sheriff, warden, the Department of Corrections, or other executive officer detailing a prisoner's sentence, which is often simply a copy of the judge's signed judgment or order. 735 ILCS 5/2-1801(a) (West 2014). It is not a part of the common-law record, and the trial court may amend the mittimus at any time. *Miles*, 117 Ill. App. 3d at 259. In other words, the mittimus informs the person or entity detaining a prisoner about the specifics of the prisoner's sentence so that the prisoner's release date can be readily determined. *People v. Wright*, 337 Ill. App. 3d 759, 762, (2003).

¶ 58 For example, in *People v. Troesch*, 57 Ill. App. 2d 466, 467 (1965) (*per curiam*), the defendant found a discrepancy between the court's sentencing pronouncement and the mittimus. Because of this discrepancy, he argued that his sentence was invalid. Disagreeing, the court noted that "[a] prisoner duly convicted and sentenced to the penitentiary is confined not by virtue of the mittimus, but on account of the judgment and sentence against him in the trial court." *Troesch*, 57 Ill. App. 2d at 468. The court corrected the mittimus to reflect the sentence it actually imposed, but that initial sentence was not changed. *Troesch*, 57 Ill. App. 2d at 468.

¶ 59 Accordingly, we remand the cause for the trial court to amend the mittimus to accurately reflect the sentence imposed.

¶ 60 III. CONCLUSION

¶ 61 For the reasons stated, we vacate the imposition of the following assessments: (1) $15 State Police Ops; (2) $5 drug court; (3) $50 Court; (4) $5 youth diversion; (5) $28.50 child advocacy fee; (6) $10 medical costs; (7) $20 lump sum surcharge; (8) $75 violent crime; and (9) $10 State Police Svcs. Further, we remand the cause for the trial court to amend the sentencing judgment to reflect the added consecutive term of 50 years in prison consistent with the court's oral pronouncement of sentence. We otherwise affirm the trial court's judgment. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal.

¶ 62 Affirmed in part and vacated in part; cause remanded with directions.