No. 122325

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- SHANE D. HARVEY, Defendant-Appellant.	)	Appeal from the Appellate Court of Illinois, No. 4-14-0576. There on appeal from the Circuit Court of the Eighth Judicial Circuit, Adams County, Illinois, No. 13-CF-394. Honorable Scott H. Walden, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

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E-FILED
12/29/2017 11:26 AM
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SUPREME COURT CLERK

POINTS AND AUTHORITIES

I.

Due to the lack of a practical difference between an unauthorized fine and an unauthorized fee, improperly assessed fees should be subject to plain error review just as improperly assessed fines are, and can also be modified under Supreme Court Rule 615(b)(1).

A.

Mr. Harvey was assessed unauthorized DNA Identification and Sheriff's fees.

1.

Because Mr. Harvey was already registered in the DNA database, there was no authorization for assessing a second DNA Identification fee.

2.

The Sheriff's fee imposed exceeds the statutorily defined limits.

B.

Like fines, fees are subject to plain error review.

C.

Improperly assessed fees can be modified under Illinois Supreme Court Rule 615(b).

II.

Mr. Harvey's improperly assessed Crime Stoppers fine is subject to plain error review, and should be vacated.

A.

The Crime Stoppers assessment is a fine subject to plain error review.

B.

Improperly assessed fines can be modified under Illinois Supreme Court Rule 615(b).

NATURE OF THE CASE

Following a jury trial, Shane D. Harvey was convicted of domestic battery and was sentenced to three years in prison, to be followed by four years of mandatory supervised release, and was assessed various fines and fees. On direct appeal, the appellate court found that Mr. Harvey had forfeited review of any issues pertaining to the erroneous imposition of fees, and had failed to demonstrate that such errors were subject to plain error review. *People v. Harvey*, 2017 IL App (4th) 140576-U, ¶ 26. This Court allowed Mr. Harvey's petition for leave to appeal. This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUES PRESENTED FOR REVIEW

I.

Whether, due to the lack of a practical difference between an unauthorized fine and an unauthorized fee, improperly assessed fees should be subject to plain error review just as improperly assessed fines are, and can also be modified under Supreme Court Rule 615(b)(1).

II.

Whether Mr. Harvey's improperly assessed Crime Stoppers fine is subject to plain error review, and should be vacated.

STATUTES AND RULES INVOLVED

Supreme Court Rule 615(a)

Insubstantial and Substantial Errors on Appeal.

Any error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court.

Supreme Court Rule 615(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.

730 ILCS 5/5-4-3

Specimens; genetic marker groups.

This statute can be found in its entirety in the appendix. (App. at 20-27)

55 ILCS 5/4-5001

Sheriffs; counties of first and second class.

This statute can be found in its entirety in the appendix. (App. at 28-29)

730 ILCS 5/5-6-3

Conditions of Probation and of Conditional Discharge.

This statute can be found in its entirety in the appendix. (App. at 30-39)

STATEMENT OF FACTS

Following a jury trial, Shane Harvey was found guilty of aggravated domestic battery. (R. C11; R232, R441) He was sentenced to three years in prison. (R. C75-C76, C77, R460-R461) Additionally, Mr. Harvey was assessed various fines and fees. (R. C76, C79, R460-R461)

The trial court ordered the following assessments: $100 Clerk fee, $30 State's Attorney fee, $50 Court fund, $5 Automation, $25 Security, $15 Document Storage, $10 Medical Expense, $15 Child Advocacy Center (CAC), $5 State Police Operations, $2 State's Attorney's Office Automation, $10 Probation Operations, $515 Sheriff Fee, $20 Court Appointed Special Advocate (CASA), $10 Crime Stoppers, $30 Juvenile Records, $80 Lump Sum, $100 Violent Crime Victims Assistance (VCVA), $200 Domestic Violence Fine, $10 Domestic Battery Fine, and restitution in the amount of $1,012.14. (R. C75-C76, C78-C79, R460-R461) (App. at 40-43)

In addition to the foregoing assessments, the Payment Status Information sheet provided by the clerk indicates that Mr. Harvey owes the following: Sheriff $205, Foreign Sheriff $310, and DNA Identification $250; totaling $2,174.14.[1] (Circuit Clerk's Payment Status Information Sheet, App. at 44)

Mr. Harvey was awarded pre-trial detention credit totaling $1,180, to be applied to his qualifying fines. (R. C76) Mr. Harvey received *per diem* credit toward

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[1] The amount of the $205 Sheriff and $310 Foreign Sheriff fees reflected on the clerk's sheet, when added together, equal the $515 Sheriff Fee ordered by the trial court. These fees do not appear to be in addition to the $515 Sheriff Fee ordered by the court, as the Payment Status Information Sheet does not reflect an additional $515 Sheriff fee.

the $50 Court fund, $15 CAC, $5 State Police Operations, $10 Crime Stoppers, $30 Juvenile Records, $200 Domestic Violence Fine, and $10 Domestic Battery Fine assessments.[2] (R. C79)

Mr. Harvey filed a timely *pro se* Petition for Reduced Sentence, alleging, among other things, that "several points in the PSI were incorrect (which should have been argued by 'my' public defender at sentencing.)" (R. C102-104, C108) At the motion to reconsider sentence hearing counsel stood on Mr. Harvey's *pro se* petition. (R. R483) Mr. Harvey's allegations regarding the pre-sentence investigation report were not addressed at the hearing on his motion to reconsider sentence. (R. R483-R488) The motion was denied and Mr. Harvey appealed. (R. R487)

On appeal, related to the fines and fees he had been assessed, Mr. Harvey argued that he was entitled to *per diem* credit toward the CASA assessment, as this assessment was a fine. (Def. Br., 19-22) (App. at 45-48) He also alleged that the SA Automation Fee is a fine that qualifies for *per diem* credit. (Def. Br., 23) (App. at 30) Mr. Harvey further argued that the DNA Identification fee, Crime Stoppers fine, and Sheriff's fee were not validly assessed. (Def. Br., 23-27) (App. at 49-53)

Mr. Harvey made the following argument in his opening brief regarding the propriety of addressing the errors he alleged related to his fines and fees:

> As these errors were not preserved below, Mr. Harvey asks this Court to review them under either its authority under Illinois Supreme Court Rule 615(b), or the plain error doctrine. This Court may modify fines, fees, and costs under Illinois Supreme Court Rule 615(b)(1) ("[o]n appeal the reviewing court may. . . modify the judgment or order from which the appeal is taken"). Accordingly, this Court should modify Mr. Harvey's judgment order as authorized by Rule 615(b)(1).

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[2] For a detailed explanation as to how this conclusion was reached, see page 22 of Mr. Harvey's opening brief. (App. at 48)

> Alternatively, improperly assessed fines and fees are reversible under the plain error doctrine, which permits this Court to review unpreserved sentencing errors in two circumstances: when a "clear or obvious error occurred" and either (1) "the evidence at the sentencing hearing was closely balanced; or (2) "the error was so egregious as to deny the defendant a fair sentencing hearing." *People v. Hillier*, 237 Ill. 2d 539, 545 (2010); Ill. S. Ct. Rule 615(a).
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> The Illinois Supreme Court has specifically held that the erroneous imposition of a monetary assessment is reversible under the second prong of the plain error doctrine, "because it involves fundamental fairness and the integrity of the judicial process." *People v. Lewis*, 234 Ill. 2d 32, 47-49 (2009) (holding that the trial judge committed plain error by improperly imposing a street value fine without adequate evidence). The Supreme Court noted that the erroneous imposition of a monetary assessment undermines the "integrity of the judicial process" when the imposition "is not based on applicable standards and evidence, but appears to be arbitrary." *Id*. at 48; see also *People v. Anderson*, 402 Ill. App. 3d 186, 194 (3rd Dist. 2010) (reviewing the imposition of an unauthorized assessment as plain error). No *de minimus* exception can be placed on plain error review. *Lewis*, 234 Ill. 2d at 48. Thus, this Court should review these erroneous assessments under the second prong of the plain error doctrine. (Def. Br., 23-24) (App. at 49-50)

The State conceded that Mr. Harvey was entitled to *per diem* credit against the CASA fine, though not the State's Attorneys Automation fee, which it argued was not a fine, and otherwise claimed Mr. Harvey's arguments concerning his fines and fees were forfeited. (St. Br., 12 -26) (App. at 54-68) Specifically, the State argued that Mr. Harvey had not included any of the issues he raised on appeal regarding his fines, fees, and sentence credit in his *pro se* Motion for Reduction of Sentence, nor had he filed a motion to retax costs. (St. Br., 13-14) In response to Mr. Harvey's argument that these errors be reviewed under the plain error doctrine, the State argued that the cases he relied on in support of that position, *People v. Lewis*, 234 Ill. 2d 32 (2009), and *People v. Anderson*, 402 Ill. App. 3d 186 (3rd Dist. 2010), were distinguishable. (St. Br., 14-15) The State further argued that any error in this case was not so egregious as to deny Mr. Harvey a fair

sentencing hearing or compromise the integrity of the judicial process. (St. Br., 15)

On the merits, the State argued that the record did not establish that Mr. Harvey had already paid a $250 DNA Identification fee, or that he had previously been ordered to pay a DNA Identification fee. (St. Br., 21-22) The State also acknowledged the record does not reflect when Mr. Harvey would have known that he was assessed the DNA fee. (St. Br., 13)

The State conceded that the Crime Stoppers assessment was improperly assessed. (St. Br., 22-23)

Regarding the Sheriff's fee, the State argued that the Adams County ordinance increasing the costs for civil process of service and return encompassed the service of subpoenas for witnesses, that the Foreign Sheriff fee covered service of subpoenas by any agency that is not the sheriff, that the fees were authorized under a catch-all provision for fees not otherwise covered pursuant to 705 ILCS 105/27.1a(r), and that the Quincy Police Department is not restricted by the fee requirements outlined in 55 ILCS 5/4-5001. (St. Br., 24-25)

In reply, Mr. Harvey argued that claims for *per diem* credit may be raised at any time, and thus his argument on that issue had not been forfeited. (Def. Reply Br., 9)(App. at 69)

Mr. Harvey stood on the argument presented in his opening brief that the DNA Identification fee, Crime Stoppers fine, and Sheriff's fee issues should be reviewed under either Illinois Supreme Court Rule 615(b)(1), or under the plain error doctrine. (Def. Reply Br., 9) Additionally, Mr. Harvey argued that he should not be considered to have forfeited his claims regarding the DNA Identification fee as he had no notice that such a fee was imposed prior to the deadline for filing his motion to reconsider sentence, that he was not required to show that he had

actually paid the previously assessed DNA analysis fee before challenging the imposition of a second fee on appeal, and that the actual issue was whether or not he could be assessed a DNA fee when he was already registered in the DNA database. (Def. Reply Br., 9, 11-12) (App. at 69, 71-72)

Because the parties agreed that Mr. Harvey should not have been assessed a Crime Stoppers fine, he asked that this assessment be vacated. (Def. Reply Br., 12) (App. at 72)

Mr. Harvey maintained his position that the amounts assessed for the Sheriff's fee were governed by 55 ILCS 5/4-5001, and argued that the statutes cited by the State did not support the Foreign Sheriff fee assessed in this case. (Def. Reply Br., 12-15) (App. at 72-75)

The appellate court remanded the matter to the trial court to conduct an adequate inquiry into Mr. Harvey's allegations of ineffective assistance of counsel, and for application of *per diem* credit toward the CASA fine. *People v. Harvey*, 2017 IL App (4th) 140576-U, ¶ 21, 24. (App. at 15-16) The appellate court further found that Mr. Harvey had forfeited review of the Sheriff's fee, DNA Identification fee, and Crime Stoppers fine, because these contentions of error related to the imposition of fees, not fines, and, as such, the claims did not rise to the level of errors affecting the fundamental fairness or integrity of the judicial process. *Harvey*, 2017 IL App (4th) 14576-U, ¶ 25-26 (citing *Lewis*, 234 Il. 3d at 48). (App. at 16-17)

This Court granted leave to appeal on September 27, 2017.

ARGUMENT

I.

Due to the lack of a practical difference between an unauthorized fine and an unauthorized fee, improperly assessed fees should be subject to plain error review just as improperly assessed fines are, and can also be modified under Supreme Court Rule 615(b)(1).

ARGUMENT SUMMARY

The appellate court upheld the assessment of $765 in unauthorized fees that Shane Harvey, who had been found to be indigent by the trial court, remains responsible for paying. The appellate court erroneously found that it could not review Mr. Harvey's claim that he had been assessed unauthorized fees under the plain error rule because the assessments he challenged were fees, not fines. *People v. Harvey*, 2017 IL App (4th) 140576-U, ¶¶ 25-26.

The appellate court's position that it could not review Mr. Harvey's claims because they related to fees, and not fines, is inconsistent with this Court's finding in *People v. Love*, 177 Ill. 2d 550, 564 (1997), that application of the waiver rule was inappropriate where the trial court ignored the statutory procedures mandated for a public defender fee reimbursement order.

Furthermore, the appellate court's finding is inconsistent with this Court's precedent that correcting a monetary judgment "is a simple ministerial act that will promote judicial economy by ending any further proceedings over the matter." See *People v. Caballero*, 228 Ill. 2d 79, 87-88 (2008) (citing *People v. Woodard*, 175 Ill. 2d 435, 456-57 (1997) (quoting *People v. Scott*, 277 Ill. App. 3d 565, 566 (3rd Dist. 1996)) (finding that the statutory right to *per diem* credit at any procedural stage is a simple ministerial act that will promote judicial economy). Likewise,

the appellate court's holding disregards the principle that there is no *de minimus* exception for plain-error review of an improperly assessed financial obligation. *People v. Lewis*, 234 Ill. 2d 32, 47 (2009).

Even properly imposed financial assessments, whether labeled fines or fees, are crippling for indigent criminal defendants. See *People v. Smith,* 2014 IL App (4th) 121118, ¶¶ 23-81; *People v. Warren*, 2016 IL App (4th) 120721-B, ¶¶ 100-62; see also Tamar R. Birckhead, *The New Peonage*, 72 Wash. & Lee L. Rev. 1595 (2015). Given the ubiquitous nature of such fees, upholding the assessment of unauthorized fees will further perpetuate the cycle of poverty for those with criminal convictions.

Accordingly, this Court should vacate Mr. Harvey's unauthorized fees, or, alternatively, remand the cause to the appellate court for review of these improperly assessed fees under the plain error rule.

STANDARD OF REVIEW

The propriety of a trial court's imposition of fines and fees raises a question of statutory interpretation, subject to *de novo* review. *People v. Millsap,* 2012 IL App (4th) 110668, ¶ 23. Likewise, questions of law, including whether a forfeited claim is reviewable as plain error, and the interpretation of a Supreme Court Rule, are reviewed *de novo*. *People v. Johnson*, 238 Ill. 2d 478, 485 (2010); *People v. Marker*, 233 Ill. 2d 158, 162 (2009).

A.

Mr. Harvey was assessed unauthorized DNA Identification and Sheriff's fees.

Even though Mr. Harvey was already registered in the DNA database, he was assessed a second, unauthorized, DNA Identification fee. Mr. Harvey was also ordered to pay a Sheriff's fee that exceeded the statutorily permissible limits.

1.

Because Mr. Harvey was already registered in the DNA database, there was no authorization for assessing a second DNA Identification fee.

The clerk assessed Mr. Harvey a $250 DNA Identification fee. (R. C76, C78-C79, R460-R461; Circuit Clerk's Payment Status Information Sheet, App. at 44) Because Mr. Harvey was already registered in the DNA database, the clerk was not authorized to assess a DNA Identification fee in this case. (Illinois State Police Division of Forensic Services Submission Sheet, App. at 76)

The State is authorized to collect a DNA collection and analysis fee from defendants who have been convicted of a qualifying offense, including felony convictions. 730 ILCS 5/5-4-3(a), (j) (2013). In *People v. Marshall*, 242 Ill. 2d 285, 303 (2011), this Court held that 730 ILCS 5/5-4-3 authorizes the taking of a defendant's DNA one time. The assessment of a DNA analysis fee is only appropriate if the "defendant is not currently registered in the DNA database." *Marshall*, 242 Ill. 2d at 303. The DNA analysis fee shall be paid only when the actual extraction, analysis, and filing of a qualified offender's DNA occurs. *Id*. at 297.

The Illinois State Police Division of Forensic Services retrieved Mr. Harvey's DNA on August 25, 2010, pursuant to a prior conviction. (App. at 76) The pre-sentence investigation report prepared for Mr. Harvey's sentencing hearing notified the trial court that Mr. Harvey had previously submitted a DNA sample. (R. SC C3) (App. at 77)

Because Mr. Harvey had previously submitted a DNA sample, there was no authority to collect a second DNA Identification fee from Mr. Harvey.

Mr. Harvey first argues that he did not forfeit review of this issue. The DNA fee is not reflected in the Felony Fines, Costs and Assessment order signed by the trial court on February 4, 2014, nor was there any mention of this fee during the sentencing hearing. (R. C79, R450-R464) Therefore Mr. Harvey had no notice of this fee being assessed at the time of his sentencing and would not have been aware of a need to address this issue in his Petition to Reduce Sentence. On appeal the State conceded that it is not clear when Mr. Harvey would have known that he was to pay, in addition to the fees specifically imposed on February 4, 2014, the DNA fee. (St. Br., 13) (App. at 55) Accordingly, Mr. Harvey cannot be considered to have waived or forfeited this issue.

Even if Mr. Harvey had forfeited this argument, the appellate court should have reviewed it, and granted him relief, under the second prong of the plain error doctrine. A sentence that imposes a DNA fee when a genetic sample is already on file is clear error. See *Marshall*, 242 Ill. 2d at 303. Because Mr. Harvey was already registered in the DNA database, it was clear error to assess a second DNA Identification fee. As will be discussed further in subsection B, *infra* at 14-34, because the unauthorized assessment of this fee denied Mr. Harvey a fair sentencing hearing, implicating the fundamental fairness and integrity of the judicial process, the appellate court should have reviewed this assessment under the plain error doctrine.

2.

The Sheriff's fee imposed exceeds the statutorily defined limits.

The trial court ordered Mr. Harvey to pay a $515 Sheriff fee, while the clerk's assessment separates the fee into a $205 Sheriff's fee and a $310 Foreign Sheriff fee. (R. C79; Circuit Clerk's Payment Status Information Sheet, App. at 44)

Sheriff's fees are authorized by 55 ILCS 5/4-5001 (2013). The statute allows for the imposition of a fee to cover various costs a sheriff may incur related to a case, such as service of a subpoena. *Id*. The fees provided for by the statute may be increased by county ordinance. *Id*.

The permissible fee under Section 5/4-5001 for serving a subpoena on a witness is $10. *Id*. The permissible fee for returning each process is $5. *Id*.

The Adams County Code, modified pursuant to 55 ILCS 5/4-5001, provides for a $40 Sheriff's fee for each civil process service and return, and mileage for service in the amount of $.50 per mile, each way. See Adams County Ordinance to Increase Fees in the Sheriff's Office 2011-09-024-001, (App. at 78-79) However, the code does not specifically provide an amount for service of a subpoena on a witness. See (App. at 78-79) Thus, the $10 fee under the statute should apply to service of the subpoenas in this case. The subpoenas in this case reflect a variety of fees assessed, none of which are $10. (R. C22, C23, C27, C30, C31, C32, C35, C38, C39, C41, C42, C43, C44, C45, C46) (App. at 80-94) Thus, the Sheriff fees imposed were not authorized by the statute, or the County Code.

Likewise the $5 fee for returning each process provided for in the statute should apply, as there are no specific provisions in the code pertaining to return of service of a subpoena. See Adams County Ordinance (App. at 78-79)

There were 15 subpoenas served in this case. Accordingly, the Sheriff's fee for service should have been $150 and $75 for the returns, plus the cost of mileage. Thus, there was no statutory authority for the assessment of $515 in Sheriff's fees, comprised of a $310 Foreign Sheriff fee and $205 Sheriff fee.

Because there was no statutory authority to impose the Sheriff's fees assessed in this case, imposing them was clear error. As outlined in subsection B, *infra* at 14-34, because the unauthorized assessment of these fees denied Mr. Harvey

a fair sentencing hearing, the appellate court should have reviewed this assessment under the plain error doctrine.

B.

Like fines, fees are subject to plain error review.

