No. 121823

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	On Appeal from the
	)	Appellate Court of Illinois,
Plaintiff-Appellant,	)	Second Judicial District,
	)	No. 2-14-0848
	)	
	)	There on Appeal from the Circuit
v.	)	Court of the Fifteenth Judicial Circuit,
	)	Stephenson County, Illinois
	)	No. 13 CF 73
	)	
RICARDO VARA,	)	The Honorable
	)	Michael P. Bald,
Defendant-Appellee.	)	Judge Presiding.

BRIEF AND APPENDIX OF PLAINTIFF-APPELLANT
PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of Illinois

DAVID L. FRANKLIN
Solicitor General

MICHAEL M. GLICK
JOSHUA M. SCHNEIDER
Assistant Attorneys General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601-3218
(312) 814-3565
jschneider@atg.state.il.us

Counsel for Plaintiff-Appellant
People of the State of Illinois

ORAL ARGUMENT REQUESTED

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POINTS AND AUTHORITIES

NATURE OF THE ACTION

After a Stephenson County bench trial, defendant Ricardo Vara was found guilty of child pornography in violation of 720 ILCS 5/11-20.1(a)(6) (2013); he was sentenced to a three-year term of imprisonment. C133.[1] On appeal, defendant challenged several fines — which the parties agreed were mandatory — that appeared in the circuit clerk's records but were not imposed by the circuit court. A12. The Appellate Court, Second District, vacated the fines and declined to order their reimposition, holding that it lacked authority to reimpose them on appeal. A24. No question is raised on the pleadings.

ISSUES PRESENTED FOR REVIEW

1. Whether the Appellate Court lacked jurisdiction over erroneous data entries discovered in the circuit clerk's electronic accounts receivable records nearly two years after defendant filed his notice of appeal.

2. Whether the Appellate Court lacked authority under Illinois Supreme Court Rule 615(b) to reimpose mandatory fines that were substantively proper but imposed in a procedurally improper manner.

3. Whether the Court should amend its rules to allow statutorily unauthorized sentences to be challenged at any time by motion in the circuit court.

JURISDICTION

This Court has jurisdiction under Supreme Court Rules 315 and 612(b). On March 29, 2017, this Court allowed the People's petition for leave to appeal.

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[1] Citations to the common law record and the report of proceedings appear as "C__" and "R__," respectively; citations to the appendix appear as "A__."

SUPREME COURT RULE INVOLVED

Rule 615. The Cause on Appeal

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(b) Powers of the Reviewing Court. On appeal the reviewing court may:

(1) reverse, affirm, or modify the judgment or order from which the appeal is taken;

(2) set aside, affirm, or modify any or all of the proceedings subsequent to or dependent upon the judgment or order from which the appeal is taken;

(3) reduce the degree of the offense of which the appellant was convicted;

(4) reduce the punishment imposed by the trial court; or

(5) order a new trial.

STATEMENT OF FACTS

Following a bench trial, defendant was convicted of child pornography, C105; R481. At the sentencing hearing, the trial court imposed a three-year term of imprisonment and ordered a "mandatory fine of $1,000," R614, a "$500 sex offender payment per statute, $200 sheriff's office fine, and . . . an additional $500 assessment," R615. The court then entered a written judgment sentencing defendant to the Illinois Department of Corrections for three years, imposing a one-year term of mandatory supervised release, and assessing court costs and the following fines: (1) a $1,000 fine, *see* 720 ILCS 5/11-20.1(c) (2014); (2) a "$500 [sex offender fine] per 730 ILCS 5/5-9-1.15"; (3) a "$200 [sexual assault] fine per 730 ILCS 5/5-9-1.7"; and (4) a "$500 [child pornography] fine per 730 ILCS 5/5-9-1.14." A28.

Defendant appealed on August 22, 2014, and subsequently supplemented the record on appeal with a document entitled "Payment Status Information" and dated April 12, 2016, which appears to be a printout of the circuit clerk's electronic accounts receivable records for defendant's case. A28. The document is not file-stamped, but instead bears a stamp identifying it as "[a] true copy of the original on file in [the circuit clerk's] office." *See id.* The Payment Status Information includes entries for the court-ordered mandatory $500 sex offender fine, $200 sexual assault fine, and $500 child pornography fine,[2] but omits the court-ordered mandatory $1,000 fine. *Id.* The Payment Status Information also lists a number of additional assessments not specifically ordered by the court, including assessments identified as "Court" ($50), "Youth Diversion" ($5), "Violent Crime" ($100), "Lump Sum Surcharge" ($250), "Medical Costs" ($10), and "State Police Ops" ($15). *Id.* While not disputing that these fines were mandated by statute, defendant argued that the fines appearing in the Payment Status Information that were not ordered by the circuit court must be vacated because they were imposed by the circuit clerk. A12.

The appellate court identified the fines imposed by the trial court as "(1) a $1,000 fine; (2) a mandatory $500 sex-offender fine (see 730 ILCS 5/5-9-1.15(a) (West 2014)); (3) a mandatory $30 '[a]dditional fine to fund expungement of juvenile records,' (730 ILCS 5/5-9-1.17(a) (West 2014)); and (4) a mandatory $500 '[a]dditional child pornography

[2] The child pornography fine appears as two entries, a $495 "Child Pornography" assessment and a $5 "Clerk Op Deduction," reflecting the statutory requirement that $5 of the $500 child pornography fund be deposited into the Circuit Court Clerk Operation and Administration Fund. *See* 730 ILCS 5/5-9-1.14.

fine[ ]' (730 ILCS 5/5-9-1.14 (West 2014)).”[3] A11. The appellate court characterized the entries appearing on the Payment Status Information as “Court,” “Youth Diversion,” “Violent Crime,” “Lump Sum Surcharge,” “Sexual Assault,” “Medical Costs,” and “State Police Ops” as mandatory fines not ordered by the trial court and vacated them. A11, 13, 24. The appellate court held that *People v. Castleberry*, 2015 IL 116916, barred it from ordering the imposition of the mandatory fines that the circuit court had neglected to assess. A20.

SUMMARY OF ARGUMENT

After defendant was convicted of child pornography, the circuit court sentenced him to a term of imprisonment and imposed several fines. The circuit clerk's electronic accounts receivable records erroneously omitted fines that the trial court imposed and included fines that the trial court did not impose. The appellate court erred by reviewing these clerical errors because it lacked jurisdiction to do so. Unless permitted under this Court's rules, the appellate court lacks jurisdiction to review anything other than a final order of a circuit court. The erroneous data entries in the circuit clerk's accounts receivable records are not final orders of a circuit court; indeed, they are not orders at all. Moreover, defendant's notice of

[3] The source of the appellate court's belief that the trial court imposed a $30 fine for juvenile record expungement is unclear, for such fine does not appear in the sentencing transcript, written sentencing order, or Payment Status Information. *See* C133; R553-619. It is possible that the appellate court misread the written sentencing order's assessment of a fine pursuant to the 730 ILCS 5/5-9-1.7 (requiring that defendants convicted of child pornography be assessed a $200 sexual assault fine) as an assessment pursuant to 730 ILCS 5/5-9-1.17 (requiring that all criminal sentences include a $30 fine to fund expungement of juvenile records), and so reduced the amount of the fine imposed from the $200 mandatory fine that the trial court actually imposed to the $30 mandatory fine that the trial court failed to impose.

appeal failed to identify the erroneous data entries as the "order" from which he appealed. Accordingly, the appellate court lacked jurisdiction to review them.

The appellate court further erred by holding, after presuming jurisdiction to review the clerical errors, that Illinois Supreme Court Rule 615(b) barred it from imposing the mandatory fines listed in the clerk's records but not ordered by the circuit court because doing so would increase defendant's sentence. One of two propositions must be true: either (1) the erroneous data entries in the clerk's electronic accounts receivable records are clerical errors that impose no obligation on defendant and must be corrected by the clerk or circuit court because the appellate court lacks jurisdiction to review them or (2) they are orders that impose binding obligations on defendant, may be appealed directly to the appellate court, and may be reimposed on appeal without violating Rule 615(b)'s prohibition against increasing a defendant's legal obligations on appeal. If the erroneous data entries imposed an obligation and were improperly included in the final judgment such that defendant's notice of appeal from that judgment conferred jurisdiction over them, then vacating the mandatory fines and reimposing them would have resulted in a sentence no greater than the one defendant effectively appealed. Therefore, this Court should reverse the judgment of the appellate court because it lacked jurisdiction or, in the alternative, affirm the vacatur of the mandatory fines erroneously listed in the clerk's records and remand to the circuit court for reimposition of those fines.

Finally, the Court should take this opportunity to amend its rules to provide a mechanism by which statutorily unauthorized sentences may be corrected short of invoking this Court's original mandamus jurisdiction. The inability to otherwise correct statutorily

unauthorized sentences will result in the Court becoming the court of first resort for defendants whose sentences include statutorily prohibited fines or terms of mandatory supervised release, as well as for the People when they seek to correct statutorily nonconforming sentences. Accordingly, the Court should amend its rules to provide that "a statutorily unauthorized sentence may be corrected at any time by motion in the circuit court." This is the mechanism employed by a plurality of states (and the federal courts prior to 1987), and would place correction of routine sentencing errors in the courts best situated to correct them: the sentencing circuit courts.

ARGUMENT

I. Standard of Review and Governing Principles

This Court reviews de novo the question of the appellate court's jurisdiction. *In re Det. of Hardin*, 238 Ill. 2d 33, 39 (2010).