Prior to this Court's decision in *People v. Castleberry*, 2015 IL 116916, unauthorized assessments were addressed under the void sentence rule. *People v. Buffkin*, 2016 IL App (2d) 140792, ¶ 6 (*Castleberry* abolished the rule established in *People v. Arna*, 168 Ill. 2d 107, 113 (1995), that a statutorily unauthorized sentence is void). Following *Castleberry*, appellate courts have inconsistently addressed whether or not financial assessments can be reviewed on direct appeal.

Unauthorized fines have consistently been reviewed under the fundamental fairness prong of the plain error rule. See *Lewis*, 234 Ill. 2d at 48. Due to the similarities between unauthorized fees and unauthorized fines, on direct appeal Mr. Harvey argued that his unauthorized fees should be reviewed under the plain error doctrine.

The appellate court disagreed, and found that Mr. Harvey had forfeited review of the issues he raised pertaining to fees, and that they were not subject to plain-error review. *Harvey*, 2017 IL App (4th) 140576-U, ¶ 26. Citing to this Court's holding in *People v. Lewis*, 234 Ill. 2d 32, 48 (2009), that the imposition of a fine without an evidentiary basis implicates fundamental fairness and the integrity of the judicial process sufficient to apply plain-error review, the appellate court reasoned that the errors Mr. Harvey alleged did not rise to the level of errors affecting the fundamental fairness or integrity of the judicial process. *Id.* In so finding, the appellate court upheld the imposition of $765 in fees that were imposed without a statutory basis, which Mr. Harvey remains responsible for paying.

The unauthorized assessment of the DNA fee and Sheriff's fees in this case rise to the level of second-prong plain error, because the errors are so serious that they challenge the fairness of Mr. Harvey's sentencing hearing, and the integrity of the judicial process. See *Lewis*, 234 Ill. 2d at 42–43.

The plain error doctrine, outlined in Supreme Court Rule 651(a), reads, "[a]ny error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court." In the context of a sentencing issue, in order to obtain relief under the plain error doctrine, a defendant must show that a clear or obvious error occurred, and that either (1) the evidence at the sentencing hearing was closely balanced, or (2) the error was so egregious as to deny him a fair sentencing hearing. *People v. Hillier*, 237 Ill. 2d 539, 545 (2010). This Court has specifically held that even where a defendant has forfeited a claim of error related to an improperly assessed fine, such fines can be reviewed as plain error because the imposition of the fine implicates the right to a fair sentencing hearing and affects the integrity of the judicial process because it creates the appearance of arbitrariness. See *Lewis*, 234 Ill. 2d at 47-49.

Courts of review have consistently reviewed the unauthorized imposition of fines as plain error. See *People v. Cox*, 2017 IL App (1st) 151536, ¶ 102 (fines that were not statutorily authorized may be reviewed under the second-prong of the plain error doctrine); *People v. Anderson*, 402 Ill. App. 3d 186, 194 (3rd Dist. 2010) (reviewing improper imposition of two VCVA fines as plain error); *People v. Galmore*, 382 Ill. App. 3d 531, 535-36 (4th Dist. 2008) (reviewing the

improper assessment of a street-value fine under the plain error doctrine); *People v. Gonzalez*, 316 Ill. App. 3d 354, 364-65 (1st Dist. 2000) (reviewing imposition of a street value fine without an appropriate hearing under the plain error rule); *People v. Otero*, 263 Ill. App. 3d 282, 284 (2nd Dist. 1994) (addressing the potentially inaccurate assessment of a street value fine under the plain error doctrine).

This Court has taken a similar approach when it comes to unauthorized fees. In *Love*, this Court found application of the waiver rule to be inappropriate where the trial court wholly ignored the statutory procedures mandated for assessing a public defender fee reimbursement order. 177 Ill. 2d at 564. Though the plain error rule was not explicitly referenced, the components of a second-prong plain error analysis were present.

Regarding the first component of a second-prong plain error analysis, that a clear or obvious error occurred, this Court found that the trial court erred by failing to adhere to the procedural safeguards mandated by the public defender fee statute when it *sua sponte* ordered a public defender fee without conducting a hearing. *Id.* at 564-65. Implicitly addressing the second component of a second-prong plain error analysis, that the error was so serious that it affected the fairness and integrity of the judicial process, this Court noted that constitutional principles require that reimbursement toward the costs of representation provided by a public defender be ordered only when certain conditions are satisfied, and found that because the trial court had ignored the statutory procedures mandated for ordering a reimbursement fee, "fairness dictates that waiver should not be applied." *Id.*

Accordingly, even though the plain error rule was not explicitly referenced, by finding that a clear error occurred, and that fairness required that the waiver

rule not apply, this Court implicitly conducted a plain error analysis before reaching the conclusion that the public defender fee must be vacated, despite the defendant's failure to object. *Id.*

The public defender reimbursement fee is clearly a fee, not a fine, as it reimburses the public defender's office for a portion of the cost incurred while representing the defendant during the prosecution of the case. See 725 ILCS 5/113-3.1(a) (2017) (whenever counsel is appointed to represent a defendant, the court may order the defendant to pay the clerk a reasonable sum to reimburse either the county or State for such representation); see also *People v. Graves*, 235 Ill. 2d 244, 250 (2006) (fees reimburse expenses incurred during the prosecution of a case). Accordingly, in *Love* this Court conducted what amounts to a plain error review of an improperly assessed fee.

Following this Court's decision in *Love*, reviewing courts have consistently relaxed the forfeiture rule to address the issue of improperly assessed public defender fees. See *People v. Williams*, 2013 IL App (2d) 120094, ¶¶ 13-14; *People v. Carreon*, 2011 IL App (2d) 100391, ¶ 11; *People v. Aguirre-Alarcon*, 2016 IL App (4th) 140455, ¶ 10; *People v. McClinton*, 2015 IL App (3d) 130109, ¶ 12; *People v. Glass*, 2017 IL App (1st) 143551, ¶ 7. Similarly, in addition to reviewing improperly assessed public defender fees that were not preserved, some reviewing courts have also continued to vacate improperly imposed DNA fees, even though they are no longer considered void following this Court's decision in *Castleberry*. See *People v. Bingham*, 2017 IL App (1st) 143150, ¶ 37-38, *petition for leave to appeal granted*, No. 122008 (May 24, 2017); *People v. Carter*, 2016 IL App (3d) 140196, ¶ 59; *People v. Sanders*, 2016 IL App (3d) 130511, ¶ 19.

Nonetheless, there is disagreement among the various appellate districts on the applicability of a plain error review to fees.

Some appellate districts have indicated that fees can be reviewed as plain error. For example, in *People v. Bingham*, 2017 IL App (1st) 143150, ¶ 37, the First District reviewed the defendant's forfeited claims regarding improperly assessed fines and fees as plain error, vacating, *inter alia*, an improperly assessed DNA analysis fee. Similarly, in *People v. Vara*, 2016 IL App (2d) 140848, ¶ 7, *petition for leave to appeal granted*, No. 121823 (March 29, 2017), the Second District found that the defendant did not forfeit his claim of error regarding clerk imposed fines by failing to raise it in the trial court, "as the erroneous imposition of a fine *or a fee* is cognizable as plain error." (emphasis added) (citing *Lewis*, 234 Ill. 2d at 47-49).

However, like the Fourth District in the instant case, some appellate districts have found that unauthorized fees cannot be reviewed under the plain error doctrine. For example, in *People v. Frazier*, 2017 IL App (5th) 140493, ¶¶ 28-34, after the trial court assessed two fees, but found them uncollectable, the appellate court invoked the forfeiture rule, noting that a remand would be "nothing short of a complete waste of judicial resources," and finding plain error was not present because the alleged $25 error in no way undermined the essential fairness of the trial in light of the fact that the trial court assessed an additional $700 in fees, but found them uncollectable. This decision, however, runs afoul of this Court's previous determination that there is no *de minimus* exception to plain error review. See *Lewis* 234 Ill. 2d at 48. Applying a variation of the *de minimus* theory, the First District in *People v. Griffin*, 2017 IL App (1st) 143800, ¶ 9, *petition for leave to appeal granted*, No. 122549 (November 22, 2017), concluded that plain error does not apply when the erroneous imposition of a fine or fee is due to a clerical error.

The better approach is allowing plain error review of fees on direct appeal because: 1) the Fourteenth Amendment prohibits the deprivation of property without due process of law, 2) there is no meaningful distinction between fines and fees in the context of whether plain error review is appropriate, 3) this Court has rejected the notion that there is a *de minimus* exception to the plain error rule, and 4) doing so serves the interests of judicial economy.

The federal and Illinois Constitutions protect individuals from state governmental deprivations of life, liberty, or property without due process of law. *Village of Vernon Hills v. Heelan*, 2015 IL 118170, ¶ 31 (citing U.S. Const., amend XIV; Ill. Const. 1970, art. I, § 2.). Government actions which intrude upon personal liberties arbitrarily or in an unreasonable manner violate the due process clause. See *City of Chicago v. Morales*, 177 Ill. 2d 440, 460 (1997). Exacting and retaining a criminal defendant's funds, to which the government has no legal right, violates due process. *Nelson v. Colorado*, 137 S. Ct. 1249, 1252-53, 1255, 1257 (2017).

A defendant has an obvious interest in regaining funds taken from him based solely on a later invalidated conviction. *Nelson*, 137 S. Ct. at 1255-56. It logically follows that a defendant has the same obvious interest in retaining funds the government has no valid claim to, yet still seeks to collect from him.

A trial court violates a defendant's right to due process when it disregards the plain terms of a statute when imposing a fee. See *Love*, 177 Ill. 2d at 556-60 (in order to satisfy due process, the statutory hearing regarding a defendant's ability to pay public defender fees mandated by the revised version of the statute must be held before such a fee can be imposed).

"The foundation of plain-error review is fundamental fairness." *Lewis*, 234 Ill. 2d at 47 (citing *People v. Herron*, 215 Ill. 2d 167, 177 (2007); *People v. Keene*, 169 Ill. 2d 1, 17 (1995)). "Plain error encompasses matters affecting the fairness of the proceeding and the integrity of the judicial process." *Id*. (citing *Keene*, 169 Ill. 2d at 17). The imposition of an unauthorized sentence affects a defendant's substantial rights and thus may be considered by a reviewing court even if it was not properly preserved before the trial court. *People v. Fort*, 2017 IL 118966, ¶ 19 (quoting *People v. Hicks*, 181 Ill. 2d 541, 545 (1998)).

In reaching its conclusion that Mr. Harvey's improperly assessed fees could not be reviewed for plain error, the appellate court inferred that a significant distinction exists between improperly imposed fines and improperly imposed fees - the magnitude of which necessarily prohibited the court from conducting a plain error review of Mr. Harvey's claims. *Harvey*, 2017 IL App (4th) 140576-U, ¶ 26. Because improperly assessed fines can be reviewed under the plain error doctrine, and because unauthorized fees challenge the same fundamental principles of fairness and integrity in the sentencing process, fees can also be reviewed for plain error.

There is no practical distinction between improperly assessed fines and improperly imposed fees. It would be arbitrary and unreasonable to determine that a defendant may not challenge an improperly assessed fee as plain error in the same way he can challenge an improperly assessed fine, as the impact on the defendant is the same - he is required, as part of his sentence, to pay more than the law allows to be collected. This is true regardless of whether the fee is $2 or $200,000, because under either scenario it is the taking of property without due process of law.

In *Lewis*, this Court explicitly found that plain error review of a street value fine is appropriate, "because imposing the fine without any evidentiary support in contravention of the statute implicates the right to a fair sentencing hearing." 234 Ill. 2d at 48 (citing *People v. Blue*, 189 Ill. 2d 99, 140 (2000)). This Court reasoned that where there is no evidence presented on the street value of the controlled substance, the assessment of a street value fine has no basis in the statute or the evidence and will be arbitrary. *Id.* at 48.

This Court applied the same logic in *Love*, acknowledging that the forfeiture rule should not apply when a fee has been assessed that does not comport with the statutory requirements. 177 Ill. 2d at 564-65.

The same principles apply to *any* financial assessment that has been imposed outside the bounds of the statutory requirements. Imposing a financial obligation on a defendant that has no statutory basis, or exceeds the statutory limits imposed by the legislature, is just as arbitrary as assessing a street value fine that lacks an evidentiary basis, and equally implicates a defendant's right to a fair sentencing hearing.

Like fines, fees are assessed as part of a defendant's sentence. The purpose of imposing fees is to reimburse a party for expenses incurred during the prosecution of a case. See *Graves*, 235 Ill. 2d at 250. But for the prosecution of the case, there would be no basis to support asking a defendant to reimburse expenses incurred as a part of that prosecution. A defendant who is found not guilty, or whose charges are dismissed, is not sentenced, and is not assessed fees. See *Nelson*, 137 S. Ct. at 1253 (sole legal basis for assessing costs, fees, and restitution is a conviction, and absent a conviction, the state has no legal right to exact and retain funds from

a defendant). Therefore, even though a fee is not a pecuniary punishment imposed as part of the sentence, it is still part of the sentence, as there would be no basis to assess it without a conviction and corresponding sentence. See *Graves*, 235 Ill. 2d at 250 (a fine is punitive in nature and is a pecuniary punishment imposed as part of a sentence for a criminal conviction). In order to successfully complete his sentence, a defendant is equally responsible for paying his fees as he is his fines, as such assessments survive the end of a sentence. See 730 ILCS 5/5-9-3(e) (2017) ("A default in the payment of a fine, fee, cost, order of restitution, judgment of bond forfeiture, judgment order of forfeiture, or any installment thereof may be collected by any and all means authorized for the collection of money judgments. * * * An additional fee of 30% of the delinquent amount and each taxable court cost * * *shall be charged to the offender for any amount [of the financial obligation] that remains unpaid after the time fixed for payment of [the financial obligation] by the court.")

The appellate court in *People v. McCray*, 2016 IL App (3d) 140554, ¶ 20, found otherwise, determining fees were collateral consequences of a conviction, rather than part of the sentence, and that the void judgment rule, abolished pursuant to this Court's decision in *Castleberry,* applied only to fines. However, as noted in *People v. Grigorov*, 2017 IL App (1st) 143274, ¶ 12, no other cases have followed *McCray*, and to the contrary, have held that *Castleberry*'s abolition of the void judgment rule applies to challenges to fees as well as fines. (citing *People v. Reed*, 2016 IL App (1st) 140498, ¶ 13; *People v. Ramones*, 2016 IL App (3d) 140877, ¶ 17 (imposition of successive DNA analysis fee did not create a void judgment subject to challenge at any time); *Buffkin*, 2016 IL App (2d) 140792, ¶ 6 (same)).

The imposition of an arbitrary financial burden as part of a criminal sentence adversely impacts the fairness of the sentencing hearing, as it is axiomatically unfair to require a defendant to pay a fine or fee that the law does not require him to pay. The legislature has determined what fees may be imposed, and which parties will be reimbursed for certain costs incurred in prosecuting a case. Imposing a fee that does not reimburse a designated party for an expense incurred as a part of the prosecution of the case, or in an amount that falls outside of the delineated statutory limitations, is arbitrary.

Furthermore, allowing the circuit clerk to collect fees from a defendant that do not reimburse any party for expenses incurred during the prosecution of his case allows for unjust enrichment at the expense of the defendant. If money is collected to fulfill assessed fees, but that money is not used for its statutorily designated purpose of reimbursing a party for an expense incurred during the prosecution of the case, the party that receives those funds has unjustifiably benefitted. This happens any time a defendant pays an unauthorized fee.

It is also unclear where such funds would be directed. Would they be sent to the agency that would typically perform the task that the fee is designated to provide reimbursement for? Or would the circuit clerk keep the surplus and use it for purposes other than those designated by the statute providing for its collection? Neither outcome is consistent with the principle that a fee reimburses for specific costs incurred during the prosecution of a case. See *Graves*, 235 Ill. 2d at 250. Where no party has a rightful claim to the fee assessed, no party has an interest in collecting any money paid toward that fee. See *Nelson*, 137 S. Ct. at 1257 (Colorado had no interest in withholding money obtained from defendants who

later had their convictions vacated, to which it had zero claim of right). The only lawful appropriation is that any money collected pursuant to an imposed fee be used to reimburse the party designated by the legislature for costs incurred while prosecuting the defendant who paid that fee.

Moreover, if a financial assessment is only a fee if it reimburses for costs incurred during the prosecution, then any money collected to satisfy an unauthorized fee does not actually reimburse a party for incurred costs, and the outstanding financial obligation becomes punitive in nature. Punitive financial assessments are fines. *Graves*, 235 Ill. 2d at 250. For example, the DNA analysis fee is compensatory, not punitive, in part, because it is only imposed once. *People v. Johnson*, 2011 IL 111817, ¶ 19-20, 28. "Though imposed at sentencing, it does not serve to punish a defendant in addition to the sentence he received." *Johnson*, 2011 IL 111817, ¶ 18. When an assessment intended to reimburse for costs incurred during a prosecution does not actually reimburse a party for any expenses incurred, the nature of that assessment is more accurately categorized as a fine because it has ceased to perform the defining function of reimbursement, and has inherently become punitive in nature.

For instance, a DNA fee imposed pursuant to a defendant's first felony conviction reimburses for costs incurred in procuring a DNA sample from the defendant and adding it to the database. If that defendant is convicted of a subsequent qualifying offense, there is no need to repeat the process, and thus no collection and analysis expenses are incurred. Collecting a second DNA assessment from that defendant is not compensatory, as there are no costs for him to reimburse. Accordingly, an unauthorized fee functions as a fine, as it is

punitive, rather than compensatory. Pursuant to *Lewis*, fines can be reviewed under the plain error rule. *Lewis*, 234 Ill. 2d at 48. Thus, an unauthorized fee, that has functionally transformed into a fine, can be reviewed for plain error.

Last year, the Statutory Court Fee Task Force (Task Force) noted in the report it submitted to this Court and the General Assembly that "[c]riminal and traffic defendants frequently leave court with hundreds, or even thousands, of dollars in assessments on top of what are supposed to be the only financial consequences intended to punish, namely, fines imposed by the court." Statutory Court Fee Task Force, *Illinois Court Assessments: Findings and Recommendations for Addressing Barriers to Access to Justice and Additional Issues Associated With Fees and Other Court Costs in Civil, Criminal, and Traffic Proceedings*, June 1, 2016, at 1, *available at* http://www.illinoiscourts.gov/2016_Statutory_Court_Fee_Task_Force_Report.pdf (last visited December 28, 2017). "[F]ees do not take into account the punitive criminal fines that may attach at the end of criminal litigation and create additional financial burdens." *Illinois Court Assessments,* at 31.

The Task Force adopted five core principles, including the following relevant points: 1) assessments should be uniform and 2) moneys raised by assessments intended for a specific purpose should be used only for that purpose. *Id*. at 2. The Task Force specifically recommended reducing the overall financial burden imposed on defendants, and ensuring that existing assessments have an appropriate nexus to the offense so a defendant is not paying for something unrelated to his offense. *Id.* at 34.

This Court has rejected the notion that there is a *de minimus* exception to the type of error that is subject to plain-error review. *Lewis*, 234 Ill. 2d at 48.

Such an exception "is inconsistent with the fundamental fairness concerns of the plain-error doctrine." *Id*. at 48. "An error may involve a relatively small amount of money or unimportant matter, but still affect the integrity of the judicial process and the fairness of the proceeding if the controversy is determined in an arbitrary or unreasoned manner." *Id*.

This Court has not hesitated to relax the forfeiture rule where the fundamental fairness of the proceedings are threatened. See *Herron*, 215 Ill. 2d at 192-94 (applying the plain error doctrine, this Court reversed and remanded for a new trial where the trial court's error in reading a jury instruction was prejudicial); *People v. Piatkowski*, 225 Ill. 2d 551, 564-72 (2007) (finding that a new trial was required due to a jury-instruction error after conducting plain error review); *People v. Sprinkle*, 27 Ill. 2d 398, 399, 402-03 (1963) (remanding for a new trial where the court's improper questions and comments have prejudiced the defendant in the eyes of the jury, even though the issue was not preserved); *People v. Sebby*, 2017 IL 119445, ¶ 78 (finding a Rule 431(b) violation to be reversible error under the first prong of the plain error rule, this Court "[chose] to err on the side of fairness and remand for a new trial"); *Lewis*, 234 Ill. 2d at 49 (plain error review of improperly assessed street value fine was appropriate because the error challenged the integrity of the judicial process and undermined the fairness of the defendant's sentencing hearing); *Love*, 177 Ill. 2d at 564-65 (finding application of the waiver rule inappropriate where the trial court ignored the statutory procedures mandated for a public defender fee to be imposed).

Strong public policy reasons support the application of the plain error rule to fees as well as fines on direct appeal. The interests of judicial economy are best served by reviewing courts addressing unauthorized fees raised for the first time

on direct appeal. Under the "ministerial act" reasoning, this Court has consistently allowed fines and fees claims to be raised for the first time on appeal in collateral proceedings. *Caballero*, 228 Ill. 2d at 87-88. This Court reaffirmed its continued interest in promoting judicial economy in *People v. Almond*, 2015 IL 113817, ¶ 54 (*reh'g denied* (May 26, 2015)), finding that when a defendant fails to raise a constitutional issue that was raised at trial in a posttrial motion, but the issue could be raised in a postconviction petition, "'the interests in judicial economy favor addressing the issue on direct appeal rather than requiring defendant to raise it in a separate postconviction petition.'" (citing *People v. Cregan*, 2014 IL 113600, ¶ 18).

Where the basis for granting fines and fees relief to a defendant "is clear and available from the record, the appellate court may, in the interests of an orderly administration of justice, grant the relief requested." *Caballero*, 228 Ill. 2d at 88 (internal quotation omitted). In *People v. Gutierrez*, 2012 IL 111590, n. 1, this Court noted that, as a policy matter, it was more efficient for the appellate court to simply resolve the matter of an improperly imposed public defender fee while the case was on review than to have the defendant initiate a separate proceeding to have the fee vacated.

"Criminal court fees can have the unintended and counterproductive consequence of burdening a criminal defendant's reentry into society and increasing the potential for recidivism." *Illinois Court Assessments,* at 31 (citing U.S. Department of Health and Human Services, *HHS Poverty Guidelines for 2016*, *available at* https://aspe.hhs.gov/computations-2016-poverty-guidelines (last visited December 28, 2017)). Finding that improperly assessed fees are not subject

to plain-error review would open the floodgates to a variety of adverse implications for criminal defendants, many of whom are indigent, as they try to reintegrate into society and avoid further involvement with the criminal justice system.

One of the most pervasive adverse consequences of having outstanding financial obligations is the impact that debt can have on an individual's driving privileges. The Task Force noted that a criminal defendant may risk suspension of his driver's license if he is unable to pay his fees, and that this further burdens his ability to reintegrate into society and return to school or work. *Id*. For example, when the Secretary of State receives notice that a defendant is unable to pay his financial obligations related to a traffic case, the Secretary is required by statute to prohibit the renewal, reissue, or reinstatement of his driving privileges until those obligations have been satisfied. 625 ILCS 5/6-306.5(a) (2017).

A defendant who loses his driving privileges, and who has a job that he is unable to reach via public transportation, faces the Hobson's choice of driving without a valid license, and risking class A misdemeanor charges for doing so, or giving up his job. See 625 ILCS 5/6-101(a), (b-5) (2017) (no person shall drive unless he has a valid license or permit). Both choices have consequences. The latter means giving up his source of income, which can result in losing his housing, and benefits such as health insurance he receives through his employer. The former could result in additional convictions with additional fines and fees assessed, or an additional suspension of his driver's license if he is charged with three or more traffic offenses within a 12-month period. See 625 ILCS 5/6-206(a)(2) (2017). If he is caught driving on a suspended license, he faces further class A misdemeanor charges, accompanied by the assessment of additional fines and fees if he is convicted. See 625 ILCS 5/6-303(a) (2017).

"Taking a person's license away does not simply make an individual less mobile, but may also result in the loss of employment, decreased school attendance, and the inability to access critical resources such as food, childcare, and medical care, thereby perpetuating a cycle of poverty." Brendan Cardella-Koll, *Ability to Pay and Consequences of License Suspension*, Georgetown Journal on Poverty Law & Policy, November 8, 2017, *available at* https://gjplp.org/2017/11/08/consequences-of-license-suspension/ (last visited December 28, 2017). Lacking the ability to get to work, individuals will be unable to meet their financial obligations and may incur other fines and fees that could jeopardize their housing, family or medical conditions. Cardella-Koll*, Ability to Pay*.

The Task Force recognized that, in addition to court assessments, attending court can incur "hidden" costs related to transportation to and from court, parking, time off work, and child care. *Illinois Court Assessments,* at 21. Additionally, if a defendant misses a court date, a warrant might issue for his arrest. He could be arrested on the outstanding warrant, and, unable to post bond, might lose his job or housing while he waits in custody for his court date.

The means to digging out of this downward spiral of debt - maintaining steady employment - becomes less obtainable with each subsequent charge. In 2006, the American Association of Motor Vehicle Administrators categorized nearly 40% of license suspensions in the United States as related to "social non-conformance." See Henry Grabar, *Too Broke to Drive*, Slate, September 27, 2017, *available at* https://slate.com/business/2017/09/state-lawmakers-have-trapped-millions-of-americans-in-debt-by-taking-their-licenses.html (last visited

December 28, 2017). Such suspensions originate with offenses such as unpaid traffic tickets, drug possession, or unpaid child support, not with moving violations or bad driving. Grabar, *Too Broke to Drive*. This was a 34% increase from 2002. *Id.*

In addition to needing a valid license to get to work, many jobs themselves require a valid license, which further limits the available employment opportunities for someone with a criminal record. See *Id*.

Furthermore, court-imposed debt collection schemes disproportionately impact indigent individuals. Cardella-Cole, *Ability to Pay*; see also Grabar, *Too Broke to Drive*. Finding that improperly assessed fees are not subject to plain error only perpetuates this crisis, as it could be outstanding improperly assessed fees that are preventing someone from getting their license back, or causing an additional delay of months or even years to pay those outstanding fees, which there was no basis to assess in the first place.

Someone who is trying to get back on his feet financially after being released from prison has an even higher mountain to climb if he is unable to pay the financial obligations from his sentence. Formerly incarcerated individuals are estimated to owe as much as 60% of their income to criminal debts. Saneta deVuono-Powell, Chris Schweidler, Alicia Walters, and Azadeh Zohrabi, *Who Pays? The True Cost of Incarceration on Families*, Oakland, CA: Ella Baker Center, Forward Together, Research Action Design (2015), at 15, *available at* http://whopaysreport.org/who-pays-full-report/ (last visited December 28, 2017) (citing Douglas N. Evans, *The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration*, John Jay College of Criminal Justice, August 2014, *available at* https://jjrec.files.wordpress.com/2014/08/debtpenalty.pdf (last visited December 28, 2017)). In addition to the consequences related to driving privileges, "[c]ourt-imposed fees impact credit scores, making it difficult for criminal defendants to rent or purchase homes." *Illinois Court Assessments*, at 31. And, it is not only a defendant himself who can

suffer the consequences of these financial burdens, but also his family. Outstanding court debt can adversely limit access to public benefits as failure to pay constitutes a violation of parole or probation, which may result in an individual being cut off from benefits such as food stamps, housing assistance, and Supplemental Security Income for seniors and individuals with disabilities. deVuono-Powell, *et. al.*, *Who Pays?*, at 14, 25 (citing Diller, Rebekah, Alicia Bannon, and Mitali Nagrecha. *Criminal Justice Debt: A Barrier to Reentry,* Brennan Center for Justice, October 4, 2010, *available at* https://www.brennancenter.org/publication/criminal-justice-debt-barrier-reentry *(*last visited December 28, 2017); Patricia Allard, *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses*, Open Society Foundations, February 2002, *available at* https://www.opensocietyfoundations.org/reports/life-sentences-denying-welfare-benefits-women-convicted-drug-offenses (last visited December 28, 2017); Reuben Jonathan Miller, *Race*, *Hyper-Incarceration, and US Poverty Policy in Historic Perspective*, Sociology Compass 7.7 (2013), 573–89).

Mr. Harvey, like many other people with outstanding court fines and fees, has a felony conviction, which makes securing employment challenging. Unpaid fees can interfere with efforts to expunge or seal criminal records, which can then lead to termination from employment, or additional hurdles in securing new employment. *Illinois Court Assessments*, at 31. Additionally, because court debt is reported to credit agencies, it provides another opportunity for employers to learn of an applicant's criminal history. deVuono-Powell, *et. al., Who Pays?*, at 21. Upwards of 60% of formerly incarcerated people remain unemployed even one year after release, and many more remain unemployed for longer. *Id.*, at 20 (citing Gideon, Lior, and Hung-En Sung, Eds, *Rethinking Corrections: Rehabilitation, Reentry and Reintegration*, SAGE Publications (2010), at 332; Michael Mueller-Smith*, The Criminal and Labor Market Impacts of Incarceration*, November 24, 2014, *available at* http://www.columbia.edu/~mgm2146/incar.pdf (last visited

December 28, 2017)).For many people in these circumstances, the only available employment options are low-paying and unstable jobs with no potential for pay increases. *Id.* The minimum wage in Illinois is $8.25 per hour. Illinois Dep't of Labor, *available at* https://www.illinois.gov/idol/FAQs/Pages/minimum-wage-overtime-faq.aspx (last visited December 28, 2017). Mr. Harvey was assessed $765 in unauthorized fees that he remains responsible for paying, in addition to the properly imposed fines and fees. Working a minimum wage job, it would take him almost 93 hours to earn that extra $765, before taxes. Assuming that Mr. Harvey and similarly-situated people have financial obligations in addition to their fines and fees, such as rent, utilities, groceries, transportation, and incidental expenses like purchasing coats for their children in winter, finding an extra $765 in a minimum-wage paycheck is a nearly insurmountable task.

There is no formal process for waiving or reducing fees, forcing indigent defendants to choose between paying court debt or basic living expenses such as rent or medical bills. *Illinois Court Assessments,* at 30. "Without stable housing, employment, and transportation, a formerly incarcerated individual may return to criminal activity to cover their expenses, including crippling court debt." *Id*., at 31 (citing Terpstra, A., J. Clary, A. Rynell, *Poor by Comparison: Report on Illinois Poverty*, Social IMPACT Research Center at Heartland Alliance, January 2015, at 2, *available at* http://ilpovertyreport.org/sites/default/files/uploads/PR15_Report_FINAL.pdf (last visited December 28, 2017)).

This Court has found there is no *de minimus* exception to the improper assessment of a fine. *Lewis*, 234 Ill. 2d at 48. Likewise, the Task Force noted that while many assessments can be small in size, "the collective impact can be staggering, especially to indigent defendants."*Illinois Court Assessments*, at 18. An indigent defendant may have to choose between paying $5 to the clerk to avoid

having his probation violated for failure to make a timely monthly payment toward his outstanding financial obligations, or using that $5 for bus fare to get to work to avoid losing his job. Should he use the $20 he has left from his last paycheck to buy diapers, or to give it to the clerk to avoid facing a petition to revoke? If a portion of his outstanding financial assessments is comprised of unauthorized fees, he will continue to be faced with these difficult decisions longer than necessary as he continues to pay the unauthorized fees in addition to his properly imposed assessments. No portion of the assessments that lead to this avalanche of problems should be permitted to stem from fees that were unauthorized at their inception.

The Task Force proposed various pieces of legislation, including the Criminal/Traffic Assessment Act, intended to streamline the assessment of fees. *Id*. at 60-74. The Task Force also proposed Supreme Court Rule 404, which would control the application for the waiver of court assessments. *Id*. at 79-80. The Criminal/Traffic Assessment Act was filed as Illinois House Bill 2591, and was most recently re-referred to the Rules Committee on April 28, 2017. 100th Ill. Gen. Assem., House Bill 2591, 2017 Sess. *available at* https://openstates.org/il/bills/100th/HB2591/ (last visited December 28, 2017).

One of the Task Force's recommendations was the authorization of a sliding scale waiver statute, or reduction of fees, but not fines, for defendants living in or near poverty. *Illinois Court Assessments*, at 4, 34. The Task Force noted that "[w]hile criminal defendants should face meaningful punishment for committing a crime, it is unjust and unwise to burden indigent criminal defendants with court assessments that are beyond their ability to pay and that create a disproportionate and counterproductive barrier to their reentry into society." *Id*. at 34. Allowing waivers would result in judges having the ability to tailor punishments to fit the crime and assess appropriate fines, rather than letting court assessments act as punitive fines. *Id*. Denying a defendant the opportunity to have his improperly

assessed fees reviewed under the plain error rule takes the system in the opposite direction recommended by the Task Force.

Furthermore, if reviewing courts can simply decline to address improperly assessed fees as plain error, there is no incentive for a circuit clerk to comply with statutory requirements. There would be no mechanism to correct a typo that converts a properly assessed $100 clerk fee into an unauthorized $1,000 clerk fee.

Because allowing unauthorized fees to be upheld has such dire potential consequences for indigent defendants, this Court should find that improperly assessed fees can be reviewed under the plain error rule. As this Court indicated in *Gutierrez*, "we do not believe that the clerk's action in imposing an illegal fee should further burden the defendant." 2012 IL 111590, n. 1. Allowing appellate courts to decline to review these unauthorized fees is contrary to the core principles of fairness and justice integral to the continued integrity of our judicial system.

Though no objection was made before the trial court regarding the improperly assessed DNA Indexing fee and Sheriff's fees, the appellate court's determination that review of these errors was forfeited, and was not subject to plain error review, wholly ignores the fact that Mr. Harvey is still responsible for paying $765 in fees, even though no authority existed for imposing them. Because the unauthorized assessment of fees implicates the same rights and concerns as the assessment of unauthorized fines, improperly imposed fees should be reviewed for plain error.

C.

Improperly assessed fees can be modified under Illinois Supreme Court Rule 615(b).

Even though Mr. Harvey did not challenge his improperly assessed fees before the trial court, under Illinois Supreme Court Rule 615(b)(1) (eff. Aug. 17, 1999), the appellate court could have modified the fines and fees order to correct the trial court's errors without remanding the case back to the circuit court.

Where a defendant fails to challenge his fines and fees before the trial court, under Illinois Supreme Court Rule 615(b) (eff. Aug. 17, 1999), a reviewing court may modify the fines and fees order without remanding the case back to the circuit court. *People v. McGee*, 2015 IL App (1st) 130367, ¶ 82; Ill. S.Ct. R. 615(b)(1) ("[o]n appeal the reviewing court may * * * modify the judgment or order from which the appeal is taken"). Because the appellate court was presented with adequate information to address the improperly assessed fees at issue here, they should have been corrected, despite defense counsel's failure to raise these issues before the trial court.

For the reasons argued *supra* at 10-14, there was no authority to impose a second DNA Identification fee or the Sheriff's fees assessed in this case. Pursuant to Rule 615(b)(1), the appellate court could have modified the trial court's order to reflect only the statutorily permissible fees. See Ill. S.Ct. R 615(b)(1). The DNA Identification fee should have been vacated, and the Sheriff's fee for service could have been vacated or modified to comport with the statutorily authorized $150, and to $75 for the returns, plus the cost of mileage.

Mr. Harvey respectfully asks this Court to vacate the DNA Identification fee, and vacate or modify the Sheriff's fees to fall within the statutory limits. Alternatively, Mr. Harvey asks this Court to remand the matter to the appellate court with direction to reviewed these improperly imposed fees under the plain error doctrine.

II.

Mr. Harvey's improperly assessed Crime Stoppers fine is subject to plain error review, and should be vacated.

Mr. Harvey was assessed a Crime Stoppers fine that is inapplicable to sentences like his that impose a term of incarceration. The appellate court erroneously concluded that this assessment was a fee, rather than a fine, and after finding that unauthorized fees are not subject to plain error review, declined to address it. Because the Crime Stoppers assessment is a fine, and because unauthorized fines are subject to plain error review, the appellate court should have reviewed Mr. Harvey's claim as plain error, and vacated the fine.

STANDARD OF REVIEW

The propriety of a trial court's imposition of fines and fees raises a question of statutory interpretation, subject to *de novo* review. *People v. Millsap,* 2012 IL App (4th) 110668, ¶ 23. Likewise, questions of law, including whether a forfeited claim is reviewable as plain error, and the interpretation of a Supreme Court Rule, are reviewed *de novo*. *People v. Johnson*, 238 Ill. 2d 478, 485 (2010); *People v. Marker*, 233 Ill. 2d 158, 162 (2009).

A.

The Crime Stoppers assessment is a fine subject to plain error review.

Mr. Harvey was ordered by the trial court to pay, *inter alia*, a $10 Crime Stoppers fine. (R. C79; Circuit Clerk's Payment Status Information Sheet) (App. at 43-44) This assessment is a fine. *People v. Littlejohn*, 338 Ill. App. 3d 281, 284 (3rd Dist. 2003).

Contrary to the statutory provisions that this fine only be assessed to individuals sentenced to probation, conditional discharge, or supervision, the trial

court ordered Mr. Harvey to pay a $10 Crime Stoppers fine after sentencing him to a term of incarceration. (R. C77, C79); 730 ILCS 5/5-6-3(b)(13)(2013); see *People v. Beler*, 327 Ill. App. 3d 829, 837 (4th Dist. 2002) (the statute provides for imposition of fines to reimburse local anticrime programs for individuals on probation, conditional discharge, and supervision, making no similar provisions for imposition of such a fine when a sentence of incarceration is imposed). Because the statute does not provide for this fine to be imposed on individuals like Mr. Harvey who are sentenced to a term of incarceration, the trial court had no authority to order it.

Though no objection was made before the trial court to this improper assessment, the appellate court should have reviewed Mr. Harvey's claim for plain error because the improper assessment of a fine is subject to plain error review. See *People v. Lewis*, 234 Ill. 2d 32, 48 (2009) (imposition of an unauthorized fine sufficiently implicates the fundamental fairness and integrity of the judicial process to be reviewed for plain error, with no *de minimus* exception). However, rather than conducting a plain error review, the appellate court found that this assessment was a fee that was not subject to plain error review. *People v. Harvey*, 2017 IL App (4th) 140576-U, ¶¶ 25-26.

As the State conceded on appeal, imposing a Crime Stoppers fine was error, because Mr. Harvey was sentenced to a period of incarceration, and thus cannot be ordered to pay this fine. (St. Br., 22-23) (App. at 45-46) Because the imposition of unauthorized fines sufficiently implicates the fundamental fairness and integrity of the judicial process to merit plain error review, the unauthorized assessment of a Crime Stoppers fine here implicated Mr. Harvey's right to a fair sentencing hearing, and the appellate court should have reviewed this error under the plain error doctrine. See *Lewis*, 234 Ill. 2d at 48.

B.

Improperly assessed fines can be modified under Illinois Supreme Court Rule 615(b).

Even though Mr. Harvey did not challenge the improper assessment of the Crime Stoppers fine before the trial court, under Rule 615(b)(1), the appellate court could have modified the fines and fees order to correct the error without remanding the case back to the circuit court. See *People v. McGee*, 2015 IL App (1st) 130367, ¶ 82; Ill. S.Ct. R 615(b)(1) ("[o]n appeal the reviewing court may * * * modify the judgment or order from which the appeal is taken"). Because the appellate court was presented with adequate information to address the improperly assessed Crime Stoppers fine it should have been vacated, despite defense counsel's failure to raise the issue before the trial court.

Mr. Harvey respectfully asks this Court to exercise its authority under Rule 615(b) and to vacate the improperly assessed $10 Crime Stoppers fine. In the alternative, Mr. Harvey asks that the matter be remanded to the appellate court with direction that the assessment of this fine be reviewed under the plain error doctrine.

CONCLUSION

For the foregoing reasons, Shane D. Harvey respectfully requests that this Court exercise its discretion under Rule 615(b) to vacate the improperly assessed Crime Stoppers fine and DNA Analysis fee, and revise the Sheriff's fees to comport with the statutory limits, or, in the alternative, remand this matter with direction that the Appellate Court review Mr. Harvey's alleged errors pursuant to the plain error doctrine.

Respectfully submitted,

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COUNSEL FOR DEFENDANT-APPELLANT

CERTIFICATE OF COMPLIANCE

I, Mariah K. Shaver, certify that this brief conforms to the requirements of Supreme Court Rule 341(a) and (b). The length of this brief, excluding 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 39 pages.