Like statutory interpretation, interpretation of a supreme court rule is a question of law that this Court reviews de novo. *People v. Tousignant*, 2014 IL 115329, ¶ 8. When interpreting a supreme court rule, the primary objective is to give effect to the drafters' intent, and the best indicator of that intent is the plain language of the rule. *People v. Marker*, 233 Ill. 2d 158, 164-65 (2009). "Further, when interpreting a rule, [the Court] must presume that the drafters did not intend to produce absurd, inconvenient or unjust results." *Id.* at 167.

II. The Appellate Court Lacked Jurisdiction to Review Erroneous Data Entries in the Circuit Clerk's Electronic Accounts Receivable Records.

Article VI, Section 6 of the Illinois Constitution of 1970 provides that "[a]ppeals from final judgments of a Circuit Court are a matter of right to the Appellate Court," and that this Court "may provide by rule for appeals to the Appellate Court from other than final

judgments of Circuit Courts." "Except as specifically provided by those rules, the appellate court is without jurisdiction to review judgments, orders, or decrees which are not final." *Almgren v. Rush-Presbyterian-St. Luke's Medical Ctr.*, 162 Ill. 2d 205, 210 (1994). Neither the Illinois Constitution nor this Court's rules grant appellate courts jurisdiction to review erroneous data entries in circuit clerks' electronic accounts receivable records where those errors were never entered of record in any court order or judgment. *See* Ill. Const. 1970, art. VI, § 6; Ill. S. Ct. Rules 604, 606, 651, 660, 660A. Therefore, the appellate court lacked jurisdiction to review those erroneous data entries because the clerk's electronic accounts receivable records are not an order at all, much less a final appealable order.[4]

A. Erroneous data entries in circuit clerks' electronic accounts receivable records are not orders.

There are a variety of actions by nonjudicial government officials that, no matter how erroneous, cannot be appealed directly to the appellate court because they are not final orders of a circuit court. For example, a clerk's docket entries are not appealable because they are not orders of the circuit court. *Cf. Lindsey v. Special Adm'r of Estate of Phillips*, 219 Ill. App. 3d 372, 376 (4th Dist. 1991) (explaining that "a clerk's notation [on the docket] is not an order"); *Drury v. McLean Cty.*, 89 Ill. 2d 417, 424 (1982) (concluding that "the clerk of the circuit court is a nonjudicial member of the judicial branch of State government"). The erroneous data entries in the Payment Status Information at issue here fall within this category of governmental actions that may not be appealed directly to the appellate court.

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[4] Although neither party raised the jurisdictional question in the appellate court, the issue is not forfeited. *People v. Holmes*, 235 Ill. 2d 59, 66 (2008) (no forfeiture where issue "involves a jurisdictional question and [this Court has] an independent obligation to review it").

The Payment Status Information is not an order at all, much less a final order of a circuit court. An "order" is defined as "[a] command, direction, or instruction." *Black's Law Dictionary*, 1270 (10th ed. 2014). The Payment Status Information does not purport to direct, command, or instruct anyone to do anything; it is simply a printout of the circuit clerk's electronic accounts receivable records, listing the assessments that the clerical employee entering the data believed to have been imposed against defendant. *People v. Warren*, 2017 IL App (3d) 150085, ¶ 21 ("[W]e are unable to conclude that the data entries created by the circuit clerk's staff on [a date subsequent to the circuit court's judgment] qualify as a true order, void or otherwise."). In that sense, the entries on the Payment Status Information are analogous to the circuit clerk's entries on a certified statement of conviction. Had defendant requested a certified statement of conviction and discovered an erroneous entry stating that the court had sentenced him to thirty years in prison rather than three years, he could not have appealed from that erroneous entry on the basis that it constituted a void order of the circuit clerk sentencing him to an additional twenty-seven years in prison; the certified statement of conviction, as the clerk's record of what the court ordered, is not itself an order. *See Lindsey*, 219 Ill. App. 3d at 376; *People v. Kamrowski*, 412 Ill. 383, 387 (1952) ("The minutes, memoranda, or docket entries made, even by the judge upon his own docket, do not form any part of the official records of the court" and so are not "judgments of record."); *People ex rel. Pickerill v. New York Cent. R. Co.*, 391 Ill. 377, 382 (1945) ("It is well settled that a docket entry by a trial court does not constitute a final appealable judgment."); *Smith v. Smith*, 240 Ill. App. 3d 776, 779 (1st Dist. 1992) (internal quotations

omitted) ("[A] docket entry or mere reference or recital to an abstract, transcript, certificate of evidence, or bill of exceptions is not sufficient to constitute a judgment of record.").

That data entries in the clerk's electronic accounts receivable records are not orders is demonstrated by the virtual impossibility that they could ever become final. Even circuit court orders are not appealable if they are not final. *See* Ill. Const. 1970, art. VI, § 6. A judge's oral ruling is not appealable until it is entered of record and thereby rendered final. *See Williams v. BNSF R. Co.*, 2015 IL 117444, ¶ 45; *Bezan v. Chrysler Motors Corp.*, 263 Ill. App. 3d 858, 860 (2d Dist. 1994) ("A bare announcement of a final judgment cannot be attacked by motion, cannot be appealed, and cannot be enforced."); *In Interest of K.S.*, 250 Ill. App. 3d 862, 863 (4th Dist. 1993) ("Oral pronouncements are not final, binding, or appealable."). Even a written order signed by a judge is not final until it is file-stamped and thereby entered of record. *See People v. Perez*, 2014 IL 115927, ¶¶ 15-20; *Smith*, 240 Ill. App. 3d at 779 (dismissing appeal from judge's signed written finding that one party was liable for particular damages against another where finding was not reduced to final judgment against liable party); *People v. Durley*, 230 Ill. App. 3d 731, 736 (1st Dist. 1990) (dismissing appeal as premature where order appealed from bore no file stamp). If a circuit court's signed written order does not become final until file-stamped, *see Perez*, 2014 IL 115927, ¶¶ 15-20; *Durley*, 230 Ill. App. 3d at 736, it follows that the Payment Status Information also must be entered of record to become final, binding, and appealable. Thus, because the unstamped Payment Status Information is not final and binding, defendant's claim is not yet ripe. *See Warren*, 2017 IL App (3d) 150085, ¶¶ 16-18; *People v. Brown*, 2017 IL App (3d) 140921, ¶ 56 (Wright, J., concurring in part and dissenting in part) (noting

in appeal from fine erroneously entered in clerical records "[a]s of the time of this appeal, no action has been based on the clerical data entries that conflict with the court order," such that defendant's claim depended on "speculat[ion] that defendant may be harmed in the future *if* the prosecution attempts to secure a subsequent court order compelling this defendant to pay more than the unchallenged [portion] of the unpaid balance due") (emphasis original). The difficulty in imagining how data entries in the clerk's electronic accounts receivable records would ever be entered of record illustrates the absurdity of viewing such records as orders.

The holding of *People v. Gutierrez*, 2012 IL 111590, ¶ 14, that the appellate court has jurisdiction to review "void orders of the circuit clerk" does not warrant a contrary conclusion. First of all, *Gutierrez* did not consider whether erroneous data entries in clerical records constitute orders.[5] And even if *Gutierrez* could be read to suggest that clerical data entries are orders, its holding was based on the since-abolished void sentence rule. Under the void sentence rule, a sentencing order that exceeded the circuit court's statutory sentencing authority was void and could be attacked at any time. *See*, *e.g.*, *People v. Thompson*, 209 Ill. 2d 19, 24 (2004) (holding that where circuit court lacked statutory authority to impose extended-term sentence, extended-term portion of sentence was void). The appellate court applied this rule in *People v. Shaw*, 386 Ill. App. 3d 704, 710-11 (4th Dist. 2008), to fines improperly "imposed" by circuit clerks, reasoning that because the

[5] The People's brief in *Gutierrez* imprecisely characterized the public defender fee at issue as having been "assessed" against the defendant, inadvertently suggesting that the data entry listing the fee in the printout of the Lake County Circuit Court Clerk's accounts receivable record — titled "Party Finance Summary Query" — was an order rather than a clerical error.

circuit clerk is a nonjudicial official and lacks authority to impose sentences, clerical errors regarding fines may be raised for the first time on appeal "just as a void order can be attacked at any time and in any court either directly or collaterally." *Id.* (citing *Thompson*, 209 Ill. 2d at 19).[6] *Gutierrez* adopted *Shaw*'s conclusion without analysis. *See Gutierrez*, 2012 IL 111590, ¶ 14 (citing *Shaw*, 386 Ill. App. 3d at 710-11, for proposition that "just as a void order may be attacked at any time, appellate court could address forfeited argument that circuit clerk acted beyond its authority in imposing a fine").