/s/Mariah K. Shaver
MARIAH K. SHAVER
ARDC No. 6308148
Assistant Appellate Defender

No. 122325

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- SHANE D. HARVEY, Defendant-Appellant.	)	Appeal from the Appellate Court of Illinois, No. 4-14-0576. There on appeal from the Circuit Court of the Eighth Judicial Circuit, Adams County, Illinois, No. 13-CF-394. Honorable Scott H. Walden, Judge Presiding.

NOTICE AND PROOF OF SERVICE

Lisa Madigan, Attorney General, 100 W. Randolph St., Chicago, IL 60601, mglick@atg.state.il.us, cc: twhatley-conner@atg.state.il.us, jescobar@atg.state.il.us, lbendik@atg.state.il.us; edusza@atg.state.il.us

David J. Robinson, Deputy Director, State's Attorney Appellate Prosecutor, 725 South Second Street, Springfield, IL 62704, 4thdistrict@ilsaap.org;

Mr. Shane D. Harvey, Register No. S10932, Hill Correctional Center, P. O. Box 1700, Galesburg, IL 61401

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 December 29, 2017, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the in an envelope deposited in a U.S. mail box in Springfield, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/Natasha Wallace
LEGAL SECRETARY
Office of the State Appellate Defender
400 West Monroe Street, Suite 303
P.O. Box 5240
Springfield, IL 62705-5240
Service via email will be accepted at
4thdistrict.eserve@osad.state.il.us
(217) 782-3654

APPENDIX TO THE BRIEF

Shane D. Harvey No. 122325

E-FILED
12/29/2017 11:26 AM
Carolyn Taft Grosboll
SUPREME COURT CLERK

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

Common Law Record

Page 1 of 4

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

Common Law Record

Page 2 of 4

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

Common Law Record

Page 3 of 4

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

Common Law Record

Page 4 of 4

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

REPORT OF PROCEEDINGS

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

EXHIBIT LIST

Page 1 of 1

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE	)	
Plaintiff/Petitioner	)	Appellate Court No: 4-14-0576
	)	Circuit Court No: 2013CF394
	)	Trial Judge: Walden
v	)	
	)	
	)	
HARVEY, SHANE D	)	
Defendant/Respondent	)	

SECURED Common Law Record

Page 1 of 1
IMPOUNDED PSI-02_04_2014

SC C3 - SC C131

SC C2

2017 IL App (4th) 140576-U

NO. 4-14-0576

FILED
April 25, 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.	)	Adams County
SHANE D. HARVEY,	)	No. 13CF394
Defendant-Appellant.	)	
	)	Honorable
	)	Scott H. Walden,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Pope concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Because the trial court conducted no inquiry into defendant's claim of ineffective assistance of trial counsel presented in his posttrial motion, the case is remanded for the court to conduct an adequate inquiry.

(2) The case is remanded to the trial court for the application of *per diem* credit toward an imposed fine.

(3) Defendant forfeited review of issues pertaining to the erroneous imposition of fees and failed to demonstrate that the errors were subject to plain-error review.

¶ 2 Defendant, Shane D. Harvey, appeals from his conviction of domestic battery. The trial court sentenced defendant to three years in prison. Defendant claims the trial court erred when it failed to conduct an inquiry into his claim of ineffective assistance of counsel, which he presented in his *pro se* posttrial motion. He also challenges the imposition of certain fines and fees and claims he is entitled to additional *per diem* credit. For the reasons that follow, we remand the case to the trial court for an inquiry into defendant's ineffective assistance of counsel

claim and for the application of appropriate *per diem* credit. We find defendant forfeited review of his claims pertaining to the imposition of fees. We otherwise affirm as modified.

¶ 3 I. BACKGROUND

¶ 4 On June 20, 2013, the State charged defendant by information with one count of domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2012)), alleging he caused bodily harm to his ex-girlfriend, Michelle Dierker, by striking her in the mouth with his fist. Defendant was charged with a Class 4 felony due to a prior aggravated-battery conviction. 720 ILCS 5/12-3.2(b) (West 2012). At his July 3, 2013, preliminary hearing, defendant knowingly waived his right to counsel and proceeded *pro se*. However, at an August 30, 2013, pretrial hearing, defendant requested the appointment of counsel for trial. The trial court appointed the public defender.

¶ 5 After a November 18, 2013, trial, the jury found defendant guilty. The court ordered the preparation of a presentence investigation report (PSI). Defendant filed a posttrial motion, through counsel, claiming the trial court had erred by prohibiting defendant from questioning a police officer about the victim's admission that she had lied during the course of the investigation. Defendant requested a judgment notwithstanding the verdict or, in the alternative, a new trial. The motion was denied.

¶ 6 On February 4, 2014, the trial court sentenced defendant to the maximum sentence of three years in prison, followed by a four-year mandatory-supervised-release term. The court ordered defendant to pay enumerated fines and fees. Defendant indicated he wanted to appeal, so the court appointed the office of the State Appellate Defender (OSAD). OSAD filed the appeal, which this court docketed as case No. 4-14-0100.

¶ 7 While the appeal was pending, on March 6, 2014, defendant filed a *pro se* "petition for reduced sentence," alleging, *inter alia*, that his trial counsel should have pointed out

several errors that appeared in the PSI—errors which, defendant claimed, caused the trial court to impose the maximum sentence. Defendant did not raise any issue regarding the imposition of fines, fees, or *per diem* credit. Upon this filing, the trial court reappointed defendant's trial counsel. Meanwhile, on April 16, 2014, this court granted OSAD's motion for the voluntary dismissal of the pending appeal. *People v. Harvey*, No. 4-14-0100 (Apr. 16, 2014) (dismissed on defendant's motion).

¶ 8 On June 25, 2014, at a hearing on defendant's motion to reconsider his sentence, defendant's counsel indicated she wished to stand on defendant's *pro se* motion. After considering arguments of counsel, the trial court entered an order denying defendant's motion. This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 A. *Krankel* Inquiry

¶ 11 Defendant first contends the trial court erred by failing to conduct any inquiry into his claim that his counsel had rendered ineffective assistance. Defendant contends the mere mention of counsel's alleged error was sufficient to trigger a *Krankel* inquiry. See *People v. Krankel*, 102 Ill. 2d 181 (1984) (when a defendant raises a claim of ineffective assistance of counsel, the trial court should examine the factual basis of the claim in a preliminary inquiry to determine whether new counsel should be appointed). Specifically, in his *pro se* motion to reduce his sentence, defendant had stated: "Several points in the PSI were incorrect (which should have been argued by 'my' public defender at sentencing)." This statement, he alleges, should have triggered the trial court to at least question or conduct a preliminary investigation into the facts.

¶ 12 The record indicates that at a status hearing, after defendant had filed his *pro se* motion, the following exchange occurred between the trial court and defendant's public defender (the same counsel who represented defendant at trial and sentencing):

"THE COURT: *** [Defendant] has filed a motion to reduce sentence. Ms. Henze [(defense attorney)], have you had an opportunity to review that?

MS. HENZE: Your Honor, I have. I don't have a good recollection of Your Honor saying all of the things [defendant] says you said, so I think I need to order a transcript from the sentencing hearing.

THE COURT: Did he express some dissatisfaction with his trial counsel?

MS. HENZE: Not in this motion.

THE COURT: Not in that motion.

MS. HENZE: He certainly has directly to me, but he didn't express it in the motion. I don't think there's any reason to appoint other counsel; it might come to that. But I would ask that we go approximately four weeks and get the transcript from the sentencing hearing which would have occurred on February 4 [, 2014]."

¶ 13 At the hearing on defendant's posttrial motion, the following exchange occurred:

"MS. HENZE: Your Honor, I would just ask that the petition stand on its own, and that would be the, for the record, the petition filed *pro se* by [defendant].

Pursuant to my certificate, I have examined the transcripts of the sentencing hearing and of the trial. I don't believe there are any additional items to bring up or any changes to be made to his *pro se* motion.

I would ask that it stand. I know Your Honor, excuse me, has reviewed it.

THE COURT: Thank you. Mrs. Rodriguez [(Assistant State's Attorney)]?

MS. RODRIGUEZ: Your Honor, likewise, the sentencing transcript has been reviewed. This was a jury trial, at which the defendant was found guilty. The court in rendering the sentence that you did certainly set forth specific findings on—considered all the factors in aggravation and mitigation.

Those were all properly considered in arriving at the three-year sentence in this case.

It appears to me that the defendant takes issue with some information in the [PSI], but they're certainly not things that affected the sentence that the court rendered.

THE COURT: Excuse me, Mrs. Rodriguez. I'm sorry I'm making noise. I'm just cutting open the PSI."

¶ 14 The State goes on to reiterate defendant's claims as stated in his motion, without mentioning the three alleged errors in the PSI that he contends his counsel should have challenged. At the hearing, the trial court addressed neither those alleged errors in the PSI nor defendant's contention that counsel failed to address those alleged errors at sentencing.

¶ 15 The issue in this appeal is whether defendant's statement in his *pro se* posttrial motion was sufficient to trigger a *Krankel* inquiry by the trial court. The issue of whether the trial court properly conducted a preliminary *Krankel* inquiry presents a legal question that we review *de novo*. *People v. Jolly*, 2014 IL 117142, ¶ 28.

¶ 16 Under *Krankel* and its progeny, when a defendant presents a *pro se* posttrial motion alleging ineffective assistance of counsel, the trial court must conduct some type of

inquiry into the underlying factual basis of the defendant's claims. *People v. Moore*, 207 Ill. 2d 68, 79 (2003). If the allegations "show possible neglect of the case," the court should appoint new counsel to represent the defendant at an evidentiary hearing on his *pro se* claims. *Moore*, 207 Ill. 2d at 77-78. However, if, after the preliminary inquiry, the trial court determines that the claims lack merit or pertain only to matters of trial strategy, the court may deny the *pro se* motion without appointing counsel. *Moore*, 207 Ill. 2d at 78.

¶ 17 "[T]he goal of any *Krankel* proceeding is to facilitate the trial court's full consideration of a defendant's *pro se* claims of ineffective assistance of trial counsel and thereby potentially limit issues on appeal." *Jolly*, 2014 IL 117142, ¶ 29. After the parties submitted their briefs in this appeal, our supreme court, in an opinion filed February 17, 2017, addressed the issue of how much detail a defendant needs to present on his posttrial claim of ineffective assistance to trigger a trial court's *Krankel* inquiry. *People v. Ayres*, 2017 IL 120071, ¶ 9. The *Ayres* court recognized the appellate courts were split on this issue. *Ayres*, 2017 IL 120071, ¶ 9. The Second District had held in several cases that a bare claim warrants inquiry. *Ayres*, 2017 IL 120071, ¶ 9. Our court and the First District have held that a bare allegation is insufficient and a defendant must meet minimal requirements by asserting some facts in support. *Ayres*, 2017 IL 120071, ¶ 9. The supreme court sided with the Second District's line of decisions. *Ayres*, 2017 IL 120071, ¶ 24 (abrogating this court's decision in *Montgomery*, where we held there are " 'minimum requirements a defendant must meet in order to trigger a preliminary inquiry by the circuit court.' " *People v. Montgomery*, 373 Ill. App. 3d 1104, 1121 (2007) (quoting *People v. Ward*, 371 Ill. App. 3d 382, 431 (1st Dist. 2007))).

¶ 18 In *Ayres*, the court relied on principles previously espoused in *Moore*. Namely, the court noted a *pro se* defendant is not required to do anything more than bring his claim to the

trial court's attention. *Ayres*, 2017 IL 120071, ¶ 11 (citing *Moore*, 207 Ill. 2d at 79). At that point, the trial court must conduct some type of inquiry into the defendant's claim. *Ayres*, 2017 IL 120071, ¶ 11 (citing *Moore*, 207 Ill. 2d at 79). The concern is whether the trial court conducted an adequate inquiry into the defendant's claims. *Ayres*, 2017 IL 120071, ¶ 11 (citing *Moore*, 207 Ill. 2d at 78). The goal of a proper *Krankel* proceeding is to create a record for appellate purposes. *Ayres*, 2017 IL 120071, ¶ 9 (citing *Moore*, 207 Ill. 2d at 81).

¶ 19 With these principles in mind, the *Ayres* court held that, in order to "comport[] with [the] post-*Krankel* jurisprudence," including *Moore*, "when a defendant brings a clear claim asserting ineffective assistance of counsel, either orally or in writing, this is sufficient to trigger the trial court's duty to conduct a *Krankel* inquiry." *Ayres*, 2017 IL 120071, ¶ 18. The *Ayres* court stated: "Our holding in *Moore* supports a conclusion that a claim need not be supported by facts or specific examples." *Ayres*, 2017 IL 120071, ¶ 19. That is, to comply with the primary purpose of *Krankel* by allowing the defendant the opportunity to "flesh out" his claim before the trial court so the court can determine whether new counsel should be appointed, all a defendant is required to do is make an "express claim of ineffective assistance of counsel." *Ayres*, 2017 IL 120071, ¶ 21.

¶ 20 Prior to *Ayres*, this court found bare, conclusory, or "rambling" statements of an "unhappy position," without a specific claim of ineffective assistance of counsel or supporting facts, were not sufficient to trigger a preliminary inquiry by the trial court. *Montgomery*, 373 Ill. App. 3d at 1120-21. However, after *Ayres*, our supreme court has made it clear a defendant's burden should not be so great. Post-*Ayres*, a defendant is required only to raise "a clear claim asserting ineffective assistance of counsel," not pinpoint a " 'particular action that counsel took or neglected to take.' " *Ayres*, 2017 IL 120071, ¶¶ 17-18. A defendant's claim "need not be

supported by facts or specific examples." *Ayres*, 2017 IL 120071, ¶ 19. The trial court will need to gather further and necessary information during its resulting preliminary inquiry, while making the requisite record for any claims raised on appeal.

¶ 21 Here, as in *Ayres*, the trial court failed to conduct *any* inquiry into (1) defendant's stated claim in his *pro se* posttrial motion that his trial counsel had failed to challenge the veracity of information contained in the PSI, and (2) counsel's comments to the court that defendant had expressed to her his dissatisfaction with her representation. Without the court's initial inquiry into defendant's claims, we have no record to review on appeal. *Ayres*, 2017 IL 120071, ¶ 21 ("Absent such a record, as in the case at bar, appellate review is precluded."). From *Ayres*, we conclude a defendant is required only to express his dissatisfaction with his counsel's representation to trigger a preliminary inquiry by the trial court. After such an inquiry, the court would then decide whether the claim lacks merit or whether the claim is sufficient to justify the appointment of new counsel. Because the trial court did not conduct *any* inquiry, in light of *Ayres*, we remand the case back to the trial court for that stated purpose.

¶ 22 B. Fines and Fees

¶ 23 Defendant next contends some of his fines and fees were improperly assessed and that he did not receive the proper *per diem* credit to which he was entitled. The State concedes error on one of defendant's contentions and argues, for the remainder of the claims, defendant has forfeited review by not raising them in the trial court. Defendant, in turn, claims we may consider the issues under the plain-error doctrine.

¶ 24 First, the State concedes error regarding defendant's claim that the $20 court-appointed special advocate (CASA) fee is comparable to the Children's Advocacy Center (CAC) fee, is actually a fine, and subject to the application of *per diem* credit. We accept the State's

concession without invoking the plain-error rule. See *People v. Buffkin*, 2016 IL App (2d) 140792, ¶ 11 (confession of error permits review of an otherwise precluded claim). Further, forfeiture does not apply to defendant's statutory right to *per diem* credit. *People v. Woodard*, 175 Ill. 2d 435, 455-57 (1997). We remand this case to the trial court for the purpose of applying the $5 *per diem* credit toward the $20 CASA assessment. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 30 (notwithstanding the statutory label of fee, the CAC fee is actually a fine).

¶ 25 For the remainder of defendant's claims, he contends: (1) the $2 State's Attorney automation fee is actually a fine and is subject to *per diem* credit; (2) the Sheriff's fee was improperly assessed; (3) the circuit clerk should not have assessed the $250 deoxyribonucleic acid fee because defendant was already in the database; and (4) the trial court should not have assessed the $10 Crime Stoppers assessment. This court has previously determined that the $2 State's Attorney automation fee (55 ILCS 5/4-2002(a) (West 2012) (amended by Pub. Act 97-673, §5 (eff. June 1, 2012))), is a fee, not a fine, because it is intended to reimburse the State's Attorneys for record-keeping expenses and is not punitive in nature. *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 115 (The assessment is a fee because it is intended to reimburse the State's Attorneys for their expenses related to automated record-keeping systems.)). Because it is a fee, the $2 State's Attorney automation assessment is not subject to the *per diem* credit. 725 ILCS 5/110-14 (West 2012).

¶ 26 The remainder of defendant's contentions of error relate to the imposition of fees, not fines. As such, we find the claims do not rise to the level of errors affecting the fundamental fairness or integrity of the judicial process. *Cf. People v. Lewis*, 234 Ill. 2d 32, 48 (2009) (imposition of a fine without an evidentiary basis implicates fundamental fairness and the integrity of the judicial process sufficient to apply plain-error review). Defendant has not

explained how the plain-error doctrine may be applied to review the imposition of fees. Instead, defendant cites cases applying plain error to challenges regarding the imposition of fines, not fees. As such, we agree with the State that defendant forfeited review of the issues he raises in this appeal pertaining to the imposition of fees. Such issues were not raised in the trial court proceedings, are forfeited, and are not subject to plain-error review.

¶ 27 III. CONCLUSION

¶ 28 For the reasons stated, we remand the case to the trial court to conduct a *Krankel* inquiry into defendant's claims of ineffective assistance of counsel. We also remand the case to the trial court for the purpose of applying *per diem* credit to the $20 CASA fine imposed. Otherwise, we affirm the trial court's judgment as modified. Because the State has in part successfully defended a portion of the criminal judgment, we grant the State its statutory assessment of $50 against defendant as costs of this appeal. See *People v. Smith*, 133 Ill. App. 3d 613, 620 (1985) (citing *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978)).

¶ 29 Affirmed as modified and cause remanded with directions.

No. 4-14-0576

IN THE

APPELLATE COURT OF ILLINOIS

FOURTH JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- SHANE D. HARVEY, Defendant-Appellant.	Appeal from the Circuit Court of the Eighth Judicial Circuit, Adams County, Illinois. No. 13-CF-394 Honorable Scott H. Walden, Judge Presiding.

AMENDED NOTICE OF APPEAL

An appeal is taken to the Appellate Court, Fourth Judicial District:

Appellant(s) Name:	Shane D. Harvey
Appellant's Address:	Register No. S-10932 Western Illinois Correctional Center 2500 Route 99 South Mt. Sterling, IL 62353
Appellant(s) Attorney:	Office of the State Appellate Defender
Address:	Fourth Judicial District 400 West Monroe Street, Suite 303 Springfield, IL 62705-5240 (217) 782-3654
Offense of which convicted:	Domestic Battery
Date of Judgment or Order:	June 25, 2014
Sentence:	Three years in the Illinois Department of Corrections
Nature of Order Appealed:	Conviction, Sentence, and Denial of Motion to Reconsider Sentence

JACQUELINE L. BULLARD
Deputy Defender
ARDC No. 6242609

COUNSEL FOR DEFENDANT-APPELLANT

C131

FILED

JUN 30 2014

Lori R. Grochowalski
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

NO: 13CF394

Vs
Shane D Harvey

NOTICE OF APPEAL

An appeal is taken from the Order and Judgment described below:

1. Court to which Appeal is taken: The Appellate Court of Illinois

2. Name of Appellant and address to which notices shall be sent:

   A. NAME: Shane D Harvey
   #S10932
   PO Box 499
   Hillsboro IL 62049

3. Name and Address of Appellant's Attorney on Appeal
   Name: Karen Munoz, Appellate Defender's Office
   400 West Monroe St Suite 303
   Springfield, Illinois 62705-5240

If appellant is indigent and has no attorney, does he want one appointed?

4. Date of Judgment or Order: June 25, 2014

5. Offense of which convicted: Domestic Battery

6. Sentence: 3 years DOC

7. If appeal is not from a conviction, nature of order appealed from: Denial of Petition for Reduced Sentence

8. If the appeal is from a judgment of a Circuit Court holding unconstitutional a statute of the United States or of this state, a copy of the court's findings made in compliance with Rule 18 shall be appended to the notice of appeal

SEAL

Lori R. Grochowalski
Circuit Clerk

By: Kim Goodwin
Deputy Clerk

C118

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter V. Sentencing
Article 4. Sentencing (Refs & Annos)

730 ILCS 5/5-4-3
Formerly cited as IL ST CH 38 ¶1005-4-3

5/5-4-3. Specimens; genetic marker groups

Effective: January 1, 2014
Currentness

§ 5-4-3. Specimens; genetic marker groups.

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 [1] for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, [2] or institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act [3] shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section, provided such person is:

(1) convicted of a qualifying offense or attempt of a qualifying offense on or after July 1, 1990 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997;

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990;

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002;

(4) presently institutionalized as a sexually dangerous person or presently institutionalized as a person found guilty but mentally ill of a sexual offense or attempt to commit a sexual offense; or

(4.5) ordered committed as a sexually violent person on or after the effective date of the Sexually Violent Persons Commitment Act.

(a-1) Any person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years, natural life, or a sentence of death, who has not yet submitted a specimen of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. A person incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) shall be required to submit a specimen within 45 days of incarceration, or prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

(a-2) Any person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after the effective date of this amendatory Act of the 94th General Assembly or sentenced to death after the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on the effective date of this amendatory Act of the 94th General Assembly or any person who is under a sentence of death on the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois Department of State Police.

(a-3) Any person seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of this Code, the Interstate Compact for Adult Offender Supervision, or the Interstate Agreements on Sexually Dangerous Persons Act shall be required to provide a specimen of blood, saliva, or tissue within 45 days after transfer to or residency in Illinois at a collection site designated by the Illinois Department of State Police.

(a-3.1) Any person required by an order of the court to submit a DNA specimen shall be required to provide a specimen of blood, saliva, or tissue within 45 days after the court order at a collection site designated by the Illinois Department of State Police.

(a-3.2) On or after January 1, 2012 (the effective date of Public Act 97-383), any person arrested for any of the following offenses, after an indictment has been returned by a grand jury, or following a hearing pursuant to Section 109-3 of the Code of Criminal Procedure of 1963 and a judge finds there is probable cause to believe the arrestee has committed one of the designated offenses, or an arrestee has waived a preliminary hearing shall be required to provide a specimen of blood, saliva, or tissue within 14 days after such indictment or hearing at a collection site designated by the Illinois Department of State Police:

(A) first degree murder;

(B) home invasion;

(C) predatory criminal sexual assault of a child;

(D) aggravated criminal sexual assault; or

(E) criminal sexual assault.

(a-3.3) Any person required to register as a sex offender under the Sex Offender Registration Act, regardless of the date of conviction as set forth in subsection (c-5.2) shall be required to provide a specimen of blood, saliva, or tissue within the time period prescribed in subsection (c-5.2) at a collection site designated by the Illinois Department of State Police.

(a-5) Any person who was otherwise convicted of or received a disposition of court supervision for any other offense under the Criminal Code of 1961 or the Criminal Code of 2012[4] or who was found guilty or given supervision for such a violation under the Juvenile Court Act of 1987, may, regardless of the sentence imposed, be required by an order of the court to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section.

(b) Any person required by paragraphs (a)(1), (a)(1.5), (a)(2), (a)(3.5), and (a-5) to provide specimens of blood, saliva, or tissue shall provide specimens of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police.

(c) Any person required by paragraphs (a)(3), (a)(4), and (a)(4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such specimens prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

(c-5) Any person required by paragraph (a-3) to provide specimens of blood, saliva, or tissue shall, where feasible, be required to provide the specimens before being accepted for conditioned residency in Illinois under the interstate compact or agreement, but no later than 45 days after arrival in this State.

(c-5.2) Unless it is determined that a registered sex offender has previously submitted a specimen of blood, saliva, or tissue that has been placed into the State DNA database, a person registering as a sex offender shall be required to submit a specimen at the time of his or her initial registration pursuant to the Sex Offender Registration Act or, for a person registered as a sex offender on or prior to January 1, 2012 (the effective date of Public Act 97-383), within one year of January 1, 2012 (the effective date of Public Act 97-383) or at the time of his or her next required registration.

(c-6) The Illinois Department of State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis. The Illinois Department of State Police may require the submission of fingerprints from anyone required to give a specimen under this Act.

(d) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of blood specimens. The collection of specimens shall be performed in a medically approved manner. Only a physician authorized to practice medicine, a registered nurse or other qualified person trained in venipuncture may withdraw blood for the purposes of this Act. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-1) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of saliva specimens. The collection of saliva specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting saliva may collect saliva for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-2) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of tissue specimens. The collection of tissue specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting tissue may collect tissue for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-5) To the extent that funds are available, the Illinois Department of State Police shall contract with qualified personnel and certified laboratories for the collection, analysis, and categorization of known specimens, except as provided in subsection (n) of this Section.

(d-6) Agencies designated by the Illinois Department of State Police and the Illinois Department of State Police may contract with third parties to provide for the collection or analysis of DNA, or both, of an offender's blood, saliva, and tissue specimens, except as provided in subsection (n) of this Section.

(e) The genetic marker groupings shall be maintained by the Illinois Department of State Police, Division of Forensic Services.

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois Department of State Police, the DNA record shall be expunged from the DNA identification index, and the Department shall by rule prescribe procedures to ensure that the record and any specimens, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed. For specimens required to be collected prior to conviction, unless the individual has other charges or convictions that require submission of a specimen, the DNA record for an individual shall be expunged from the DNA identification databases and the specimen destroyed upon receipt of a certified copy of a final court order for each charge against an individual in which the charge has been dismissed, resulted in acquittal, or that the charge was not filed within the applicable time period. The Department shall by rule prescribe procedures to ensure that the record and any specimens in the possession or control of the Department are destroyed and a letter is sent to the court verifying the expungement is completed.

(f-5) Any person who intentionally uses genetic marker grouping analysis information, or any other information derived from a DNA specimen, beyond the authorized uses as provided under this Section, or any other Illinois law, is guilty of a Class 4 felony, and shall be subject to a fine of not less than $5,000.

(f-6) The Illinois Department of State Police may contract with third parties for the purposes of implementing this amendatory Act of the 93rd General Assembly, except as provided in subsection (n) of this Section. Any other party contracting to carry out the functions of this Section shall be subject to the same restrictions and requirements of this Section insofar as applicable, as the Illinois Department of State Police, and to any additional restrictions imposed by the Illinois Department of State Police.

(g) For the purposes of this Section, "qualifying offense" means any of the following:

(1) any violation or inchoate violation of Section 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012; [5]

(1.1) any violation or inchoate violation of Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3, 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of 1961 or the Criminal Code of 2012 [6] for which persons are convicted on or after July 1, 2001;

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

(4) any inchoate violation of Section 9-3.1, 9-3.4, 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or the Criminal Code of 2012; [7] or

(5) any violation or inchoate violation of Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012.

(g-5) (Blank).

(h) The Illinois Department of State Police shall be the State central repository for all genetic marker grouping analysis information obtained pursuant to this Act. The Illinois Department of State Police may promulgate rules for the form and manner of the collection of blood, saliva, or tissue specimens and other procedures for the operation of this Act. The provisions of the Administrative Review Law[8] shall apply to all actions taken under the rules so promulgated.

(i)(1) A person required to provide a blood, saliva, or tissue specimen shall cooperate with the collection of the specimen and any deliberate act by that person intended to impede, delay or stop the collection of the blood, saliva, or tissue specimen is a Class 4 felony.

(2) In the event that a person's DNA specimen is not adequate for any reason, the person shall provide another DNA specimen for analysis. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases in which an individual refuses to provide a DNA specimen required under this Act.

(j) Any person required by subsection (a), or any person who was previously required by subsection (a-3.2), to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police for analysis and categorization into genetic marker grouping, in addition to any other disposition, penalty, or fine imposed, shall pay an analysis fee of $250. If the analysis fee is not paid at the time of sentencing, the court shall establish a fee schedule by which the entire amount of the analysis fee shall be paid in full, such schedule not to exceed 24 months from the time of conviction. The inability to pay this analysis fee shall not be the sole ground to incarcerate the person.

(k) All analysis and categorization fees provided for by subsection (j) shall be regulated as follows:

(1) The State Offender DNA Identification System Fund is hereby created as a special fund in the State Treasury.

(2) All fees shall be collected by the clerk of the court and forwarded to the State Offender DNA Identification System Fund for deposit. The clerk of the circuit court may retain the amount of $10 from each collected analysis fee to offset administrative costs incurred in carrying out the clerk's responsibilities under this Section.

(3) Fees deposited into the State Offender DNA Identification System Fund shall be used by Illinois State Police crime laboratories as designated by the Director of State Police. These funds shall be in addition to any allocations made pursuant to existing laws and shall be designated for the exclusive use of State crime laboratories. These uses may include, but are not limited to, the following:

(A) Costs incurred in providing analysis and genetic marker categorization as required by subsection (d).

(B) Costs incurred in maintaining genetic marker groupings as required by subsection (e).

(C) Costs incurred in the purchase and maintenance of equipment for use in performing analyses.

(D) Costs incurred in continuing research and development of new techniques for analysis and genetic marker categorization.

(E) Costs incurred in continuing education, training, and professional development of forensic scientists regularly employed by these laboratories.

(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois Department of State Police or persons designated by the Department to collect the specimen, or the authority of the Illinois Department of State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

(m) If any provision of this amendatory Act of the 93rd General Assembly is held unconstitutional or otherwise invalid, the remainder of this amendatory Act of the 93rd General Assembly is not affected.

(n) Neither the Department of State Police, the Division of Forensic Services, nor any laboratory of the Division of Forensic Services may contract out forensic testing for the purpose of an active investigation or a matter pending before a court of competent jurisdiction without the written consent of the prosecuting agency. For the purposes of this subsection (n), "forensic testing" includes the analysis of physical evidence in an investigation or other proceeding for the prosecution of a violation of the Criminal Code of 1961 or the Criminal Code of 2012 or for matters adjudicated under the Juvenile Court Act of 1987, and includes the use of forensic databases and databanks, including DNA, firearm, and fingerprint databases, and expert testimony.

(o) Mistake does not invalidate a database match. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the specimen was obtained or placed in the database by mistake.

(p) This Section may be referred to as the Illinois DNA Database Law of 2011.

Credits

P.A. 77-2097, § 5-4-3, added by P.A. 86-881, eff. July 1, 1990. Amended by P.A. 87-963, § 2, eff. Aug. 28, 1992; P.A. 89-8, Art. 15, § 15-10, eff. Jan. 1, 1996; P.A. 89-428, Art. 2, § 280, eff. Dec. 13, 1995; P.A. 89-462, Art. 2, § 280, eff. May 29, 1996; P.A. 89-550, § 5, eff. Jan. 1, 1997; P.A. 90-124, § 5, eff. Jan. 1, 1998; P.A. 90-130, § 30, eff. Jan. 1, 1998; P.A. 90-655, § 163, eff. July 30, 1998; P.A. 90-793, § 25, eff. Aug. 14, 1998; P.A. 91-528, § 5, eff. Jan. 1, 2000; P.A. 92-16, § 91, eff. June 28, 2001; P.A. 92-40, § 5, eff. June 29, 2001; P.A. 92-571, § 110, eff. June 26, 2002; P.A. 92-600, Art. 5, § 5-40, eff. June 28, 2002; P.A. 92-829, § 5, eff. Aug. 22, 2002; P.A. 92-854, § 25, eff. Dec. 5, 2002; P.A. 93-216, § 5, eff. Jan. 1, 2004; P.A. 93-605, § 25, eff. Nov. 19, 2003; P.A. 93-781, § 10, eff. Jan. 1, 2005; P.A. 94-16, § 5, eff. June 13, 2005; P.A. 94-1018, § 5, eff. Jan. 1, 2007; P.A. 96-426, § 5, eff. Aug. 13, 2009; P.A. 96-642, § 5, eff. Aug. 24, 2009; P.A. 96-1000, § 620, eff. July 2, 2010; P.A. 96-1551, Art. 2, § 1065, eff. July 1, 2011; P.A. 97-383, § 5, eff. Jan. 1, 2012; P.A. 97-1109, § 15-65, eff. Jan. 1, 2013; P.A. 97-1150, § 670, eff. Jan. 25, 2013; P.A. 98-558, § 105, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1005-4-3.

Footnotes

1 705 ILCS 405/1-1 et seq.

2 730 ILCS 150/1 et seq.

3 725 ILCS 207/1 et seq.

4 720 ILCS 5/1-1 et seq.

5 720 ILCS 5/11-1.50, 5/11-1.60, 5/11-6, 5/11-9.1, 5/11-11, 5/11-18.1, 5/12-15 or 5/12-16.

6 720 ILCS 5/9-1, 5/9-2, 5/10-1, 5/10-2, 5/12-11, 5/12-11.1, 5/18-1, 5/18-2, 5/18-3, 5/18-4, 5/18-6, 5/19-1, 5/19-2 or 5/19-6.

7 720 ILCS 5/9-3.1, 5/9-3.4, 5/11-9.3, 5/12-7.3, 5/12-7.4.

8 735 ILCS 5/3-101 et seq.

730 I.L.C.S. 5/5-4-3, IL ST CH 730 § 5/5-4-3

Current through Public Acts effective January 1, 2018, through P.A. 100-563.

End of Document

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 55. Counties
Act 5. Counties Code (Refs & Annos)
Article 4. Fees and Salaries (Refs & Annos)
Division 4-5. Sheriff's Fees--First and Second Class Counties

55 ILCS 5/4-5001
Formerly cited as IL ST CH 34 ¶4-5001

5/4-5001. Sheriffs; counties of first and second class

Effective: August 21, 2007 to December 31, 2017
Currentness

*** Start Section
...
<Text of section effective until Jan. 1, 2018. See, also, text of section 55 ILCS 5/4-5001, effective Jan. 1, 2018.>

§ 4-5001. Sheriffs; counties of first and second class. The fees of sheriffs in counties of the first and second class, except when increased by county ordinance under this Section, shall be as follows:

For serving or attempting to serve summons on each defendant in each county, $10.

For serving or attempting to serve an order or judgment granting injunctional relief in each county, $10.

For serving or attempting to serve each garnishee in each county, $10.

For serving or attempting to serve an order for replevin in each county, $10.

For serving or attempting to serve an order for attachment on each defendant in each county, $10.

For serving or attempting to serve a warrant of arrest, $8, to be paid upon conviction.

For returning a defendant...

*** Start Section
... which he would be entitled to if the same was made by sale to enforce the judgment. In no case shall the fee exceed the amount of money arising from the sale.

The fee requirements of this Section do not apply to police departments or other law enforcement agencies. For the purposes of this Section, "law enforcement agency" means an agency of the State or unit of local government which is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws.

Credits
P.A. 86-962, Art. 4, § 4-5001, eff. Jan. 1, 1990. Amended by P.A. 86-1028, Art. II, § 2-17, eff. Feb. 5, 1990; P.A. 87-738, § 2, eff. Sept. 26, 1991; P.A. 91-94, § 5, eff. Jan. 1, 2000; P.A. 95-331, § 465, eff. Aug. 21, 2007.

5/4-5001. Sheriffs; counties of first and second class, IL ST CH 55 § 5/4-5001

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-5001.

55 I.L.C.S. 5/4-5001, IL ST CH 55 § 5/4-5001
Current through Public Acts effective January 1, 2018, through P.A. 100-563.

End of Document

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter V. Sentencing
Article 6. Sentences of Probation and Conditional Discharge (Refs & Annos)

730 ILCS 5/5-6-3
Formerly cited as IL ST CH 38 ¶1005-6-3

5/5-6-3. Conditions of Probation and of Conditional Discharge

Effective: August 18, 2017 to December 31, 2017
Currentness

<Text of section effective until Jan. 1, 2018. See, also, text of section 730 ILCS 5/5-6-3, effective Jan. 1, 2018.>

§ 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing high school equivalency testing or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or high school equivalency testing if a fee is charged for those courses or testing. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed high school equivalency testing. This clause (7) does not apply to a person who is determined by the court to be a person with a developmental disability or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16-0.1 of the Criminal Code of 2012; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(8.8) if convicted for an offense under Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983):

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer;

(8.9) if convicted of a sex offense as defined in the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-262), refrain from accessing or using a social networking website as defined in Section 17-0.5 of the Criminal Code of 2012;

(9) if convicted of a felony or of any misdemeanor violation of Section 12-1, 12-2, 12-3, 12-3.2, 12-3.4, or 12-3.5 of the Criminal Code of 1961 or the Criminal Code of 2012 that was determined, pursuant to Section 112A-11.1 of the Code of Criminal Procedure of 1963, to trigger the prohibitions of 18 U.S.C. 922(g)(9), physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession. The Court shall return to the Department of State Police Firearm Owner's Identification Card Office the person's Firearm Owner's Identification Card;

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter;

(11) if convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-362) that requires the person to register as a sex offender under that Act, may not knowingly use any computer scrub software on any computer that the sex offender uses; and

(12) if convicted of a violation of the Methamphetamine Control and Community Protection Act, the Methamphetamine Precursor Control Act, or a methamphetamine related offense:

(A) prohibited from purchasing, possessing, or having under his or her control any product containing pseudoephedrine unless prescribed by a physician; and

(B) prohibited from purchasing, possessing, or having under his or her control any product containing ammonium nitrate.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court, except as provided in an administrative order of the Chief Judge of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code, except as provided in an administrative order of the Chief Judge of the circuit court.

The Chief Judge of the circuit court of the county may by administrative order establish a program for electronic monitoring of offenders, in which a vendor supplies and monitors the operation of the electronic monitoring device, and collects the fees on behalf of the county. The program shall include provisions for indigent offenders and the collection of unpaid fees. The program shall not unduly burden the offender and shall be subject to review by the Chief Judge.

The Chief Judge of the circuit court may suspend any additional charges or fees for late payment, interest, or damage to any device; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court, except as provided in an administrative order of the Chief Judge of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the probation and court services fund. The Chief Judge of the circuit court of the county may by administrative order establish a program for electronic monitoring of offenders, in which a vendor supplies and monitors the operation of the electronic monitoring device, and collects the fees on behalf of the county. The program shall include provisions for indigent offenders and the collection of unpaid fees. The program shall not unduly burden the offender and shall be subject to review by the Chief Judge.

The Chief Judge of the circuit court may suspend any additional charges or fees for late payment, interest, or damage to any device.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16-0.1 of the Criminal Code of 2012; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(18) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) that would qualify as a sex offense as defined in the Sex Offender Registration Act:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the subject's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer; and

(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the

concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court, except as provided in an administrative order of the Chief Judge of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be. The Chief Judge of the circuit court of the county may by administrative order establish a program for electronic monitoring of offenders, in which a vendor supplies and monitors the operation of the electronic monitoring device, and collects the fees on behalf of the county. The program shall include provisions for indigent offenders and the collection of unpaid fees. The program shall not unduly burden the offender and shall be subject to review by the Chief Judge.

The Chief Judge of the circuit court may suspend any additional charges or fees for late payment, interest, or damage to any device.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court. The probation department within the circuit to which jurisdiction has been transferred, or which has agreed to provide supervision, may impose probation fees upon receiving the transferred offender, as provided in subsection (i). For all transfer cases, as defined in Section 9b of the Probation and Probation Officers Act, [1] the probation department from the original sentencing court shall retain all probation fees collected prior to the transfer. After the transfer all probation fees shall be paid to the probation department within the circuit to which jurisdiction has been transferred.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of $50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is placed in the guardianship or custody of the Department of Children and Family Services under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of $25 per month unless the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay Of the amount collected as a probation fee, up to $5 of that fee collected per month may be used to provide services to crime victims and their families.

The Court may only waive probation fees based on an offender's ability to pay. The probation department may re-evaluate an offender's ability to pay every 6 months, and, with the approval of the Director of Court Services or the Chief Probation Officer, adjust the monthly fee amount. An offender may elect to pay probation fees due in a lump sum. Any offender that has been assigned to the supervision of a probation department, or has been transferred either under subsection (h) of this Section or under any interstate compact, shall be required to pay probation fees to the department supervising the offender, based on the offender's ability to pay.