But this Court has since abolished the void sentence rule, clarifying that an order is void (such that it may be challenged at any time) only if entered by a court lacking personal or subject matter jurisdiction, *People v. Castleberry*, 2015 IL 116916, ¶ 12, with the former "refer[ring] to a court's power to hear and determine cases of the general class to which the proceeding in question belongs" and the latter "to the court's power to bring a person into its adjudicative process," *id.* at ¶ 11 (quotations omitted). The concept of personal or subject matter jurisdiction is inapplicable to the actions of circuit clerks, as it is to the actions of any other nonjudicial government official. An action by a nonjudicial government official may be objectionable for any number of reasons, but a lack of jurisdiction is not one of them. For example, if the Illinois Department of Corrections determined that a circuit court erroneously imposed a one-year term of mandatory supervised release (MSR) where the governing statute mandated a four-year term and took it upon itself to correct the error by extending the inmate's custody by three years, the defendant's remedy would lie in mandamus, not in an

[6] The People did not contest that the clerk had "imposed" the fines at issue in *Shaw*, *id.* at 711, and *Shaw* is silent as to how the fines' imposition appeared in the record.

appeal from the "void order" of the Department of Corrections, even though the Department has no more authority to "sentence" a defendant to a mandatory MSR term than the circuit clerk does to "sentence" a defendant to pay a mandatory fine. Similarly, if a circuit clerk fails to enter a defendant's partial payment of his court-ordered fines into the accounts receivable records, and the defendant does not receive credit for the payment as a result, the defendant's remedy lies in showing the clerk his receipt and asking that the records be corrected, not in appealing from the "void order" of the circuit clerk "sentencing" him to pay an additional fine in the amount of the uncredited partial payment. Or if John Smith inquires at the clerk's office about his remaining balance and discovers that, due to a clerical error, the clerk's accounts receivable records list both his own assessments and those of another John Smith, he cannot appeal from the clerk's "void order" that he pay fines relating to offenses of which he was never convicted. This Court should now recognize that by abolishing the void sentence rule *Castleberry* abrogated *Gutierrez* to the extent that *Gutierrez* held that clerical errors may be appealed directly to the appellate court as "void orders of the circuit clerk."

Holding that the appellate court lacks jurisdiction over erroneous data entries in the clerk's electronic accounts receivable records would not deprive defendants of a remedy for such errors. Upon discovering that the clerk's records contain a clerical error, a defendant can always contact the circuit clerk and request that the record be corrected, pointing out that the erroneously listed fines did not appear in the court's written sentencing order. *See Warren*, 2017 IL App (3d) 150085, ¶ 23 ("Clerical miscalculations may be corrected by the circuit clerk without any court order or directive from [the appellate] court.").

B. Defendant's August 22, 2014 notice of appeal did not give notice that he was appealing from erroneous data entries in the April 12, 2016 Payment Status Information.

Even if the data entries in the Payment Status Information were an appealable order despite not being a final order of a circuit court, the appellate court lacked jurisdiction to review them because the notice of appeal gave no hint that defendant disputed them. "Unless there is a properly filed notice of appeal, a reviewing court has no jurisdiction over the appeal and is obliged to dismiss it." *People v. Smith*, 228 Ill. 2d 95, 104 (2008). "Illinois courts have held that a notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts thereof specified in the notice of appeal." *Id*. (citing *Illinois Health Maint. Org. Guar. Ass'n v. Shapo*, 357 Ill. App. 3d 122, 148 (1st Dist. 2005); *Citizens Against Reg'l Landfill v. Pollution Ctrl. Bd.*, 255 Ill. App. 3d 903, 909 (3d Dist. 1994)).

Here, defendant's notice of appeal identified the date of the judgment appealed from as August 20, 2014, the date on which his motion to reduce sentence was denied. *See* C148. The notice of appeal identified no other order or judgment. *See id.* Because defendant's notice of appeal "cannot be said to have fairly and adequately set out the judgment complained of" — erroneous data entries in a clerical document dated nearly two years after the notice of appeal — the appellate court lacked jurisdiction to review the Payment Status Information. *Smith*, 228 Ill. 2d at 105.

Gutierrez distinguished *Smith*, finding that the defendant's notice of appeal properly raised the fines appearing in a printout of a Party Finance Summary Query page because the page included a "status date" corresponding to the date that the defendant was sentenced, permitting "[t]he logical inference . . . that the fee was assessed on the date that defendant

was sentenced." 2012 IL 111590, ¶ 12. But this inference is unavailable to defendant here: the only date on the Payment Status Information is the date on which it was apparently printed nearly two years after defendant was sentenced. *See* A28. The record provides no basis for an inference that the erroneous entries in the clerk's accounts receivable records were created on the sentencing date; indeed, the docket entry for the sentencing date does not suggest that even the correct entries were created on that date, stating only that "Court orders 3 years DOC; and $1000 fine plus court costs" and omitting any reference to the court-imposed $500 sex offender fine, $200 sexual assault fine, or $500 child pornography fine. C158. In fact, it is more likely that the entries were *not* made at sentencing. "The calculation of [fines, fees, and costs] is a monumental feat which has commonly been accomplished by the clerk *after* sentencing, in the clerk's office with the aid of computers." *People v. Folks*, 406 Ill. App. 3d 300, 308-09 (4th Dist. 2010) (emphasis added).

Thus, under *Gutierrez*, whether there is appellate jurisdiction over accounts receivable records — or "void orders of the circuit clerk," *Gutierrez*, 2012 IL 111590, ¶ 14 — turns on the particular software employed by a particular clerk's office. In Lake County, defendants' notices of appeal confer appellate jurisdiction over clerical errors because those errors appear in printouts of Party Finance Summary Query pages that include a status date from which one may infer that the data was entered on the date of sentencing. *See id.* at ¶ 12. In Stephenson County, defendants' notices of appeal do not confer appellate jurisdiction over clerical errors because the errors appear in printouts of Payment Status Information pages that contain only the date on which they were printed. That appellate jurisdiction depends on whether clerical software permits an inference regarding when a clerical employee entered

data into electronic accounts receivable records further illustrates the absurdity of treating such a data entry as an appealable order.

Moreover, the entire basis for vacating unordered fines appearing in clerical records is that they are not part of the sentence imposed by the circuit court. *See* A19-20 (explaining that fines "impose[d]" by clerk, "in legal effect, . . . had not been imposed at all," and that, "[l]egally speaking, the fines that the trial court did not impose do not exist"). It is unclear how even a notice of appeal that "clearly indicated that defendant was appealing from the court's final judgment," *Gutierrez*, 2012 IL 111590, ¶ 12, could give notice that defendant was appealing from errors that are errors precisely because they are *not* part of the court's final judgment. *See Warren*, 2017 IL App (3d) 150085, ¶ 24 (dismissing for lack of appellate jurisdiction after noting that appeal from fines appearing on Payment Status Information "was initiated by the rare appellant that was unable to find fault with the judgment order identified in the notice of appeal" because "defendant [wa]s happy with the court's written order" that omitted the fines).

III. If the Appellate Court Had Jurisdiction to Review the Payment Status Information, Then It Had Authority Under Rule 615(b) to Vacate and Reimpose the Substantively Mandatory but Procedurally Erroneous Fines Listed Therein.

Under Rule 615(b), the appellate court may "reverse, affirm, or modify the judgment or order from which the appeal is taken," or "set aside, affirm, or modify any or all of the proceedings subsequent to or dependent upon the judgment or order from which the appeal is taken." Ill. S. Ct. Rule 615(b)(2). But the appellate court may not modify a judgment or proceeding in a way that increases a defendant's criminal sentence, for that would effectively

constitute an impermissible cross-appeal by the State to raise a "new and different" issue. *Castleberry*, 2015 IL 116916, ¶¶ 23-24.

As explained *supra* Section II, erroneous data entries in clerical records are not appealable orders. But if they are appealable orders — imposing binding obligations and included in the circuit court's final judgment such that defendant's notice of appeal from that judgment conferred appellate jurisdiction over them, *see Gutierrez*, 2012 IL 111590, ¶ 11 — then it must be the case that defendant's sentence included the mandatory fines that appear in the clerk's records but were not ordered by the circuit court. And the appellate court could vacate and reimpose those mandatory fines because they were effectively part of defendant's sentence — albeit a procedurally flawed part — and their reimposition did not increase that sentence. *See People v. Hible*, 2016 IL App (4th) 131096, ¶¶ 15, 19, 24 (recognizing distinction between mandatory fines imposed by clerk and mandatory fines not imposed at all for purposes of appellate jurisdiction to order reimposition); *People v. Warren*, 2016 IL App (4th) 120721-B, ¶¶ 133-35, 155-58 (same). The People did not request that the appellate court impose a "new and different" penalty; it simply defended the substantive correctness of the existing sentence. Although vacatur is required to correct the procedural defect in the fines' imposition, the reimposition of those substantively proper fines by a properly authorized court results in defendant owing no more than he did before the appeal.

Defendant did not object to the imposition of the mandatory fines per se, but only to their imposition *by the circuit clerk*. *See* A12 ("Defendant concedes that all of these assessments were not only authorized by statute but mandatory."). Thus, his injury is procedural rather than substantive, and the question is purely one of remedy: whether the

appropriate remedy for a claim of procedural error is to correct the procedural error or to replace it with a substantive error. Defendant has a right to have statutorily mandated fines properly imposed by a court; he has no right to a sentence that omits the statutorily mandated fines altogether. To vacate the substantively proper, but procedurally flawed, fines without reimposition would grant defendant relief to which he has no right. Therefore, the appropriate remedy is to vacate the fines that, though substantively proper, were imposed in a procedurally improper manner and reimpose the fines properly, either in the appellate court or in the circuit court on remand. *See Warren*, 2016 IL App (4th) 120721-B, ¶ 89 (remanding for reimposition of clerk-imposed fines by circuit court); *People v. Ford*, 2016 IL App (3d) 130650, ¶¶ 34-36 (same); *cf. In re B.L.S.*, 202 Ill. 2d 510, 521 (2002) (declining to vacate substantively correct mandatory juvenile sentence due to procedural error in its imposition — failure to obtain social investigation report prior to sentencing — where procedural error could not have prejudiced juvenile respondent).

IV. The Court Should Amend Its Rules to Permit Statutorily Unauthorized Sentences to be Corrected at Any Time by Motion in the Circuit Court.