This amendatory Act of the 93rd General Assembly deletes the $10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(*l*) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

Credits

P.A. 77-2097, § 5-6-3, eff. Jan. 1, 1973. Amended by P.A. 78-939, § 1, eff. July 1, 1974; P.A. 80-711, § 2, eff. Oct. 1, 1977; P.A. 80-770, § 1, eff. Oct. 1, 1977; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 80-1387, § 3, eff. Aug. 18, 1978; P.A. 81-459, § 1, eff. Jan. 1, 1980; P.A. 81-721, § 1, eff. Jan. 1, 1980; P.A. 81-1021, § 1, eff. Sept. 24, 1979; P.A. 81-1509, Art. I, § 27, eff. Sept. 26, 1980; P.A. 82-621, § 402, eff. March 1, 1982; P.A. 83-1047, § 1, eff. July 1, 1984; P.A. 83-1061, § 1, eff. July 1, 1984; P.A. 83-1362, Art. II, § 48, eff. Sept. 11, 1984; P.A. 84-1305, Art. IV, § 403, eff. Aug. 21, 1986; P.A. 84-1459, § 2, eff. July 1, 1987; P.A. 85-293, Art. II, § 8, eff. Sept. 8, 1987; P.A. 85-449, § 5, eff. Jan. 1, 1988; P.A. 85-1256, § 2, eff. Jan. 1, 1989; P.A. 85-1287, § 2, eff. Jan. 1, 1989; P.A. 85-1440, Art. II, § 2-11, eff. Feb. 1, 1989; P.A. 86-308, § 1, eff. Aug. 30, 1989; P.A. 86-856, § 2, eff. Jan. 1, 1990; P.A. 86-1012, § 4, eff. July 1, 1990; P.A. 86-1028, Art. II, § 2-21, eff. Feb. 5, 1990; P.A. 86-1281, § 3, eff. Jan. 1, 1991; P.A. 86-1320, § 6, eff. Jan. 1, 1991; P.A. 87-435, Art. 2, § 2-10, eff. Sept. 10, 1991; P.A. 87-609, § 2, eff. Sept. 18, 1991; P.A. 87-610, § 2, eff. Sept. 18, 1991; P.A. 87-670, § 3, eff. Jan. 1, 1992; P.A. 87-805, § 3, eff. Dec. 16, 1991; P.A. 87-895, Art. 2, § 2-22, eff. Aug. 14, 1992; P.A. 87-1198, § 4, eff. Sept. 25, 1992; P.A. 88-510, § 20, eff. Jan. 1, 1994; P.A. 88-680, Art. 15, § 15-15, eff. Jan. 1, 1995; P.A. 89-198, § 20, eff. July 21, 1995; P.A. 89-587, § 10, eff. July 31, 1996; P.A. 89-688, § 5, eff. June 1, 1997; P.A. 90-14, Art. 2, § 2-50, eff. July 1, 1997; P.A. 90-399, § 15, eff. Jan. 1, 1998; P.A. 90-504, § 5, eff. Jan. 1, 1998; P.A. 90-655, § 163, eff. July 30, 1998; P.A. 91-325, § 5, eff. July 29, 1999. Re-enacted by P.A. 91-696, Art. 15, § 15-15, eff. April 13, 2000. Amended by P.A. 91-903, § 10, eff. Jan. 1, 2001; P.A. 92-282, § 10, eff. Aug. 7, 2001; P.A. 92-340, § 10, eff. Aug. 10, 2001; P.A. 92-418, § 15, eff. Aug. 17, 2001; P.A. 92-442, § 15, eff. Aug. 17, 2001; P.A. 92-571, § 110, eff. June 26, 2002; P.A. 92-651, § 83, eff. July 11, 2002; P.A. 93-475, § 5, eff. Aug. 8, 2003; P.A. 93-616, § 22, eff. Jan. 1, 2004; P.A. 93-970, § 10, eff. Aug. 20, 2004; P.A. 94-159, § 5, eff. July 11, 2005; P.A. 94-161, § 5, eff. July 11, 2005; P.A. 94-556, § 1110, eff. Sept. 11, 2005; P.A. 95-331, § 1070, eff. Aug. 21, 2007; P.A.

95-464, § 5, eff. June 1, 2008; P.A. 95-578, § 15, eff. June 1, 2008; P.A. 95-696, § 5, eff. June 1, 2008; P.A. 95-773, § 25, eff. Jan. 1, 2009; P.A. 95-876, § 355, eff. Aug. 21, 2008; P.A. 95-983, § 110, eff. June 1, 2009; P.A. 96-262, § 10, eff. Jan. 1, 2010; P.A. 96-328, § 360, eff. Aug. 11, 2009; P.A. 96-362, § 5, eff. Jan. 1, 2010; P.A. 96-695, § 5, eff. Aug. 25, 2009; P.A. 96-1000, § 620, eff. July 2, 2010; P.A. 96-1414, § 10, eff. Jan. 1, 2011; P.A. 96-1551, Art. 2, § 1065, eff. July 1, 2011; P.A. 96-1551, Art. 10, § 10-150, eff. July 1, 2011; P.A. 97-454, § 5, eff. Jan. 1, 2012; P.A. 97-560, § 5, eff. Jan. 1, 2012; P.A. 97-597, § 955, eff. Jan. 1, 2012; P.A. 97-1109, § 15-65, eff. Jan. 1, 2013; P.A. 97-1131, § 25, eff. Jan. 1, 2013; P.A. 97-1150, § 670, eff. Jan. 25, 2013; P.A. 98-575, § 3, eff. Jan. 1, 2014; P.A. 98-718, § 130, eff. Jan. 1, 2015; P.A. 99-143, § 910, eff. July 27, 2015; P.A. 99-797, § 10, eff. Aug. 12, 2016; P.A. 100-159, § 85, eff. Aug. 18, 2017.

Footnotes

1 730 ILCS 110/9b.

730 I.L.C.S. 5/5-6-3, IL ST CH 730 § 5/5-6-3

Current through Public Acts effective January 1, 2018, through P.A. 100-563.

End of Document

In the Circuit Court of the Eighth Judicial Circuit of Illinois
Adams County, Illinois

FILED
FEB 04 2014
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff,

vs.

Shane Douglas Harvey
Defendant.

Case No(s). 13 CF 394

Date of Sentence: 2-4-14

Judge: Hon. Scott H. Walden

JUDGMENT ORDER
SENTENCE TO THE ILLINOIS DEPARTMENT OF CORRECTIONS
[Revised 4/6/98]

People appear by: A. Rodriguez Defendant appears by: Atty Hosea

WHEREAS THE ABOVE-NAMED DEFENDANT, whose date of birth is: 5-23-81,
has been adjudged guilty of the offense(s) listed 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(S)	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE(S)
# 1	Domestic Battery	6-12-13	720 ILCS 5/12-3.2(a)(1)	F-4	3 Yrs. — Mos.

and said sentence shall run (concurrent with) (consecutive to) the sentence imposed on: Plead to 4 yrs MSR

_____ _____ _____ _____ _____ Yrs. _____ Mos.
and said sentence shall run (concurrent with) (consecutive to) the sentence imposed on:

_____ _____ _____ _____ _____ Yrs. _____ Mos.
and said sentence shall run (concurrent with) (consecutive to) the sentence imposed on:

Convicted of a class _____ offense, but sentenced as a class X offender pursuant to 730 ILCS 5/5-5-3(c)(8)

The Court finds that the defendant is entitled to receive credit for time actually served in custody of 236 days as of the date of this order. The specified dates are as follows:

6-14-13 to 2-4-14

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)]

IT IS FURTHER ORDERED that the sentence(s) imposed on count (s) _____ be (concurrent with) (consecutive to) the sentence imposed in case number _____ in the Circuit Court of _____ County; be (concurrent with) (consecutive to) the sentence imposed in case number _____ in the Circuit Court of _____ County;

Harvey – pg 2

X 1. The defendant is ordered to pay to the Circuit Clerk at the Adams County Courthouse the Court Costs, VCVA, and, Penalties ALSO PAY the following: See Supplemental Costs Sheet

FILED
FEB 04 2014
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

___ a)=A *REGULAR* fine of $ _____ ___ b)=Sexual Assault fine of $ 100.00 ;

___ c)=Domestic Violence fine of $100.00 ; ___ d)=Domestic Battery fine of $ 10.00 ;

___ e)=Child Pornography fine of $ _____ f)=Crime Lab fee of $100.00 (___ISP) (___QPD);

___ g)=Street Value Fine (drug case) of $ _____ and the arresting agency was Adams Co. Sheriff's Department ___ h)=Assessment (per Cannabis/Controlled Substances Act) of $ _____;

___ i)=Reimbursement to County for Appointed Counsel in the amount of $ _____; ___ j)=DNA Testing-Indexing Fee of $200.00;

___ k)=DNA Sampling Fee of $_____;

___ l)=OTHER-$ _____ FOR _____;

X m)=Credit is given the defendant for the $5.00 per day credit for 236 days spent in custody for a total of $ 1,180 to be applied to the financial obligation set forth in paragraph ___ above; separate order

___ n)=Restitution to be paid in the total amount of $ _____. See separate Judgment of Restitution Order incorporated herein by reference and made a part of this order ;

* BOND (if any) TO APPLY TO FINANCIAL OBLIGATIONS AND/OR TO THE FINANCIAL OBLIGATIONS IN CASE(S) # _____, AND ANY BALANCE DISCHARGED TO THE DEFENDANT OR ASSIGNEE. ALL PAYMENTS TO BE MADE TO THE CIRCUIT CLERK'S OFFICE.

DEFENDANT IS GIVEN _____ MONTHS AFTER RELEASE FROM THE DEPARTMENT OF CORRECTIONS TO PAY IN FULL, AND ORDERED TO MAKE MONTHLY INSTALLMENT PAYMENTS UNTIL PAID IN FULL ;

___ 2. TOTAL AMOUNT DUE: $ _____;

___ 3. Defendant is recommended for the IMPACT INCARCERATION PROGRAM (see separate order) ;

___ 4. Defendant is a Sex Offender as defined pursuant to 730 ILCS 150/2, and the Department of Corrections is ordered to follow the prescribed requirements of said statute ;

X 5. Further : Cause set for review of payments _____;

___ 6. Further : on July 28, 2015, at 8:45 a.m. in A.R.M. #113.

IT IS FURTHER ORDERED- that the Clerk of the Court deliver a certified copy of this order to the Sheriff ;
IT IS FURTHER ORDERED- that the Sheriff take the defendant into custody and deliver the defendant to the Department of Corrections, which shall confine said defendant until expiration of the sentence(s) or until release by operation of law;
THIS ORDER IS EFFECTIVE IMMEDIATELY AND THE MITTIMUS IS TO ISSUE.

Appeal rights given per Supreme Court Rule: X 605 (a) (Finding) ___ 605 (b) (Open plea) ___ 605 (c) (Negotiated plea);

ENTERED: 2-4-14

Judge (Signature)

[_____]
(PRINT OR TYPE JUDGE'S NAME HERE)

cc: SAO- ___ Def- ___ Def Attny- ___ Sheriff- ___ IDOC- ___ Probation Officer- ___

[PAGE 2 OF 2]

C76

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
ADAMS COUNTY, ILLINOIS

FILED
FEB 04 2014
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

THE PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff,

vs.

Blane Harvey,

Defendant.

Case #: 13-CF-394

Judge: H. Scott H. Walden

JUDGMENT OF RESTITUTION

PURSUANT TO THE SENTENCING ORDER ENTERED IN THIS CAUSE, THE ABOVE DEFENDANT IS ORDERED TO PAY RESTITUTION IN THE TOTAL SUM OF: $1,012.14, with the payments to be made as directed in said Sentencing Order.

More specifically, restitution is ordered as follows:

	Amount	To	Address
(a)	$1,012.14	Blessing Hosp	PO Box 7005 Qcy, IL 62305
	Account # 4000159524		
(b)	$		
	Account #		
(c)	$		
	Account #		
(d)	$		
	Account #		

Pursuant to 730 ILCS 5/5-6(m); this Order of Restitution is a Judgement Lien in favor of the respective named victim(s) listed above.

The bonds, if any, are ordered applied pursuant to the statute to the financial obligations including court costs, VCVA, penalties, fines, assessments and the aforesaid restitution amounts.

ALL PAYMENTS TOWARDS RESTITUTION MUST BE MADE TO THE CIRCUIT CLERK'S OFFICE, for transmittal to the victim(s) under this cause number. SO ORDERED.

Entered: 2-4 20 14

Judge

C78

10

People v. Shane D Harvey

FILED
FEB 04 2014
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

Case No. 13 CF 394

FELONY FINES, COSTS and ASSESSMENT

Lori L. Dartmouth
JUDGE

CLERKS FEES

X $100 Clerk fee 705 ILCS 105/27.1a
X $30 S/A fee 705 ILCS 5/4-2002(a)
X $50 Court fund 55 ILCS 5/5-1101 (c)
X $5 Automation 705 ILCS 105/27.3a(1)
X $25 Security 55 ILCS 5/5-1103
X $15 Doc. Storage 705 ILCS 105/27.3(c)
X $10 Medical Exp. 730 ILCS 125/17
X $15 Child Advoc. 55 ILCS 5/5-1101(f-5)*
X $5 State Police Op 705 ILCS 105/27.3a
X $ 2 SAO Auto 55 ILCS 5/4-2002
X $ 10 Probation Op 705 ILCS 105/27.3a
X $ 5/5 Sheriff fee 55 ILCS 5/4-5001
*$20 CASH

DUI or TRAFFIC

__ $_____ Equipment Fund*
625 ILCS 5/11-501.01(f)
__ $100 Subsequent Offender Fee
55 ILCS 5/5-1101(d)
__ $35 Serious Traffic Violation Fee
625 ILCS 5/16-104(d)
__ $50 Roadside Memorial Fund*
730 ILCS 5/5-9-1.18
__ $35 Supervision Fee 625 ILCS 5/16-104c
__ $30 Court Supervision Fee
55 ILCS 5/5-1101
__ $_____ Driver's Education Fund#
($4 for each $40 of fine)
625 ILCS 5/16-104a (no $5/day credit)

CANNABIS OR DRUG CASES

__ $____ Street Value Fine 730 ILCS 5/5-9-1.1*
__ $25 Drug Traffic Prevention Fund*
730 ILCS 5/5-9-1.1(e)
__ $20 Prescription Pill & Drug Disposal*
730 ILCS 5/5-9-1.1(f)
__ $_____ Cannabis Assessment*
720 ILCS 550/10.3(a)
__ $100 Methamphetamine Law Enforcement Fine* 730 ILCS 5/5-9-1.1-5(b)
__ $_____ Methamphetamine Assessment*
720 ILCS 646/80
__ $_____ Controlled Substances Assessment*
720 ILCS 570/411.2(a)

DATED: 2-4-14
Revised 6/12/13
* Fines subject to Lump Sum computation and $5/day credit
# Subject to Lump Sum computation, but no $5/day credit

JUDGE

X $10 Crime Stoppers 730 ILCS 5/5-6-3(13)*
X $30 Juvenile Records 730 ILCS 5/5-9-1.17*
X $ 80 Lump Sum 730 ILCS 5/5-9-1(c)
($10 for each $40 of fine)
X $100 VCVA 725 ILCS 240/10
__ $_____ Regular Fine*
730 ILCS 5/5-9-1(a)
__ $_____ S/A Trial Fee 55 ILCS 5/4-2002(a)
__ $_____/month Probation Services Fee
730 ILCS 5/5-6-3(i)
__ $_____ Public Defender Reimbursement
725 ILCS 5/113-3.1

DUI OR DRUG CASES

__ $100 Trauma Fund 730 ILCS 5/5-9-1(c-5)*
730 ILCS 5/5-9-1.1(b)*
__ $5 Spinal Cord Fund 730 ILCS 5/5-9-1(c-7)
730 ILCS 5/5-9-1.1(c)
__ $_____ Lab Fee 730 ILCS 5/5-9-1.4; 1.9

DOMESTIC VIOLENCE AND SEXUAL ASSULT

X $200 Domestic Violence Fine*
730 ILCS 5/5-9-1.5; 730 ILCS 5/5-9-1.16(a)
X $10 Domestic Battery Fine*
730 ILCS 5/5-9-1.6
__ $20 Violation of Order of Protection*
730 ILCS 5/5-9-1.11
__ $200 Sexual Assault Fine 730 ILCS 5/5-9-1.7
__ $500 Sex Offender Fine 730 ILCS 5/5-9-1.15
__ $500 Child Pornography Fine*
730 ILCS 5/5-9-1.14

OTHER FINES

__ $500 Arson Fine 730 ILCS 5/5-9-1.12*
__ $100 Aggravated Weapons Conviction
730 ILCS 5/5-9-1.10
__ $100 Streetgang Fine 730 ILCS 5/5-9-1.19*
__ $25 Parole Fine 730 ILCS 5/5-9-1.20*
__ $250 DNA Analysis Fee
730 ILCS 5/5-4-3(j)

JUDGE

C79

Case number 2013CF000394D 001

Litigant HARVEY, SHANE D

Agency County Crm & Juv

Due date 7/28/2015

	Due	Paid	Balance
Clerk	100.00	.00	100.00
State's Atty	30.00	.00	30.00
Sheriff	205.00	.00	205.00
Automation	5.00	.00	5.00
Violent Crime	100.00	.00	100.00
Judicial Security	25.00	.00	25.00
Restitution	1,012.14	.00	1,012.14
Document Storage	15.00	.00	15.00
Foreign Sheriff	310.00	.00	310.00
Medical Costs	10.00	.00	10.00
DNA Identification	250.00	.00	250.00
Lump Sum Surcharge	80.00	.00	80.00
SA Automation Fee	2.00	.00	2.00
Probation Ops Fee	10.00	.00	10.00
CASA	20.00	.00	20.00
Total	2,174.14	.00	2,174.14

CERTIFICATE

I, Lori R. Geschwandner, Clerk of the Circuit Court of the Eighth Judicial Circuit of Illinois, Adams County, do hereby certify that this is a true and complete copy of the Original instrument filed and retained in this office.

WITNESS, September 29, 2014
Lori R. Geschwandner
Clerk of the Circuit Court
SEAL By Kim Goodwin Deputy

HARVEY, SHANE D
#S10932
PO BOX 499
HILLSBORO IL 62049-0000

II.

Mr. Harvey's fines and fees were improperly assessed, and Mr. Harvey did not receive all of the *per diem* credit to which he was entitled.

There are multiple issues with Mr. Harvey's fines and fees. First, the Court Appointed Special Advocates (CASA) fee should be treated as a fine, thus Mr. Harvey should have received *per diem* credit toward the amount assessed. Likewise, the State's Attorney (SA) Automation Fee is actually a fine that qualifies for *per diem* credit. Next, the Sheriff's fee, including the Foreign Sheriff fee, was improperly assessed. Additionally, the clerk should not have assessed a DNA Identification fee for Mr. Harvey as his DNA is already in the DNA database. Finally, the court should not have assessed a Crime Stoppers fine against Mr. Harvey.

STANDARD OF REVIEW

Whether the defendant was charged a fine or a fee is a matter of statutory construction, which is reviewed *de novo*. *People v. Jones*, 223 Ill. 2d 569, 580 (2006).

Whether a defendant is entitled to pre-sentence incarceration credit against eligible fines is reviewed *de novo*. *People v. Caballero*, 228 Ill. 2d 79, 82 (2008).

The propriety of the imposition of fines and fees is a question of statutory interpretation, which is subject to *de novo* review. *People v. Marshall*, 242 Ill. 2d 285, 291 (2011).

A.

Mr. Harvey was entitled to *per diem* credit toward the CASA assessment and the SA Automation Fee.

A defendant is awarded $5 credit against fines levied for each day the defendant spends incarcerated on a bailable offense. 725 ILCS 5/110-14 (2013). A claim for $5-per-day credit may be raised at any time and at any stage of court proceedings. *Caballero*, 228 Ill.2d at 88.

The trial court determined that Mr. Harvey was entitled to $1,180 in *per diem* credit toward his eligible fines. (R. R460) Mr. Harvey received $320 in *per diem* credit, for the assessments outlined *infra* at 22. (R. C79; App. at 2) Thus, Mr. Harvey had adequate remaining credit available to cover the $20 CASA fine and the $2 SA Automation Fee.

1.

The CASA fee should be treated as a fine, thus Mr. Harvey should have received *per diem* credit toward the amount assessed.