Although the Court declined to consider amending its rules in *Castleberry* because neither party argued for a rule change, the Court "reserved judgment on the matter should any amendment be proposed in the future." *Castleberry*, 2015 IL 116916, ¶ 28. The People now propose that the Court amend its rules to fill the void left by the now-abrogated void sentence rule. The Court resorted to the void sentence rule as a means to correct statutorily unauthorized sentences short of separate Supreme Court litigation where Rule 615(b)'s prohibition against increasing a sentence on appeal would otherwise leave the unlawful sentences in place. *See id.* at ¶ 24 ("Indeed, the void sentence rule rests on the assumption

that Rule 615(b) does *not* permit a reviewing court to increase a criminal sentence; otherwise, there would be no need for a reviewing court to resort to the notion of voidness."). *Castleberry* correctly abolished the void sentence rule, recognizing that its basis was "constitutionally unsound." *Id.* at ¶ 19. But the inability after *Castleberry* to correct statutorily unauthorized sentences other than by invoking this Court's original mandamus jurisdiction leads to two absurd outcomes and warrants amendment.

One such absurd outcome is that this Court has become the court of first resort to correct routine errors in a large class of cases. Defendants sentenced more severely than statutorily authorized who failed to raise the sentencing errors on direct appeal now must file mandamus actions in this Court to obtain relief. *See People v. Brown*, 2016 IL App (2d) 140458, ¶¶ 8-9 (court lacked authority to correct sentence higher than statutorily authorized subsequent to abolition of void sentence rule). Thus, many cases involving improper fines or MSR terms that were resolved in the appellate court under the void sentence rule now end up as mandamus complaints on this Court's docket. The Court has also seen an increase in mandamus complaints brought by the People to correct statutorily non-conforming sentences and MSR terms.

The flood of mandamus actions would be greater still were the People to seek correction of every sentence that omitted mandatory fines. But the second absurd outcome of the People's inability to correct statutorily unauthorized sentences except by litigation in this Court arises from these cases *not* making their way to this Court's docket, as the People decline to pursue imposition of omitted mandatory fines. It is all too easy for circuit courts to forget one or more of the myriad small but mandatory fines. *Folks*, 406 Ill. App. 3d at

308-09 ("The possibility of error [in assessing fines, fees, and costs] because of the complicated nature of the assessment process is high and is of great concern to the court and to the elected court clerks in the 102 counties of the state of Illinois."). But relatively few of these errors of omission will ever be corrected; as the appellate court has recognized, the fines in these cases generally amount to sums too small to justify expending additional government resources on separate Supreme Court litigation. *People v. Wade*, 2016 IL App (3d) 150417, ¶ 13 ("If the State believes that it is worth the time and money to pursue these fines (less than $150), it must file a petition for writ of *mandamus* seeking an order requiring the trial court to impose the statutorily required fines," but "[i]t seems . . . that the economically rational thing to do is to vacate the fines and move on to the next case.").

As a result, funds supported by these fines will be impoverished by the aggregate amount of all of the individual fines worth less than the cost of litigating them. Such causes include county mental health and drug courts, *see* 55 ILCS 5/5-1101(d-5); the Spinal Cord Paralysis Cure Research Trust Fund, *see* 730 ILCS 5/5-9-1.1(c); and the Violent Crime Victim Assistance Fund, *see* 725 ILCS 240/10; among others. The aggregate amounts of these fines can be significant; the Violent Crime Victim Assistance Fund receives more than $7 million per year from collected fines. *See* 2015 Annual Report of the Illinois Courts, Admin. Summary, at 13 ($7,517,940 in VCVA fines collected); 2014 Annual Report of the Illinois Courts, Admin. Summary, at 13 ($7,208,196 in VCVA fines collected); 2013 Annual Report of the Illinois Courts, Admin. Summary, at 13 ($7,249,594 in VCVA fines collected).

Accordingly, the judicial system requires a mechanism to correct statutorily unauthorized sentences short of Supreme Court litigation. This Court should adopt a rule providing that "a statutorily unauthorized sentence may be corrected at any time by motion in the circuit court." A similar mechanism is employed by twenty-one states (as well as the federal courts prior to 1987). *See* Kristopher N. Classen & Jack O'Malley, *Filling the Void: The Case for Repudiating and Replacing Illinois' Void Sentence Rule*, 42 Loy. U. Chi. L.J. 427, 543 (2011).[7] Any sentencing term that could be challenged as void under the void sentencing error could be challenged as statutorily unauthorized under this rule. *See*

[7] *See* Alaska R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time."); Colo. R. Crim. P. 35(a) ("The court may correct a sentence that was not authorized by law or that was imposed without jurisdiction at any time . . . ."); Conn. Super. Ct. R. 43-22 ("The judicial authority may at any time correct an illegal sentence or other illegal disposition . . . ."); Del. Super. Ct. R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time ...."); Fla. R. Crim. P. 3.800(a) ("A court may at any time correct an illegal sentence imposed by it ...."); Haw. R. Penal P. 35(a) ("The court may correct an illegal sentence at any time . . . ."); Idaho Crim. R. 35(a) ("The court may correct a sentence that is illegal from the face of the record at any time."); Iowa R. Crim. P. 2.24(5)(a) ("The court may correct an illegal sentence at any time."); Kan. Stat. Ann. § 22-3504(1) (West 2010) ("The court may correct an illegal sentence at any time."); La. Code Crim. Proc. Ann. art 882(A) (2008) ("An illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review."); Md. R. 4-345(a) ("The court may correct an illegal sentence at any time."); Minn. R. Crim. P. 27.03, subdiv. 9 ("The court may at any time correct a sentence not authorized by law."); Nev. Rev. Stat. § 176.555 (2010) ("The court may correct an illegal sentence at any time."); N.J. R. Ct. 3:21-10(b) ("A motion may be filed and an order may be entered at any time . . . correcting a sentence not authorized by law. . . ."); N.D. R. Crim. P. 35(a) ("The sentencing court may correct an illegal sentence at any time . . . ."); R.I. R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time."); S.D. Codified Laws § 23A-31-1 (Rule 35) (2010) ("A court may correct an illegal sentence at any time . . . ."); Utah R. Crim. P. 22(e) ("The court may correct an illegal sentence ... at any time."); Vt. R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time . . . ."); W. Va. R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time . . . "); Wyo. R. Crim. P. 35(a) ("The court may correct an illegal sentence at any time."); Fed. R. Crim. P. 35(a) (prior to Nov. 1, 1987) (providing that "[t]he court may correct an illegal sentence at any time").

Castleberry, 2015 IL 116916, ¶ 13 (quoting *People v. Arna*, 168 Ill. 2d 107, 113 (1995)) (explaining that under void sentence rule, "'[a] sentence which d[id] not conform to a statutory requirement [wa]s void.'").

Adopting this rule would place correction of routine sentencing errors in the courts best situated to correct them: the circuit courts. The vast majority of these errors are easily remedied, involving prison terms above or below the statutorily mandated maximum or minimum, incorrect MSR terms, or fines other than as statutorily mandated. Neither this Court's nor the appellate court's involvement is necessary in most cases; the trial court is perfectly capable of correcting its own sentences to comply with clear statutory mandates once those mandates have been brought to its attention. *See Marker*, 233 Ill. 2d at 168-69 (quoting *People v. Robins*, 33 Ill. App. 3d 634, 636 (4th Dist. 1975)) ("'Public policy clearly favors correction of errors at the trial level.'"). Adopting this rule would eliminate the obstacle that forced these cases onto the appellate court's docket under the void sentence rule and has forced them onto this Court's docket now that the void sentence rule has been abolished.

The economy gained by addressing straight forward sentencing and clerical errors in the circuit court before raising them in the appellate court is considerable. *Gutierrez* discounted the argument that requiring defendants to correct clerical errors in the trial court would avoid "squandering of scarce appellate judicial resources," *Gutierrez*, 2012 IL 111590, ¶ 13, reasoning that "[i]t is obviously much more efficient for the appellate court to simply take care of the matter while the case is on review than to have the defendant initiate a separate proceeding to have the fine vacated," *id.* at ¶ 13 n.1. But time has since shown that

this assumption was mistaken. First, appellate litigation often *is* the inefficient separate proceeding that *Gutierrez* sought to avoid. For example, defendant's appellate litigation would not exist if he had gotten the erroneous data entries in the Payment Status Information corrected by either the clerk or the circuit court when he discovered them in early 2016, for his sole claim on appeal was that the erroneous entries must be corrected. A10. Defendant's unnecessary appeal is not alone, as other defendants have filed appeals challenging only data entry errors in clerical records. *See*, *e.g.*, *Gutierrez*, 2012 IL 111590, ¶ 3 (defendant's only claim on direct appeal was that fines and fees were erroneously listed in printout of clerical accounts supplemented to record on appeal over a year after sentencing); *Hible*, 2016 IL App (4th) 131096, ¶ 7 (defendant's only claim on appeal from denial of petition for relief from judgment was that clerk improperly "imposed" fines); *see also People v. Truesdale*, 2017 IL App (3d) 150393, ¶ 9 (defendant's only claims on appeal from dismissal of postconviction petition were that clerk improperly "imposed" fines and that he was entitled to one additional day of sentence credit).

Second, although it may be more efficient for the appellate court to correct clerical errors once they have been fully briefed before it, this practice presents a systemic drain on limited appellate resources. *See People v. Griffin*, 2017 IL App (1st) 143800, ¶ 5 (noting that "[t]his case is but one of hundreds of criminal appeals involving fines-and-fees issues that were overlooked in the trial court level and raised for the first time on appeal" and that "[a] Westlaw search reveals that in 2016 alone, there were 137 cases in this court where a defendant challenged the imposition of fines and/or fees . . . , all for the first time on

appeal").[8] "Copious amounts of time, effort, and ink are spent resolving these issues at the appellate level when many of them are more appropriately resolved at the trial level through (i) routine review of judgment orders after their entry — a task that would at most take minutes — and (ii) cooperation between the parties to correct any later-discovered errors by means of agreed orders." *Id.* at ¶ 7 (citing *In re Derrico G.*, 2014 IL 114463, ¶ 107 (State's Attorney has duty to see that justice is done for both public and defendant)); *see People v. Williams*, 2013 IL App (4th) 120313, ¶ 25 ("Additionally, we emphasize the tremendous amount of appellate resources expended in this case and many others just like it to correctly determine and assess the myriad of fines and fees our legislature has created."). Requiring defendants to seek correction of clerical errors with the clerk or circuit court before appealing those errors promotes efficiency, in keeping with this court's policies. *See Marker*, 233 Ill. 2d at 169 ("[T]his court has . . . espoused the efficacy of providing the opportunity for an expeditious method to correct error short of an appeal.").

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[8] The People's own research revealed eighteen cases in 2016 alone in which the appellate court vacated mandatory fines as improperly imposed by the clerk, not including cases that may have been disposed of by summary order. *See People v. Breeden*, 2016 IL App (4th) 121049-B; *People v. Brown*, 2016 IL App (4th) 140260-U; *People v. Daily*, 2016 IL App (4th) 150588; *People v. Evans*, 2014 IL App (4th) 130001-UB; *People v. Galmore*, 2016 IL App (4th) 140410-U; *People v. Hible*, 2016 IL App (4th) 131096 (only claim raised by defendant was fines "imposed" by clerk); *People v. Hughes*, 2016 IL App (3d) 140136-U; *People v. Karmatzis*, 2016 IL App (4th) 140641-U; *People v. McCaney*, 2016 IL App (4th) 150125-U (clerk fines sole issue); *People v. McDaniel*, 2016 IL App (2d) 141061; *People v. Mister*, 2016 IL App (4th) 130180-B; *People v. Monroe*, 2016 IL App (4th) 140522-U; *People v. Nelson*, 2016 IL App (4th) 140168; *People v. Pettius*, 2016 IL App (4th) 140301-U; *People v. Vara*, 2016 IL App (2d) 140848; *People v. Wade*, 2016 IL App (3d) 150417; *People v. Walker*, 2016 IL App (3d) 140766; *People v. Warren*, 2016 IL App (4th) 120721-B. This does not include all the other published cases involving clerk-imposed fines where the appellate court did not specify whether any of the fines were mandatory. The People refer to the above unpublished cases for no purpose other than to evidence the existence and frequency of appellate litigation.

V. The Circuit Court Imposed the $200 Sexual Assault Fine that the Appellate Court Vacated as Having Been Imposed by the Circuit Clerk.

In its written sentencing order, the circuit court imposed a $200 sexual assault fine. *See* A27. Because the appellate court incorrectly identified this fine as imposed by the circuit clerk rather than the circuit court, *see* A11, its vacatur of the fine on that basis must be reversed.

CONCLUSION

The People of the State of Illinois respectfully request that this Court reverse the judgment of the appellate court or, in the alternative, reverse the appellate court's vacatur of the $200 sexual assault fine, affirm its vacatur of the remaining fines listed on the Payment Status Information, and remand to the circuit court for reimposition of those fines. Finally, the People respectfully request that the Court adopt a new Supreme Court rule providing that a statutorily unauthorized sentence may be corrected at any time by motion in the circuit court.

August 16, 2017

Respectfully submitted,

LISA MADIGAN
Attorney General of Illinois

DAVID L. FRANKLIN
Solicitor General

MICHAEL M. GLICK
JOSHUA M. SCHNEIDER
Assistant Attorneys General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601-3218
(312) 814-3565
jschneider@atg.state.il.us

Counsel for Plaintiff-Appellant
People of the State of Illinois

RULE 341(c) CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is twenty-four pages.

/s/ Joshua M. Schneider
JOSHUA M. SCHNEIDER
Assistant Attorney General

APPENDIX

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Table of Contents of the Record on Appeal

I. Common Law Record

IV. Supplemental Record

V. Report of Proceedings

2016 IL App (2d) 140848
No. 2-14-0848
Opinion filed December 21, 2016

121823

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Stephenson County.
Plaintiff-Appellee,	)	
v.	)	No. 13-CF-73
RICARDO VARA,	)	Honorable Michael P. Bald,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court, with opinion.
Justices Burke and Birkett concurred in the judgment and opinion.

OPINION

¶ 1 We once again are presented with a case in which the circuit clerk imposed certain mandatory statutory fines, despite lacking the power to do so, and the trial court did not, despite having both the power and the obligation to act. The parties agree that the clerk lacked the authority to impose the fines and that the purported fines must be vacated. They disagree on what other relief this court may provide at this time. The State requests that we impose the fines ourselves or remand with directions for the trial court to do so. Defendant, Ricardo Vara, disagrees. We agree with defendant that, in light of *People v. Castleberry*, 2015 IL 116916, the purported fines must be vacated and we may not provide any further relief, either by imposing

the fines or by ordering the trial court to do so. If the State wishes to hold the trial court to its statutory obligation, it must pursue relief in a new proceeding.

¶ 2 After a bench trial, defendant was convicted of child pornography (720 ILCS 5/11-20.1(a)(6) (West 2012)) and sentenced to three years in prison. At the August 4, 2014, sentencing, the trial court imposed the following fines: (1) a $1000 fine; (2) a mandatory $500 sex-offender fine (see 730 ILCS 5/5-9-1.15(a) (West 2014)); (3) a mandatory $30 "[a]dditional fine to fund expungement of juvenile records" (730 ILCS 5/5-9-1.17(a) (West 2014)); and (4) a mandatory $500 "[a]dditional child pornography fine[]" (730 ILCS 5/5-9-1.14 (West 2014)). The propriety of these fines is undisputed. Defendant timely filed a notice of appeal on August 22, 2014.

¶ 3 The assessments that are at issue are listed in a document entitled "Payment Status Information" (Payment Schedule), dated April 12, 2016, approximately 18 months after the written final judgment. The Payment Schedule is signed by a deputy circuit clerk, on behalf of the circuit clerk. It lists the following pertinent assessments (all shown as unpaid): (1) "Court" ($50); (2) "Youth Diversion" ($5); (3) "Violent Crime" ($100); (4) "Lump Sum Surcharge" ($250); (5) "Sexual Assault" ($200); (6) "Sex Offender Regis" ($500); (7) "Medical Costs" ($10); (8) "State Police Ops" ($15); (9) "Child Pornography" ($495); and (10) "Clerk Op Deduction" ($5).

¶ 4 In this direct appeal, defendant does not challenge assessment (6), the $500 sex-offender-registration charge, or assessments (9) and (10), the $500 child-pornography fine, $5 of which must be deposited into a statutory fund (see *id.*). Defendant notes that the trial court duly imposed these assessments. He contends, however, that the remaining assessments are void because they are fines and thus the clerk lacked the authority to levy them.

¶ 5 Defendant concedes that all of these assessments were not only authorized by statute but mandatory. Specifically, assessment (1) ("Court") was required by a county ordinance or resolution passed under section 5-1101(c)(1) of the Counties Code (55 ILCS 5/5-1101(c)(1) (West 2014)). Assessment (2) ("Youth Diversion") was required by county action under section 5-1101(e)(2) of the Counties Code (55 ILCS 5/5-1101(e)(2) (West 2014)).[1] Assessment (3) ("Violent Crime") was required by section 10(b)(1) of the Violent Crime Victims Assistance Act (725 ILCS 240/10(b)(1) (West 2014)). Assessment 4 ("Lump Sum Surcharge") was required by section 5-9-1(c) of the Unified Code of Corrections (Unified Code) (730 ILCS 5/5-9-1(c) (West 2014)). Assessment 5 ("Sexual Assault") was required by section 5-9-1.7(b)(1) of the Unified Code (730 ILCS 5/5-9-1.7(b)(1) (West 2014)). Assessment (7) ("Medical Costs") was required by section 17 of the County Jail Act (730 ILCS 125/17 (West 2014)). Assessment (8) ("State Police Ops") was required by section 27.3a of the Clerks of Courts Act (705 ILCS 105/27.3a (West 2014)). Defendant's sole contention is that the assessments are void because the clerk levied them without any authority. He requests that we vacate these illegal fines.

¶ 6 The State concedes that the assessments are void, but it disagrees with defendant on the proper remedy. The State requests that we either impose the fines ourselves or remand with directions for the trial court to do so. Defendant acknowledges that what the State requests was formerly the accepted remedy in a case such as this one. But he argues that this relief was premised on the rule, abolished by *Castleberry*, that a sentence that does not conform to statutory requirements is void and may be challenged at any time. Defendant reasons that, after *Castleberry*, the trial court's nonimposition of the fines was mere trial-court error (albeit plain

[1] The record does not disclose that the county has enacted an ordinance or resolution that requires either assessment (1) or assessment (2), but defendant does not contest that it has.

error) and that his appeal does not empower us to grant the State relief against the judgment. For the reasons that follow, we agree with defendant.