Mr. Harvey is unaware of any authority addressing whether or not the CASA fee is a "fee" that does not qualify for $5 *per diem* credit under 725 ILCS 5/ 110-14(a) (2013), or a "fine" entitled to the *per diem* credit. Because this fee is nearly identical to the Child Advocacy Center (CAC) fee that does qualify for credit, Mr. Harvey argues that the CASA fee qualifies for *per diem* credit as well.

A "fine" is part of the punishment for a conviction, whereas a "fee" seeks to recoup expenses incurred by the State in prosecuting a defendant. *People v. Jones*, 223 Ill. 2d at 582. Despite the statutory label, a "fee" that is not intended to specifically reimburse the State for costs it incurred while prosecuting a defendant is actually a "fine." *Id.* at 581.

55 ILCS 5/5-1101 (f-10) provides that in each county in which CASA provide services, the county board may adopt a mandatory fee of between $10 and $30 to be paid by the defendant on a judgment of guilty or a grant of supervision for a variety of types of offenses, including felonies. 55 ILCS 5/5-1101 (f-10) (2013). The statute indicates the assessments shall be collected by the clerk of the circuit court and must be deposited into an account specifically for the operations of CASA.

55 ILCS 5/5-1101 (f-10). The clerk of the circuit court shall collect the fees as provided in this subsection and must remit the fees to the CASA Fund that the county board shall create for the receipt of funds collected under this subsection, and from which the county board shall make grants to support the activities and services of CASA within that county. 55 ILCS 5/5-1101 (f-10).

Similarly, 55 ILCS 5/5-1101 (f-5) (2013) indicates that in each county in which a CAC provides services, the county board may adopt a mandatory fee to be paid by the defendant on a judgment of guilty or a grant of supervision for a variety of types of offenses, including felonies. 55 ILCS 5/5-1101 (f-5). The statute indicates that these assessments shall be collected by the clerk of the circuit court and must be deposited into an account specifically for the operation and administration of the CAC. 55 ILCS 5/5-1101 (f-5).

Illinois courts have determined that the comparable CAC "fee" is a "fine" where it is not designed to reimburse the State for money expended in prosecuting the defendant, and thus is entitled to *per diem* credit. See *People v. Millsap*, 2012 IL App (4th) 110668, ¶ 30; *People v. Williams*, 2011 IL App (1st) 091667-B, ¶ 19; *People v. Bowen*, 2015 IL App (1st) 132046, ¶ 67.

There is nothing in the record to indicate that CASA was involved in this case. (R. C6-E519) Accordingly, there is no specific relevant cost incurred in prosecuting this case. Therefore, Mr. Harvey requests this Court determine that the CASA fee is actually a "fine" and thus entitled to *per diem* credit, and apply Mr. Harvey's available credit to this fine.

In further support, the Felony Fines, Costs, and Assessment sheet signed by the judge designated fines subject to the Lump Sum computation and $5 per

day credit with asterisks. The judge appears to have included an asterisk to the left of the $20 CASA fine that was handwritten on the form. (R. C79) This indicates the trial court's intent that this be treated as a fine, and that credit be given.

Mr. Harvey concludes that the CASA fine did not receive the credit the court intended based on the following reasoning. The Court fine $50, CAC $15, State Police Op $5, Crime Stoppers $10, Juvenile Records $30, Domestic Violence Fine $200 and Domestic Battery Fine $10 assessments were ordered by the trial court, but were not included on the clerk's Payment Status Information sheet as "due." The Felony Fines, Costs and Assessment sheet indicates fines that are subject to Lump Sum computation and $5 per day credit with an asterisk. The above-listed assessments are all noted with an asterisk. Because the court ordered that $1,180 in *per diem* credit be applied to Mr. Harvey's financial obligations, and because the relevant assessments are all noted as subject to the $5 per day credit on the Felony Fines, Costs and Assessment sheet, and because the total amount of the assessments that are not listed on the Payment Status Information sheet is less than the $1,180 in available credit, Mr. Harvey presumes that these are the assessments the clerk applied *per diem* credit towards.

The clerk's Payment Status Information sheet lists outstanding balances due related to Mr. Harvey's case, less the assessments the *per diem* credit was applied to. Because it appears that the clerk considers $20 to be due toward the CASA fine, and because Mr. Harvey had adequate credit to cover this $20 fine, it appears that the clerk did not apply credit to this fine.

2.

The SA Automation Fee is a fine that qualifies for *per diem* credit.

Mr. Harvey was assessed a $2 SA Automation Fee. (App. at 2) The First District recently held that the $2 State's Attorney records automation assessment does not compensate the state for the costs associated in prosecuting a particular defendant and accordingly cannot be considered a fee. *People v. Camacho*, 2016 IL App (1st) 140604, ¶ 56. Because the assessment cannot be a fee, it must be a fine subject to *per diem* credit. *Id.* Therefore, in light of the recent decision in *Camacho*, Mr. Harvey asks this Court to reconsider its position in *People v. Warren*, 2016 IL App (4th) 120721-B, find that the $2 SA Automation Fee was a fine subject to *per diem* credit, and order the clerk to award Mr. Harvey credit toward this assessment. See *Camacho*, 2016 IL App (1st) 140604, ¶ 57.

B.

The DNA Identification fee, Crime Stoppers fine, and Sheriff's fee were not validly assessed.

Because the legislature did not intend for the DNA Identification fee or Crime Stoppers fine to be assessed in circumstances such as those presented in this case, these assessments should not have been imposed. Additionally, imposition of the Sheriff's fee was not authorized.

As these errors were not preserved below, Mr. Harvey asks this Court to review them under either its authority under Illinois Supreme Court Rule 615(b), or the plain error doctrine. This Court may modify fines, fees, and costs under Illinois Supreme Court Rule 615(b)(1) ("[o]n appeal the reviewing court may. . . modify the judgment or order from which the appeal is taken"). Accordingly, this Court should modify Mr. Harvey's judgment order as authorized by Rule 615(b)(1).

Alternatively, improperly assessed fines and fees are reversible under the plain error doctrine, which permits this Court to review unpreserved sentencing errors in two circumstances: when a "clear or obvious error occurred" and either (1) "the evidence at the sentencing hearing was closely balanced"; or (2) "the error was so egregious as to deny the defendant a fair sentencing hearing." *People v. Hillier*, 237 Ill. 2d 539, 545 (2010); Ill. S. Ct. Rule 615(a).

The Illinois Supreme Court has specifically held that the erroneous imposition of a monetary assessment is reversible under the second prong of the plain error doctrine, "because it involves fundamental fairness and the integrity of the judicial process." *People v. Lewis*, 234 Ill. 2d 32, 47-49 (2009) (holding that the trial judge committed plain error by improperly imposing a street value fine without adequate evidence). The Supreme Court noted that the erroneous imposition of a monetary assessment undermines the "integrity of the judicial process" when the imposition "is not based on applicable standards and evidence, but appears to be arbitrary." *Id.* at 48; see also *People v. Anderson*, 402 Ill. App. 3d 186, 194 (3rd Dist. 2010) (reviewing the imposition of an unauthorized assessment as plain error). No *de minimus* exception can be placed on plain error review. *Lewis*, 234 Ill. 2d at 48. Thus, this Court should review these erroneous assessments under the second prong of the plain error doctrine.

1.

The $250 DNA Identification fee should be vacated because Mr. Harvey had been previously assessed this fee.

Mr. Harvey was assessed a $250 DNA Identification fee by the circuit clerk. See (App. at 2) This fee is not reflected in the Felony Fines, Costs and Assessment

order signed by the judge on February 4, 2014, nor was there any mention of this fee during the sentencing hearing. (R. C79, R450-R464) Therefore Mr. Harvey had no notice of this fee being assessed at the time of his sentencing and would not have been aware of a need to address this issue in his Petition to Reduce Sentence. Accordingly, Mr. Harvey cannot be considered to have waived or forfeited this issue.

Because Mr. Harvey was already registered in the DNA database, he cannot be assessed a DNA Identification fee in this case. The State is authorized to collect a DNA collection and analysis fee from defendants who have been convicted of a qualifying offense, including felony convictions. 730 ILCS 5/5-4-3(a), (j) (2013). In *People v. Marshall*, 242 Ill. 2d 285, 303 (2011), the Illinois Supreme Court held that 730 ILCS 5/5-4-3 authorizes the trial court to order the taking of a defendant's DNA one time. The assessment of a DNA analysis fine is only appropriate if the "defendant is not currently registered in the DNA database." *Id.* A sentence that imposes a DNA fee when a genetic sample is already on file is clear error. *Id.* The Illinois State Police Division of Forensic Services retrieved Mr. Harvey's DNA on August 25, 2010, pursuant to a prior conviction. (See Illinois State Police Division of Forensic Services Submission Sheet, App. at 1)

Because Mr. Harvey was already registered in the DNA database, this Court should vacate the $250 DNA Identification fee.

2.

The court should not have assessed a Crime Stoppers fine against Mr. Harvey.

Mr. Harvey was assessed a $10 Crime Stoppers fine by the court. (R. C79) Such a fine is not authorized when a sentence of incarceration is imposed. *People v. Beler*, 327 Ill. App. 3d 829, 837 (4th Dist. 2002). The fine applies only to

individuals on probation, conditional discharge, and supervision. *Id.* Because Mr. Harvey was sentenced to a term of incarceration, he should not have been assessed a Crime Stoppers fine. (R. R460) Accordingly, this Court should vacate the $10 Crime Stoppers fine.

3.

There was no authority for the Sheriff fee or Foreign Sheriff fee to be imposed.

Sheriff's fees are covered by 55 ILCS 5/4-5001 (2013). The statute allows for the imposition of a fee to cover various costs a sheriff may incur related to a case, such as service of a subpoena. *Id.* The fees provided for by the statute may be increased by county ordinance. *Id.*

The permissible fee under Section 5/4-5001 for serving a subpoena on a witness is $10. *Id.* The permissible fee for returning each process is $5. *Id.*

The Adams County Code, modified pursuant to 55 ILCS 5/4-5001, provides for a $40 Sheriff's fee for each civil process service and return and mileage for service in the amount of $.50 per mile, each way. See Adams County Ordinance to Increase Fees in the Sheriff's Office 2011-09-024-001, (App. at 3) The code does not specifically provide an amount for service of a subpoena on a witness. See (App. at 3) Thus, the $10 fee under the statute should apply to service of the subpoenas in this case. The subpoenas in this case reflect a variety of fees assessed, none of which are $10. (R. C22, C23, C27, C30, C31, C32, C35, C38, C39, C41, C42, C43, C44, C45, C46) Thus, the Sheriff fees imposed were not authorized by the statute, or the County Code, and should be vacated.

Likewise the $5 fee for returning each process provided for in the statute should apply, as there are no specific provisions in the code pertaining to return of service of a subpoena. See Adams County Ordinance (App. at 3)

There were 15 subpoenas served in this case. Accordingly, the Sheriff's fee for service should have been $150 and $75 for the returns, plus the cost of mileage. Accordingly, the Sherif's fee imposed should be vacated.

Additionally, the breakout between the $310 Foreign Sheriff fee and the $205 Sheriff fee appears only on the clerk's Payment Status Information sheet. (R. C79; App at 2) The Felony Fines, Costs and Assessment sheet signed by the judge only refers to a Sheriff fee of $515, which is the same amount as the Sheriff fee and Foreign Sheriff fee reflected by the clerk when they are combined.

All of the subpoenas related to this case were served in Quincy, Illinois, which is in Adams County. (R. C22, C23, C27, C30, C31, C32, C35, C38, C39, C41, C42, C43, C44, C45, C46) Accordingly, the basis for assessing a Foreign Sheriff fee in any amount is unclear. Accordingly, this Court should vacate the Foreign Sheriff fee.

ARGUMENT

II

DEFENDANT SHOULD RECEIVE *PER DIEM* CREDIT AGAINST THE CASA FEE, BUT NOT AGAINST THE STATE'S ATTORNEYS AUTOMATION FEE. DEFENDANT'S ARGUMENTS CONCERNING FINES AND FEES HAVE BEEN FORFEITED.

Defendant contends that his fines and fees were improperly assessed, and that he did not receive all of the *per diem* credit to which he was entitled. The State agrees in part, and disagrees in part.

FACTS

Defendant received a three-year sentence with credit for 236 days spent in presentence custody. (R. 460) At sentencing, the court ordered restitution in the amount of $1,012.14, a $200 domestic violence fine, a $10 domestic battery fine, court costs, a $100 violent crime victim assistance fine, and a $10 probation fee. (R. 460-461) According to the written judgment order filed February 4, 2014, the court awarded defendant a $1,180 credit against his fines as enumerated in a separate order for his time spent in pretrial custody. Defendant was ordered to pay court costs, VCVA, and penalties as enumerated in a separate costs sheet.

(R. C75-C76)

According to the Felony Fines, Costs, and Assessments sheet signed by the judge and also filed February 4, 2014, defendant was to pay, among other things, a $2 SAO Auto fee pursuant to 55 ILCS 5/4-2002, a $515 Sheriff fee pursuant to 55 ILCS 5/4-5001, a $20 CASA fee (handwritten), and a $10 Crime Stoppers fee pursuant to 730 ILCS 5/5-6-3(13). (R. C79) Attached to defendant's brief is a Payment Status Information sheet compiled by the circuit clerk which includes a $205 Sheriff fee, a $310 Foreign Sheriff fee, a $250 DNA Analysis fee, a $2 SA Automation fee, and a $20 CASA fee. This document does not include a $10 Crime Stoppers fee and is not dated so it is not clear when the defendant would have known that he was to pay, in addition to the fees specifically imposed by the court as of February 4, the $250 DNA fee. (Deft. Br. Appendix 2)

ANALYSIS

Defendant filed a *pro se* Motion for Reduction of Sentence, which did not include any of the issues he now raises regarding fines, fees, and sentence credit. (R. C103-C104) A claim for monetary credit under 725 ILCS 5/110-14 (2012) can be raised at any time and at any stage of the court proceedings. *People* v. *Cabellero*, 228 Ill.2d 79, 885 N.E.2d

1044, 1049 (2008); *People* v. *Morrison*, 2016 IL App (4th) 140712, ¶ 26, __ N.E.3d __. However, defendant's issues regarding fines and fees have been forfeited. In light of *People* v. *Castleberry*, 2015 IL 116916, ¶ 19, 43 N.E.3d 932, the former rule that void fees may be challenged at any time no longer applies. *People* v. *Reed*, 2016 IL App (1st) 140498, ¶ 13, 48 N.E.3d 290. Generally, a defendant forfeits any sentencing issue that he fails to preserve through both a contemporaneous objection and a written postsentencing motion. *People* v. *Hillier*, 237 Ill.2d 539, 931 N.E.2d 1184, 1187 (2010). See *People* v. *Hill*, 2014 IL App (3d) 120472, ¶ 24, 6 N.E.3d 860 (defendant's challenge to court's order requiring him to pay a $200 DNA analysis fee was not properly preserved for review and the court declined to excuse the forfeiture). In addition, defendant could have filed a motion to retax costs if he was dissatisfied with the clerk's assessment of costs, but did not. 735 ILCS 5/5-123 (West 2012). Therefore, defendant has forfeited any issue as to the fines and fees.

Although defendant urges review under the plain error doctrine, defendant must first show that a clear or obvious error occurred. *Hillier*, 931 N.E.2d at 1187. Moreover, the plain error doctrine is a narrow and limited exception. *Hillier*, 931 N.E.2d at 1187. In the sentencing context, a defendant must show either that: (1) the evidence at the

sentencing hearing was closely balanced; or (2) the error was so egregious as to deny the defendant a fair sentencing hearing. Under both prongs, the defendant has the burden of persuasion. *Hillier*, 931 N.E.2d at 1187.

Defendant urges that erroneous imposition of monetary assessment is reversible under the second prong because it involves fundamental fairness and the integrity of the judicial process. However, the cases defendant cites are distinguishable. In *People* v. *Lewis*, 234 Ill.2d 32, 912 N.E.2d 1220, 1230 (2009), the evidence did not support the street value fine imposed and involved a failure to provide fair process. No similar proof or procedure was required to impose the DNA identification fee, the crime-stoppers fee, or the sheriff's fees. In *People* v. *Anderson*, 402 Ill.App.3d 186, 931 N.E.2d 773, 780 (3rd Dist. 2010), the issue involved imposition of fines which are punitive and not mere fees. Therefore, the State asserts that any error in this case was not so egregious as to deny defendant a fair sentencing hearing or compromise the integrity of the judicial process.

On the merits, this court should review the trial court's imposition of fines and fees *de novo*. *People* v. *Price*, 375 Ill.App.3d 684, 873 N.E.2d 453, 465 (1st Dist. 2007).

THE STATE AGREES WITH DEFENDANT THAT THE CASA FEE SHOULD BE TREATED AS A FINE, AND THUS HE SHOULD HAVE RECEIVED A *PER DIEM* CREDIT TOWARD THE AMOUNT ASSESSED.

The Felony Fine, Costs, and Assessment document signed by the judge on February 4, 2014, and the Payment Status Information sheet composed by the circuit clerk indicates that defendant is to pay a $20 CASA fee. (Deft. Br. Appendix 2) This fee is authorized by 55 ILCS 5/5-1101(f-10) (West 2012), which states:

> In each county in which the Court Appointed Special Advocates provide services, the county board may, in addition to any fine imposed under Section 5-9-1 of the Unified Code of Corrections, adopt a mandatory fee of between $10 and $30 to be paid by the defendant on a judgment of guilty or a grant of supervision for a felony; . . . . Assessments shall be collected by the clerk of the circuit court and must be deposited into an account specifically for the operations of the Court Appointed Special Advocates. The clerk of the circuit court shall collect the fees as provided in this subsection and must remit the fees to the Court Appointed Special Advocates Fund that the county board shall create for the receipt of funds collected under this subsection, and from which the county board shall make grants to support the activities and services of the Court Appointed Special Advocates within that county.

Like counsel for defendant, despite a thorough search, counsel for the State can find no case law interpreting this subsection. The State believes that the CASA assessment

should be treated similarly to the Children's Advocacy Center fee, the subsection for which contains similar language to the subsection authorizing the CASA assessment. 730 ILCS 5/5-1101(f-5) and (f-10) (West 2012).

Broadly speaking, a fine is part of the punishment for the conviction, whereas a fee or cost seeks to recoup expenses incurred by the State--to compensate the State for some expenditure incurred in prosecuting the defendant. *People* v. *Jones*, 223 Ill.2d 569, 861 N.E.2d 967, 975 (2006). Although identified as a fee in the statute, the children's advocacy center assessment has been found to constitute a fine. *People* v. *Folks*, 406 Ill.App.3d 300, 943 N.E.2d 1128, 1132 (4th Dist. 2010). Thus, despite the statutory label, a fee that is not intended to specifically reimburse the State for costs it has incurred in prosecuting a defendant is actually a fine. *Jones*, 861 N.E.2d at 986.

Here, defendant was assessed a $20 CASA fee which is to be placed in an account specifically for the operations of the Court Appointed Special Advocates. This charge was not designed to reimburse the State for money it expended in prosecuting this defendant. The record does not indicate that CASA was involved in this case. Accordingly, the $20 CASA assessment is a fine for which presentence incarceration credit of $5 per day is authorized. 725 ILCS 5/110-14 (West

2012); *Folks*, 943 N.E.2d at 1133 (defendant entitled to $5 per day credit against the children's advocacy center fine). Therefore, if defendant has not received *per diem* credit against this fine, it should be awarded.

THE $2 SA AUTOMATION FEE IS NOT A FINE AND IS THUS NOT SUBJECT TO *PER DIEM* CREDIT.

Defendant was assessed a $2 SA Automation Fee. (R. C79; Deft. Br. Appendix 2) 55 ILCS 5/4-2002(a) (West 2012) states that the amount is:

> to be paid by the defendant on a judgment of guilty or a grant of supervision for a violation of any provision of the Illinois Vehicle Code or any felony, misdemeanor, or petty offense to discharge the expenses of the State's Attorney's office for establishing and maintaining automated record keeping systems. . . . Expenditures from this fund may be made by the State's Attorney for hardware, software, research, and development costs and personnel related thereto.