¶ 7 First, some general principles. Because this appeal presents pure questions of law about the propriety of the fines involved, our review is *de novo*. See *People v. Marshall*, 242 Ill. 2d 285, 292 (2011). Also, defendant has not forfeited his claim of error by failing to raise it in the trial court, as the erroneous imposition of a fine or a fee is cognizable as plain error. See *People v. Lewis*, 234 Ill. 2d 32, 47-49 (2009).

¶ 8 We agree with the parties that the assessments at issue were fines, which the circuit clerk could not impose. A fine is a pecuniary punishment for an offense. *People v. Wisotzke*, 204 Ill. App. 3d 44, 50 (1990). Fines must be imposed by the trial court as part of the defendant's sentence. *People v. Chester*, 2014 IL App (4th) 120564, ¶ 33. The circuit clerk may not impose fines. *People v. Johnson*, 2015 IL App (3d) 140364, ¶ 10; *Chester*, 2014 IL App (4th) 120564, ¶ 33. This is because the imposition of a fine is a judicial function beyond the authority of the clerk. *Wisotzke*, 204 Ill. App. 3d at 50.

¶ 9 Although the clerk may impose fees, which are not punitive (see *People v. Wade*, 2013 IL App (3d) 150417, ¶ 15), all of the assessments at issue were not fees but fines. See *People v. Smith*, 2013 IL App (2d) 120691, ¶ 18 (assessment 1 ("Court) and assessment 2 ("Youth Diversion")); *People v. Reed*, 160 Ill. App. 3d 606, 612 (1987) (assessment 3 ("Violent Crime")); *People v. Williams*, 2013 IL App (4th) 120313, ¶ 18 (assessment 4 ("Lump Sum Surcharge")); 730 ILCS 5/5-9-1.7(b)(1) (West 2014) (assessment 5 ("Sexual Assault")); *People v. Larue*, 2014 IL App (4th) 120595, ¶ 57 (assessment 7 ("Medical Costs")); *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 31 (assessment 8 ("State Police Ops")).

¶ 10 The parties agree that the foregoing fines cannot stand and must be vacated. They disagree on what more, if anything, this court can or ought to do. The State requests that we either impose the fines ourselves or remand with directions for the trial court to do so. The State correctly notes that, before *Castleberry*, this was the standard and accepted remedy. See, *e.g.*, *People v. Higgins*, 2014 IL App (2d) 120888, ¶¶ 24, 33 (remand with directions to impose fines); *Chester*, 2014 IL App (4th) 120564, ¶ 37 (remand with directions to impose fines); *People v. Evangelista*, 393 Ill. App. 3d 395, 401 (2009) (direct imposition of fines). The State further correctly notes that, even after *Castleberry*, courts have held that, on a defendant's direct appeal, the court of review has the power to impose the fines or to order the trial court to do so. See *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 89; *People v. Ford*, 2016 IL App (3d) 130650, ¶ 35.

¶ 11 Defendant contends that, whatever the practice before *Castleberry*, that opinion, while not disturbing our authority to declare the clerk's unauthorized acts void, now bars us from either imposing the fines ourselves or ordering the trial court to do so. He reasons that *Castleberry* abrogated the basis for our authority to increase a defendant's punishment beyond what the trial court imposed. By abolishing the rule that an illegally low sentence is void, it prevented an appellate court from invoking its power to correct a void judgment at any time that a case is properly before it (see *People v. Flowers*, 208 Ill. 2d 291, 308 (2003)). Thus, defendant concludes, the mere fact that the appellate court has jurisdiction over a defendant's appeal does not enable it to grant the State relief by correcting, or ordering the correction of, an illegally low sentence. Defendant urges us to reject the post-*Castleberry* authority to the contrary in favor of *Wade*, which held that the State can obtain relief only by filing a new action.

¶ 12 To explain why we agree with defendant, we discuss *Castleberry* and the conflicting authority that it has spawned. Before *Castleberry*, the law was that a sentence that does not conform to a statutory requirement is not merely voidable but void. See *People v. Arna*, 168 Ill. 2d 107, 113 (1995). However, the *Castleberry* court began its opinion by explicitly abolishing that rule. *Castleberry*, 2015 IL 116916, ¶ 1. The court then explained why.

¶ 13 The *Castleberry* defendant had been convicted of two counts of aggravated criminal sexual assault, based on two separate acts. At sentencing, the State argued that each conviction was subject to a mandatory add-on of 15 years under a statute that applied whenever a defendant had committed certain offenses while armed with a firearm. *Id.* ¶ 3. The trial court held that the add-on, though mandatory, applied only once under the circumstances; accordingly, after sentencing the defendant to two consecutive 9-year terms, it added 15 years to only one term, for a total of 33 years' imprisonment. *Id.* ¶ 4. On the defendant's appeal, the appellate court rejected his claims of error (*id.* ¶ 5), but it agreed with the State that the trial court had erred in applying the 15-year add-on to only one sentence, as the pertinent statute had required that each sentence be so enhanced (*id.*). In accordance with *Arna*, the appellate court held that, because the sentence violated a statutory requirement, it was void. *Id.* ¶ 6. It remanded the cause for resentencing.

¶ 14 The defendant appealed to the supreme court. *Id.* ¶ 7. He argued that the appellate court erred insofar as it held that his sentence was void, as opposed to merely erroneous, to the extent that it omitted the required add-on. *Id.* ¶ 9. This was because *Arna* was not valid. *Id.* He contended further that, without the "void[-]sentence rule," the appellate court did not have the authority to consider the State's request to increase his sentence. *Id.* ¶ 10. The supreme court agreed with the defendant in each respect.

¶ 15 The court first rejected the *Arna* rule as inconsistent with the principle that " '[w]hether a judgment is void or voidable presents a question of jurisdiction.' " *Id.* ¶ 11 (quoting *People v. Davis*, 156 Ill. 2d 149, 155 (1993)). Essentially, if jurisdiction was lacking when the judgment was entered, then it is void; but, if jurisdiction existed, the judgment is merely voidable. *Id.*; see *Davis*, 156 Ill. 2d at 155-56. And a court has jurisdiction as long as it has both the power to hear the general class of cases to which the proceeding in question belongs (subject-matter jurisdiction) and the power to bring a person into its adjudicative process (personal jurisdiction). *Castleberry*, 2015 IL 116916, ¶ 12. *Arna* transgressed this limitation on the voidness doctrine by holding that a judgment can be void even if the trial court that entered it had both subject-matter jurisdiction and personal jurisdiction at the time. *Id.* ¶ 13.

¶ 16 The *Castleberry* court thus rejected the premise of *Arna*, reasoning that, in general, because jurisdiction is conferred on the trial court solely by our state constitution, a statutory requirement cannot be jurisdictional. *Id.* ¶ 15; see *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 335-37 (2002). And, because a nonjurisdictional defect cannot render a judgment void, the trial court's failure to impose the mandatory second add-on did not render the defendant's sentence void, even in part. *Castleberry*, 2015 IL 116916, ¶ 15. Indeed, the parties agreed that the void-sentence rule was not valid. *Id.* ¶ 17.

¶ 17 In *Castleberry*—as here—the parties disagreed on what, if anything, the appellate court could do to remedy the nonjurisdictional defect of an illegally low sentence. The State contended that the appellate court had properly granted its request to increase the defendant's sentence. The supreme court disagreed. *Id.* ¶ 20. The court explained that Illinois Supreme Court Rule 604(a) (eff. July 1, 2006), which specifies when the State may appeal in a criminal case, does not permit appeals from sentencing orders. *Castleberry*, 2015 IL 116916, ¶ 21.

Although the appellate court could consider any State argument *in support of* the judgment from which the defendant had appealed, it could not grant the State relief *against* the judgment. *Id.* ¶ 22. To do so would effectively allow the State to file a cross-appeal from the judgment by seeking relief adverse to the defendant. *Id.* ¶ 23. Because neither Rule 604(a) nor any other supreme court rule allowed such a cross-appeal, the appellate court did not have the authority to grant the State's request to modify the sentencing order. *Id.* ¶ 26.

¶ 18 The supreme court did not hold that the State is always without recourse against an illegally low sentence. In "appropriate circumstances," it explained, the State can file a *mandamus* action to require the trial court to follow the statutory requirement. *Id.* ¶¶ 26-27. In *Castleberry*, the State had neither filed such an action nor urged the supreme court to depart from its rules or amend them in the course of deciding the case. *Id.* ¶¶ 27-29. Thus, the court reversed the appellate court's judgment, negating that court's attempt to enforce the statutory requirement on the defendant's direct appeal. The court simply affirmed the trial court's judgment. *Id.* ¶ 31.

¶ 19 The effect of the supreme court's decision was to leave the illegally low sentence in place. The court recognized that the sentence violated a statutory requirement, but it recognized as well that, because the illegality made the judgment merely voidable and not void, it was not subject to the rule that a void order may be attacked at any time as long as the case is properly in court. The illegality could still be challenged—but not on the defendant's direct appeal from the judgment. Thus, the court granted the State no relief against the admitted trial-court error.

¶ 20 Defendant argues that *Castleberry* controls our options in this case. He notes that, not only did the circuit clerk purportedly impose various fines without the authority to do so, but the trial court failed to impose these fines despite its obligation to do so. Defendant reasons that we can vacate the clerk's unauthorized actions, because he has requested this relief in his direct

appeal, over which we undoubtedly have jurisdiction. He concludes, however, that, just as the appellate court in *Castleberry* lacked the authority to grant the State relief against the trial court's failure to follow the add-on statute, so we may not grant the State relief against the trial court's failure to follow the statutes that required imposing the specified fines. In other words, he maintains, we may not subject him to what would really be new penalties—the clerk's purported imposition of these penalties having been merely an imposition on the trial court's exclusive authority, and therefore a legal nullity.

¶ 21 Defendant's position finds persuasive support in *Wade*. There, the defendant pleaded guilty to retail theft and was sentenced to 5½ years' imprisonment. The trial court imposed no fines. *Wade*, 2016 IL App (3d) 150417, ¶ 3. The circuit clerk's office, however, filed a document essentially similar to the Payment Schedule in this case, purporting to impose a variety of assessments, some of which were fines and thus beyond the clerk's authority to order. *Id.* ¶¶ 5, 14. On appeal, the defendant contended that these fines were void. The appellate court agreed. The court explained that, after *Castleberry*, the fines could not be void merely because they failed to comply with a statutory requirement—but they were void nonetheless, because the circuit clerk had imposed them and that officer had no authority to do so. *Id.* ¶ 12. The court reasoned that *Castleberry* did not disturb the long-standing rule that fines purportedly levied by the clerk are void from their inception because, as a nonjudicial officer, the clerk lacks the authority to enter a penalty in a criminal case. *Id.* ¶¶ 10, 12; see *People v. Hible*, 2016 IL App (4th) 131096, ¶ 11; see also Ill. Const. 1970, art. VI, § 18 (explicitly describing circuit clerk as nonjudicial officer); *Hall v. Marks*, 34 Ill. 358, 363 (1864) (clerk is not a judicial officer but only a ministerial officer of the court).

¶ 22 The *Wade* court next considered the effect of its initial holding. The circuit clerk had purported to impose various fines but had lacked the authority to do so. The trial court did not have the authority to impose these fines but had not done so. Thus, in legal effect, the fines had not been imposed at all. Yet they were mandatory. Therefore, the trial court had imposed an illegally low sentence. *Wade*, 2016 IL App (3d) 150417, ¶ 13. However, under *Castleberry*, the defect did not make the sentence void. *Id.* "So, what to do?" *Id.* The court's answer was straightforward: Nothing.

¶ 23 The court recognized that, before *Castleberry*, appellate courts had routinely remedied trial courts' failure to impose mandatory fines by either imposing the fines themselves or remanding with directions for the trial courts to impose them. *Id.* However, after *Castleberry*, neither remedy was a viable option, because either would require the appellate court to grant the State relief by increasing the defendant's sentence. *Id.* The State could still file a *mandamus* action, although the parties there agreed that it made more sense "to vacate the fines and move on to the next case." *Id.*

¶ 24 We agree with *Wade*'s reasoning. Indeed, although the court found *Castleberry* "instructive" on the issue of whether the court could remand the cause for the trial court to impose fines that it had not assessed at sentencing (*id.* ¶ 12), we conclude that *Castleberry* was controlling in *Wade*. *Wade*'s reasoning demonstrates as much. Because the mandatory fines purportedly assessed by the circuit clerk were void from their inception and the trial court never imposed them at all, the defendant's sentence was illegally low, for the same reason as was the defendant's sentence in *Castleberry*. And because the jurisdiction of the appellate court in *Wade* was invoked solely by the defendant's appeal, and not by a State cross-appeal (a legal

impossibility), the appellate court had no more authority to correct the illegality than did the appellate court in *Castleberry*.

¶ 25 For these reasons, we conclude, *Wade* was squarely controlled by *Castleberry*. And, for the same reasons, so is this case. Legally speaking, the fines that the trial court did not impose do not exist. At present, defendant's sentence consists of his prison term, his term of mandatory supervised release, and the fines that the trial court duly imposed. We cannot remedy the trial court's failure to impose the mandatory fines at issue any more than the appellate court in *Castleberry* could have imposed the mandatory second add-on or the appellate court in *Wade* could have imposed the various fines that were never assessed in the trial court.

¶ 26 We recognize, as did the court in *Wade*, that, even after *Castleberry*, several appellate court opinions have continued the pre-*Castleberry* practice of remanding with directions for the trial courts to impose mandatory fines that they did not originally impose (although the circuit clerks had purported to do so). *Id.* ¶ 16. However, to the extent that these opinions cannot be distinguished, we do not follow them.

¶ 27 We start with two post-*Castleberry* opinions with which we respectfully disagree. In *Ford*, the defendant, who was convicted of reckless conduct and sentenced to probation, argued on appeal that the circuit clerk had improperly assessed certain mandatory fines against him. The State agreed. The appellate court held that the purported fines were void and it vacated them. *Ford*, 2016 IL App (3d) 130650, ¶¶ 32-33. The court also remanded the cause with directions for the trial court to impose the fines. *Id.* ¶¶ 32, 35. Not only did the court decline to discuss whether *Castleberry* allowed this remedy, but it did not mention *Castleberry* at all. Instead, the court relied on a pre-*Castleberry* appellate opinion that granted such relief. *Id.* ¶ 33; see *People v. Williams*, 2013 IL App (4th) 120313, ¶ 18.

¶ 28 In *Warren*, decided after *Ford* (but before *Wade*), the court purported to address the application of *Castleberry* to the issue presented here. It agreed with the defendant that the circuit clerk could not impose certain mandatory fines (too numerous to specify here) and that the fines that the clerk had purported to assess were void. Further, it observed that *Castleberry* prevented it from "order[ing] the trial court to impose additional penalties on [the] defendant." *Warren*, 2016 IL App (4th) 120721-B, ¶¶ 131, 144. However, it nonetheless ordered the trial court to "reimpose" the fines in the amounts that the clerk had purported to assess (*id.* ¶¶ 120, 123, 126, 131, 135, 139, 144) or, in accordance with the applicable statute, in a lesser amount (*id.* ¶ 148). It saw itself constrained by *Castleberry* only to the extent that the applicable statutes might have called for fines in *greater* amounts; only these were the "additional penalties" that *Castleberry* precluded. *Id.* ¶¶ 131, 144.

¶ 29 What the *Warren* court failed to recognize was that, because the fines that the clerk had purported to impose were void from the outset, the trial court's imposition of them, in *any* amount, was the "impos[ition] of additional penalties on [the] defendant." *Id.* ¶¶ 131, 144. Although the appellate court properly vacated the (legally nonexistent) fines that the clerk had purported to assess, this action did no more than declare (and thus effectuate in practice) the existing state of affairs: the defendant was not subject to these fines. By ordering the trial court to impose these fines—and, in the contemplation of the law, to subject the defendant to them for the first time—the appellate court in essence created a State cross-appeal and awarded the State relief thereon. This is what *Castleberry* had just said an appellate court may *not* do. And it is what *Wade* later held, correctly, that an appellate court may not do. See *Wade*, 2016 IL App (3d) 150417, ¶ 16.[2]

[2] *Wade* did not actually mention *Warren*, instead citing, as examples of opinions it would

¶ 30 As did the supreme court in *Castleberry* and the Third District in *Wade*, we note that the State is not without recourse against the trial court's failure to impose mandatory fines against a criminal defendant: the State may petition for *mandamus*. Further, we do not rule out the possibility that the State may obtain relief through some other collateral proceeding, even one that the defendant has brought. That occurred in *Hible*, in an opinion that the *Wade* court found inconsistent with *Castleberry* and thus disapproved. *Id.* *Hible* is the third post-*Castleberry* opinion that we address.

¶ 31 In *Hible*, the defendant pleaded guilty to aggravated battery and was sentenced to two years in prison. The trial court imposed no fines, but the circuit clerk assessed four fines: $50 under section 1101(c)(1) of the Counties Code (55 ILCS 5/5-1101(c)(1) (West 2004)); $2 for the " 'Anti-Crime Fund' " (730 ILCS 5/5-6-3(b)(13) (West 2004)); $4 for " 'Youth Diversion' " (55 ILCS 5/5-1101(e) (West 2004)); and $20 for the Violent Crime Victims Assistance Fund (725 ILCS 240/10 (West 2004)). *Hible*, 2016 IL App (4th) 131096, ¶ 3.

¶ 32 Four years later, the defendant filed a petition under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2010)). The trial court dismissed the petition. *Hible*, 2016 IL App (4th) 131096, ¶¶ 1-5. On appeal, the defendant argued in part that the circuit clerk had improperly imposed (or purported to impose) the four mandatory statutory fines. The State conceded the claim. *Id.* ¶ 7. The appellate court agreed.

¶ 33 The court held first (as would *Wade*) that *Castleberry* did not change the rule that fines imposed by the circuit clerk are void, because the imposition of fines is part of sentencing and therefore within the sole jurisdiction of the judiciary. *Id.* ¶¶ 11-12. Thus, because the purported

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not follow, only *Ford* and *Hible*. *Wade*, 2016 IL App (3d) 150417, ¶ 16. There can be no question, however, that *Warren* is another such opinion that *Wade* disapproved.

fines were void, the defendant was entitled to relief against them even though he filed his petition outside the general two-year limit for a section 2-1401 petition (see 735 ILCS 5/2-1401(c), (f) (West 2010)). *Hible*, 2016 IL App (4th) 131096, ¶ 13.

¶ 34 The court's choice of remedies was more complex. The court held that the Anti-Crime-Fund fine could not be imposed even by the trial court, because it applied only to defendants who received probation (see 730 ILCS 5/5-6-3(b)(13) (West 2004)). Therefore, the court vacated it outright. *Hible*, 2016 IL App (4th) 131096, ¶ 18. However, the court remanded with directions for the trial court to "reimpose" or "recalculate[ ]" the other three fines. *Id.*, ¶¶ 16, 20, 22. The court did not discuss whether *Castleberry* allowed this relief. The court did, however, rely on *Castleberry* in response to the State's request to order the trial court on remand to impose the mandatory lump-sum surcharge (730 ILCS 5/5-9-1(c) (West 2004)). The court's rationale was that, because "[t]he lump-sum surcharge was never imposed originally," it could not order the imposition of the fine, as, under *Castleberry*, "the State's basis for appeal in criminal cases is now limited to those enumerated in Illinois Supreme Court Rule 604(a)." *Hible*, 2016 IL App (4th) 131096, ¶ 24.[3]

[3] *Hible*'s treatment of the lump-sum surcharge is fraught with obvious difficulties. In part these are the same as those in the *Warren* court's treatment of *Castleberry*'s prohibition against the appellate court's increasing the defendant's punishment. In effect, the court treated the legally nonexistent fines as void yet valid, holding that the trial court could "reimpose" them on remand but could not "impose" the lump-sum surcharge, because this fine had not been "impose[d]" at the trial-court level. Thus, although the circuit clerk had never had the power to impose any fines, the clerk's wholly ineffectual attempt to impose three fines enabled the trial court to impose them on remand; yet the clerk's decision not to assess the lump-sum surcharge

¶ 35 Although *Wade* considered *Hible* to be flatly inconsistent with *Castleberry*, that conclusion is not necessarily correct. The *Hible* court relied on Rule 604(a), but it apparently overlooked that it was hearing a direct appeal not in a criminal prosecution governed by Rule 604(a) but in a civil proceeding brought under a provision of the Code of Civil Procedure and governed by the rules for appeal in civil cases. That is, *Hible* was not governed by the supreme court rules on which *Castleberry* relied to hold that the appellate court *in a direct appeal by a criminal defendant* may not grant the State's request to impose penalties that the trial court did not impose.

¶ 36 Because there is no inherent bar to the State filing a cross-appeal from a judgment on a section 2-1401 petition, we cannot say definitively that the State would be unable to request relief in that context (or to do so in the trial court via a cross-petition or in response to the defendant's petition). We do note, however, that the State did not file any cross-appeal in *Hible*, making it questionable whether the appellate court had the authority to order the trial court to impose the three fines to which the defendant had not previously been subject.

¶ 37 In any event, the conundrums raised by *Hible*'s distinctive procedural posture must wait for another day for their ultimate resolution. Suffice it to say that we agree with *Wade* and defendant that the spurious fines are void and that, on this appeal, we lack the authority to impose them or order the trial court to do so. Should the State wish to hold the trial court to its statutory obligation, it must find some other way.

¶ 38 We vacate all of the fines assessed by the circuit clerk but not by the trial court. In all other respects, we affirm defendant's conviction and sentence. As defendant has received all the

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barred the trial court from imposing this fine on remand. We reject this reasoning.

relief that he requested on appeal, we deny the State's request that defendant be assessed the costs for this appeal.

¶ 39 Affirmed in part and vacated in part.

United States of America

2016 IL App (2d) 140848

No. 2-14-0848

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

RICARDO VARA,

Defendant-Appellant.

State of Illinois, Appellate Court, Second District, } **ss.**

I, ROBERT J. MANGAN, Clerk of the Appellate Court, in and for said Second Judicial District of the State of Illinois, and the keeper of the Records and Seal thereof, do hereby certify that the foregoing is a true, full and complete copy of the decision of the said Appellate Court in the above entitled cause of record in my said office.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the said Appellate Court, in Elgin, in said State, this 19th *day of* April, *A.D. 20* 17.

Robert J. Mangan

Clerk Appellate Court, Second District

IN THE CIRCUIT COURT OF STEPHENSON COUNTY, ILLINOIS
FIFTEENTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS)
)
) Case No. 13 CF 73
RICARDO VARA)
)
Defendant.)

Date of Sentence: August 8, 2014
Date of Birth: 8-14-57
Year of Birth: unknown
(victim)

JUDGMENT - SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS

WHEREAS the above-named defendant has been adjudged guilty of the offenses enumerated below:

IT IS THEREFORE ORDERED that the defendant be and hereby is sentenced to confinement in the Illinois Department of Corrections for the term of years and months specified for each offense.

COUNT	OFFENSE	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE		MSR	
1	CHILD PORNOGRAPHY	2-6-13	720 ILCS 5/11-20.1(a)(6)(vii)	3	3	Yrs.	1	Yrs.
____	_____	_____	_____	____	_____	Yrs. _____ Mos.	____	Yrs.

and said sentence shall run (☐concurrent with) (☐consecutive to)the sentence imposed on:

____ _____ _____ _____ ____ _____ Yrs. _____ Mos. ____ Yrs.

and said sentence shall run (☐concurrent with) (☐consecutive to)the sentence imposed on:

____ _____ _____ _____ ____ _____ Yrs. _____ Mos. ____ Yrs.

The Court finds that the defendant is:

☐ Eligible for and is sentenced to an extended term pursuant to 730 ILCS 5/5-8-2

☐ Convicted of a class_____offense but sentenced as a **Class X** offender pursuant to 730 ILCS 5/5-4.5-95(b)

☒ The Court further finds that the defendant is entitled to receive $5.00 per day credit and day for day credit for time actually served in custody from (specify dates) 4-15-13 to 8-8-14

☐ The Court further finds that the conduct leading to conviction for the offenses enumerated in counts_____ resulted in **great bodily harm** to the victim. (730 ILCS 5/3-6-3(a)(2)(iii)).

☐ The Court further finds that the defendant meets the eligibility requirements and is approved for placement in the **impact incarceration program**. If the Department accepts the defendant and determines that the defendant has successfully completed the program, the sentence shall be reduced to time considered served upon certification to the Court by the Department that the defendant has successfully completed the program. Written consent is attached.

☐ The court further finds the offense was committed as a result of the use of, abuse of, or addiction to alcohol or a controlled substance.

☒ **IT IS FURTHER ORDERED** that the sentence(s) imposed on count(s) 1 be served (☐concurrent with)(☐consecutive to) the sentence imposed in case number 13 CF 28 in the Circuit Court of Stephenson, County.

IT IS FURTHER ORDERED that the defendant pay the court costs of these proceedings, $1,000.00 fine, a $500.00 fee per 730 ILCS 5/5-9-1.15, a $200.00 fine per 730 ILCS 5/5-9-1.7, and a $500.00 fine per 730 ILCS 5/5-9-1.14

☐ **IT IS FURTHER ORDERED** that the defendant serve ☐ 75 % ☐ 85% ☐ 100% of said sentence.

IT IS FURTHER ORDERED that the Clerk of Court deliver a certified copy of this order to the Sheriff.

FILED
STEPHENSON COUNTY, IL
AUG 19 2014
Bonnie K. Curran
CLERK OF THE CIRCUIT COURT

IT IS FURTHER ORDERED that the Sheriff take the defendant into custody and deliver said defendant to the Department of Corrections which shall confine said defendant until expiration of said sentence or until is otherwise released by operation of law.

☒ **IT IS FURTHER ORDERED** that the defendant is to register as a sex offender for life

This order is ☒ effective immediately ☐ stayed until _____.

DATE: August 8, 2014 **ENTER:** Michael P. Bald

JUDGE MICHAEL P. BALD

4/12/16 9:08:48 GAL/JIMS 8.0 PRTDUE PAYMENT STATUS INFORMATION GAL/353-950927 NAL PAGE 1

Case number 2013CF000073D 001

Litigant VARA, RICARDO

Agency FREEPORT

Due date

	Due	Paid	Balance
Document Storage	15.00	.00	15.00
Automation	15.00	.00	15.00
Clerk	100.00	.00	100.00
Sheriff	154.00	.00	154.00
Foreign Sheriff	37.40	.00	37.40
Judicial Security	25.00	.00	25.00
Court	50.00	.00	50.00
State's Atty	65.00	.00	65.00
Youth Diversion	5.00	.00	5.00
Violent Crime	100.00	.00	100.00
Lump Sum Surcharge	250.00	.00	250.00
Sexual Assault	200.00	.00	200.00
Sex Offender Regis	500.00	.00	500.00
Medical Costs	10.00	.00	10.00
Clerk Op Deduction	5.00	.00	5.00
State Police Ops	15.00	.00	15.00
SA Automation Fee	2.00	.00	2.00
Child Pornography	495.00	.00	495.00
Total	2,043.40	.00	2,043.40

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
STEPHENSON COUNTY ILLINOIS

A true copy of the original on file in my office.
Attested to this 13th day of Apr, 16.
Nathan A. Luy
Clerk of the Circuit Court 15th Judicial Circuit, Stephenson County, IL.
By: _____ Deputy Circuit Clerk

VARA, RICARDO
3734 W PALMER
CHICAGO IL 60647-0000

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On August 16, 2017, the foregoing **Brief and Appendix of Plaintiff-Appellant People of the State of Illinois** was (1) filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, and (2) served by transmitting a copy from my e-mail address to the e-mail address of the person named below:

Jaime L. Montgomery
Assistant Appellate Defender
Office of the State Appellate Defender
Second Judicial District
One Douglas Avenue, Second Floor
Elgin, Illinois 60120
2nddistrict.eserve@osad.state.il.us

Additionally, upon its acceptance by the Court's electronic filing system, the undersigned will mail thirteen copies of the brief to the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois, 62701.

/s/ Joshua M. Schneider
JOSHUA M. SCHNEIDER
Assistant Attorney General

E-FILED
8/16/2017 8:36 AM
Carolyn Taft Grosboll
SUPREME COURT CLERK