This court has previously found that the State's Attorney records automation fee is compensatory because it reimburses the State for its expenses related to automated record-keeping systems. *People* v. *Rogers*, 2014 IL App (4th) 121088, ¶ 30, 13 N.E.3d 1280; see also *People* v. *Reed*, 2016 IL App (1st) 140498, ¶ 16, 48 N.E.3d 290; *People* v. *Bowen*, 2015 IL App (1st) 132046, ¶ 62-65, 38 N.E.3d 98 (charge constitutes a fee because it is intended to reimburse the office for expenses);

People v. Green, 2016 IL App (1st) 134011, ¶ 46, 51 N.E.3d 856; *People* v. *Warren*, 2016 IL App (4th) 120721-B, ¶ 114-116, 55 N.E.3d 117 (State's attorneys records automation assessment, as imposed by a parallel statute applicable to counties in Illinois other than Cook County, is not punitive because it is intended to reimburse the State's Attorneys for their expenses relating to automated record-keeping systems and is, therefore, a fee). The reasoning in *Rogers* applies with equal force here where the State's Attorney's office would have utilized its automated record keeping systems in the prosecution of defendant when it filed charges with the clerk's office and made copies of discovery, which were tendered to the defense. See *Reed*, ¶ 16. Since the records automation fee is intended to reimburse the States's Attorney for expenses related to automated record-keeping systems as a collateral function of the prosecution process, and is not meant to be punitive in nature, it is a fee. *Rogers*, ¶ 30.

Defendant cites *People* v. *Camacho*, 2016 IL App (1st) 140604, ¶ 47-65, _ N.E.3d _, in which the court held that the assessments do not compensate the State for the costs associated in prosecuting a particular defendant and, therefore, cannot be considered fees. The court in *Camacho* stated that the assessments demonstrate a prospective purpose, that is, the establishment and maintenance of automated record

keeping systems. However, the State maintains that the reasoning is more persuasive in *Reed* and asks that this court follow that line of cases which holds that when a charge lacks a punitive aspect, it is a fee, as opposed to a fine.

In *People* v. *Graves*, 235 Ill.2d 244, 919 N.E.2d 906, 909 (2009), our supreme court stated that a fee is intended to compensate the State for the costs of prosecuting the defendant, while fines are punitive in nature. The statutory language of section 4-2002.1(c) of the Counties Code sets forth that the assessment is intended to compensate the State for the costs of prosecuting a defendant by offsetting the State's costs in establishing and maintaining automated record keeping systems, and, as such, is a fee, which may not be offset by presentence custody credit. Although the use of the word "establishing" in relation to an automated record keeping system suggests only future use of such a system, the language of the statute is broad enough to encompass the current use of such systems. Although the precise costs for a particular defendant are not considered in the imposition of the fee, the charge is intended to compensate for expenses. Because the charge lacks a punitive aspect, it is a fee, as opposed to a fine. Therefore, the State's Attorney Record's Automation fee is legally a fee and defendant is not entitled to *per diem* credit.

THE RECORD DOES NOT ESTABLISH THAT DEFENDANT HAS ALREADY PAID A $250 DNA IDENTIFICATION FEE.

According to the Third Supplement to the Presentence Investigation Report, defendant had completed the DNA testing and indexing. (SC. C3) A DNA fee is included in the Payment Status Information compiled by the circuit clerk which is undated. (Deft. Br. Appendix A-2) This issue was not included in defendant's motion to reduce sentence and defendant did not file a motion to retax costs. Therefore, this issue has been forfeited.

On the merits, in *People* v. *Marshall*, 242 Ill.2d 285, 950 N.E.2d 668, 679 (2011), our supreme court held that there is no practical need for multiple DNA samples. Therefore, section 5-4-3 authorizes a trial court to order the taking, analysis, and indexing of a qualifying offender's DNA and payment of the analysis fee only where that defendant is not currently registered in the DNA database.

Defendant relies on an information sheet provided by the ISP Division of Forensic Services showing that he submitted a "Swab Multiple" on August 26, 2010, which was analyzed and his profile obtained and submitted to CODIS. (Deft. Br. Appendix 1) However, nothing in the record indicates that defendant paid an analysis fee relating to this 2010 DNA test.

Therefore, this court should not vacate the fee listed in

the circuit clerk's Payment Status Information sheet requiring him to pay the $250 DNA analysis fee. See *People* v. *Hill*, 2014 Il App (3rd) 120472, ¶ 19-21, 6 N.E.3d 860 (defendant submitted a DNA sample in 1995 before the court had the statutory authority to charge a DNA analysis fee; the clerk's cost sheet indicated that the clerk imposed one DNA analysis fee in case no. 11-CF-430, but did not assess a DNA analysis fee in case no. 09-CF-36; court declined to consider information published on the internet from the website "judici.com" to determine whether the court imposed two DNA fees). In this case, the record does not show that defendant was previously ordered to pay any DNA analysis fee pursuant to section 5-4-3 of the Code prior to the date of sentencing in this case. Based on this record, the court's order requiring defendant to pay a $250 DNA analysis fee should be affirmed. Defendant has not established clear or obvious error so the plain error doctrine does not apply.

IF THIS COURT FINDS THAT THIS ISSUE HAS NOT BEEN FORFEITED, THE CRIME STOPPERS FEE SHOULD BE VACATED AS DEFENDANT RECEIVED A PRISON SENTENCE.

If this court finds that this issue has not been forfeited, the State agrees with defendant that the trial court erred in imposing a $10 Crime Stoppers fee. An anti-

crime fee imposed pursuant to 730 ILCS 5/5-6-3 (West 2012), such as the Crime Stoppers fee, should only be imposed when a defendant receives a community based sentence. *People* v. *Beler*, 327 Ill.App.3d 829, 763 N.E.2d 925, 931 (4th Dist. 2002). As defendant received a prison sentence in this case, the Crime Stoppers fee was improperly assessed.

THE SHERIFF'S FEES SHOULD BE AFFIRMED.

First, this issue has not been properly preserved for review. *People* v. *Blakely*, 357 Ill.App.3d 477, 829 N.E.2d 430, 432 (4th Dist. 2005); *People* v. *Horn*, 64 Ill.App.3d 717, 381 N.E.2d 790, 791 (5th Dist. 1978) (court held that defendant could not, for the first time on appeal, raise the issue of whether the trial court erred in assessing him twice for sheriff's mileage when the defendant was served with subpoenas and warrants for both cases simultaneously).

In this case, fifteen subpoenas were served and returned for witnesses to testify, all of the returns filed prior to trial. (R. C22, C23, C27, C30, C31, C32, C35, C38, C39, C41, C42, C43, C44, C45, C46) On the Felony Fines, Costs, and Assessment sheet signed by the judge, Sheriff Fee pursuant to 55 ILCS 5/4-5001 was checked and the amount of $515 was put on the blank. (R. C79) The amounts listed on each subpoena returned total $515. The subpoenas served and returned by the

Sheriff's department total $205 and the subpoenas served and returned by the Quincy Police Department total $310. Attached to the defendant's brief is a document entitled Payment Status Information in which the Sheriff's fee is listed as $205 and the Foreign Sheriff fee as $310, which would total $515. (Deft. Br. Appendix 2) Defendant did not include any issues regarding the Sheriff Fee in his *pro se* petition for reduced sentence or file a motion to retax costs. (R. C102) Therefore, this issue is forfeited.

On the merits, 55 ILCS 5/4-5001 (2014) provides that the fees of sheriffs in counties of the first and second class, except when increased by county ordinance under this Section, shall be "For serving or attempting to serve a subpoena on each witness, in each county, $10" and "for returning each process, in each county, $5." Adams County increased the amount for civil process service and return to $40 by county ordinance. (Deft. Br. Appendix 3) Although the ordinance states "civil process service" and not subpoena for witnesses, subpoenas for witnesses are included in civil process. The ordinance to increase fees in the sheriff's office breaks down the many fees that can be collected by the sheriff's office into a mere five categories, one of those categories constituting mileage. 55 ILCS 5/4-5001 (West 2012); (Deft. Br. Appendix 3) Civil process service would include the many

instances in which contact with the person is minimal while service of warrant/body attachment would include more involved service such as arrests warrants.

As for the Foreign Sheriff fee, this would cover service of subpoena by any agency that is not the sheriff. 735 ILCS 5/2-202(d) (West 2012) provides for the taxing of costs if process is served by a sheriff, coroner, special investigator appointed by the State's Attorney, or private person or entity. For process served by a private person or entity, the court may establish a fee therefor and tax such fee as costs in the proceeding. In addition, 705 ILCS 105/27.1a(r) (West 2012) is a catch-all fee provision for any fees not covered . 55 ILCS 5/4-5001 provides that "The fee requirements of this Section do not apply to police department or other law enforcement agencies." Therefore, while the Adam's County Sheriff is restricted by the amount set out in the statute and the requirement for a county ordinance to increase the fee, the Quincy Police Department is not so restricted. Defendant has not established clear or obvious error so the plain error doctrine should not apply.

Finally, if this court finds that the authority for the imposition of the Sheriff's fee or Foreign Sheriff's fee needs clarification, the State asks that the matter be remanded for the trial court to determine the authorization for the fee and

the amount. See *People* v. *Higgins*, 2014 IL App (2d) 120888, ¶ 30, 13 N.E.3d 169 (neither State nor court found what statute authorizes the imposition of the $125 Fine Agency assessment; assessment vacated and, on remand, court directed to clarify on what basis this assessment was imposed and, if authorized, to cite the authority and impose a proper charge).

II.

Mr. Harvey's fines and fees were improperly assessed, and Mr. Harvey did not receive all of the *per diem* credit to which he was entitled.

The State argues that Mr. Harvey's issues regarding fines and fees have been forfeited. (St. Br., 14)

This Court should address whether Mr. Harvey is entitled to *per diem* credit toward the Court Appointed Special Advocates assessment and the Section 103-5(a) Automation fee, because a claim for $5-per-day credit may be raised at any time and at any stage of the court proceedings, thus these issues have not been forfeited. See *People v. Caballero*, 228 Ill. 2d 79, 88 (2008).

Regarding the DNA Identification fee, Crime Stoppers fine, and Sheriff's fee issues, Mr. Harvey acknowledges that these issues were not preserved, and stands on the argument in his opening brief regarding why this Court should review these errors under either Illinois Supreme Court Rule 615(b)(1), or under the plain error doctrine. (Def. Br., 23-24)

Additionally, this Court should not consider Mr. Harvey to have forfeited his argument regarding the DNA Identification fee as he had no notice that such a fee was imposed. The pre-sentence investigation report indicated that his DNA had already been collected. (R. SC C3) Accordingly, when there was no mention of a DNA fee being imposed during his sentencing hearing, nor included in the sentencing order, the reasonable inference was that the court had acknowledged the information in the pre-sentence investigation report and appropriately did not assess a DNA fee in this case.

A.

Mr. Harvey was entitled to *per diem* credit toward the CASA assessment and the SA Automation Fee.

1.

The CASA fee should be treated as a fine, thus Mr. Harvey should have received *per diem* credit toward the amount assessed.

As the parties agree that the $20 CASA fee should be treated similarly to the Child Advocacy Center fee, which has been interpreted as a fine and is thus subject to *per diem* credit, Mr. Harvey asks that he be granted credit toward the $20 CASA fine. (St. Br., 16-18; Def. Br.,20-22)

2.

The SA Automation Fee is a fine that qualifies for *per diem* credit.

The State acknowledges that the use of the word "establishing" related to creating an automated record keeping system suggests only future use of such a system, but argues that the statutory language is broad enough to encompass the current use of such systems as well. (St. Br., 20) Even under this broad reading, current use of such systems applies to all cases that are processed by the State's Attorney's office, thus, as the *Camacho* court found, this fine does not compensate the State for the costs associated in prosecuting a particular defendant and cannot be considered a fee. *People v. Camacho*, 2016 IL App (1st) 140604, ¶ 56. Accordingly, Mr. Harvey asks this Court to consider following *Camacho* and find that this assessment is a fine, subject to *per diem* credit, and award him credit toward the fine.

B.

The DNA Identification fee, Crime Stoppers fine, and Sheriff's fee were not validly assessed.

1.

The $250 DNA Identification fee should be vacated because Mr. Harvey had been previously assessed this fee.

As the State acknowledges, the Supreme Court has held that there is no practical need for multiple DNA samples. (St. Br., 21); see *People v. Marshall*, 242 Ill. 2d 285, 303 (2011). The State also acknowledges that Section 5-4-3 authorizes the taking, analysis, and indexing of a defendant's DNA, and payment of the analysis fee, only where the defendant is not currently registered in the DNA database. (St. Br., 21) The State further acknowledges that Mr. Harvey's genetic profile was obtained and submitted to CODIS in 2010. (St. Br., 21; Def. Br., App. at 1)

Therefore, according to the State's own representations, there was no authorization under Section 5-4-3 to order Mr. Harvey to pay the analysis fee in this case, as he was currently registered in the DNA database.

This fee is intended to cover the costs of the DNA analysis, and only one analysis is necessary per qualifying offender; accordingly, only one analysis fee is necessary. *Marshall*, 242 Ill. 2d at 296 (quoting *People v. Rigsby*, 405 Ill. App. 3d 916, 918 (2010)). The DNA analysis fee "shall" be paid only when the actual extraction, analysis, and filing of a qualified defendant's DNA occurs. *Id.* at 297. A defendant who has been assessed a DNA analysis fee is not required to show that he actually paid the fee before he can challenge the fee on appeal. *Rigsby*, 405 Ill. App. 3d at 920.

The State argues that the record does not indicate that Mr. Harvey has paid the analysis fee relating to his 2010 DNA test. (St. Br., 21) The issue of whether or not Mr. Harvey has paid the DNA fee related to the conviction that resulted in his DNA being entered into the DNA database in 2010 is not before this court. The issue before this court is whether Mr. Harvey can be assessed a DNA fee when he was already registered in the DNA database. Furthermore, it is unlikely that Mr. Harvey was entered into the DNA database in 2010 without being assessed the accompanying fee. If that fee is still outstanding, that is a matter best handled by the ordering court. Even if Mr. Harvey managed to have his DNA taken, analyzed, and indexed in 2010 without being assessed the appropriate fee, that does not provide authority for this Court to impose a fee in this case, at this juncture, for an analysis that has already occurred pursuant to a conviction for a different case. Moreover, Mr. Harvey is not required to show that he actually paid the fee before challenging it on appeal. See *Id.*

Because Mr. Harvey was already in the database, no taking, analysis, and indexing of his DNA is authorized in this case. Thus, it cannot be conducted, and accordingly, no fee to cover the costs incurred in such an analysis can be imposed.

2.

The court should not have assessed a Crime Stoppers fine against Mr. Harvey.

Because the parties agree that the trial court erred in assessing the $10 Crime Stoppers fee, Mr. Harvey asks that this fee be vacated.

3.

There was no authority for the Sheriff fee or Foreign Sheriff fee to be imposed.

The State argues that although the Adams County ordinance only references "civil process service," that this includes serving subpoenas for witnesses in this

criminal case. (St. Br., 24) The State cites no authority in support of this argument. Mr. Harvey maintains his position that the fees associated with the service of the subpoenas in this case was governed by the amounts proscribed in 55 ILCS 5/4-5001. (Def. Br., 26-27)

The State further asserts that the Foreign Sheriff fee covers service of a subpoena by any agency that is not the sheriff. (St. Br., 25) The statutes the State cites to do not support this claim.

The State argues that 735 ILCS 5/2-202(d) provides for the taxing of costs where service is made by other enumerated entities. (St. Br., 25) 735 ILCS 5/2-202 controls persons authorized to serve process, place of service and failure to make a return. 735 ILCS 5/2-202 (2012). 735 ILCS 5/2-202(a) states that process shall be served by a sheriff, or if the sheriff is disqualified, by a coroner. 735 ILCS 5/2-202(a). When the State is an interested party, process may be served by a special investigator appointed by the State's Attorney. 735 ILCS 5/2-202(a). A county with a population of less than 2,000,000 may employ civilian personnel to serve process, and in counties with smaller populations process may be served without special appointment by a licensed or registered private detective. 735 ILCS 5/2-202(a). The court may order service to be made by a private person over 18 years of age and not a party to the action. 735 ILCS 5/2-202(a). Section 2-202(a-5) provides additional rules regarding service by a private detective agency. 735 ILCS 5/2-202(a-5).

First, this statute is part of the Code of Civil Procedure. The Code of Criminal Procedure indicates that subpoenas are to be issued by the clerk and "directed to the sheriff or coroner." 725 ILCS 5/115-17 (2013).

Furthermore, even if the civil statute cited by the State applied to criminal cases, nothing in 735 ILCS 5/2-202(a) authorizes the service of a subpoena in a

criminal case by a local police department without additional designation or authorization to do so. Accordingly, the reference in Section 2-202(d) to process being served by a sheriff, coroner, or special investigator appointed by the State's Attorney being taxable as a cost in the proceeding does not authorize a cost being assessed to Mr. Harvey on behalf of the Quincy Police Department. See 735 ILCS 5/2-202(a) and (d). The list of what entities or persons is authorized to serve process is specifically designated, and does not include the Quincy Police Department, as the record does not reflect that that office was appointed by the State's Attorney's office to serve these subpoenas.

Furthermore, though735 ILCS 5/2-202(d) allows for the court to establish a fee, and tax that fee as a cost, if process is served by a private person or entity, the record does not reflect that the court established any costs related to the Quincy Police Department. 735 ILCS 5/2-202(d)

Accordingly, 735 ILCS 5/2-202 does not provide authority for assessing Mr. Harvey a Foreign Sheriff fee for subpoenas served by the Quincy Police Department.

The State also points to 705 ILCS 105/27.1a(r) as a "catch-all" fee provision, suggesting that this provides authority for the fees labeled as Foreign Sheriff fees. (St. Br., 25) 705 ILCS 105/27.1a(r) indicates that any fees not covered elsewhere in the section shall be set by rule or administrative order of the Circuit Court, with the approval of the Administrative Office of the Illinois Courts. 705 ILCS 105/27.1a(r) (2012). 705 ILCS 105/27.1a(r) further indicates that the clerk may provide additional services for which there is no fee specified by statute in connection with the operation of the clerk's office, and any such charges for additional services

shall be as agreed to between the clerk and the party making the request, and approved by the chief judge. 705 ILCS 105/27.1a(r) This "catch-all" is a provision for additional services that may need to be provided by the circuit clerk, and in no way authorizes the imposition of a Foreign Sheriff's fee, as the record does not reflect that the clerk was the person who served the subpoenas per an agreement made with Mr. Harvey, and with the approval of the chief judge.

The State further argues that while the Adams County Sheriff is restricted by the amounts set out in the statute and any separate restrictions imposed by a county ordinance, that the Quincy Police Department is not so restricted. (St. Br., 25) The State indicates that 55 ILCS 5/4-5001 provides that the fee requirements of that section do not apply to police departments or other law enforcement agencies, thus the Quincy Police Department is not restricted by the amounts indicated in the statute. (St. Br., 25) However, the State has not provided any authority that would allow the Quincy Police Department to collect fees for serving subpoenas in Mr. Harvey's case. Because the record does not clearly reflect any authority for the Sheriff fee, or Foreign Sheriff fee, assessed in this case, Mr. Harvey asks that those fees be vacated.

ILLINOIS STATE POLICE

Division of Forensic Services

Bruce Rauner
Governor

Leo P. Schmitz
Director

Submission Number: [redacted]

Subject Information

Name: Shane D Harvey,
Date of Birth: May 23, 1981

Race: W
Gender: Male

Identification Information

SID Number:
DOC Number: S10932

DC Number:
Other Number:

Arrest/Conviction Information

Eligibility Status: Convicted Offender
Offence: 720-5/12-4 AGG BATTERY/CONCEAL IDENTITY
Agency: Graham Correctional Center
Collection Date: 8/25/2010

Arrest Date:
Conviction Date: 8/19/2010
Release Date:

Submission Information

External Bar Code: 322169
Nature: Swab Multiple
Received Date: 8/26/2010 12:00:00 AM
Received By: headche

Reject Status:
Latents Batch Number:

Linked Submission(s):
Comments:

Current Status: CODIS Confirmed
Missing Info Status: No Missing Info
Scan Status: Not Required
Duplicate Status:

Rejected Reason:
Latents Sent Date:
Latents Sent Reason:
Latents Receive Date:
Latents Received Reason:
Identical Sibling Status:

Analysis Information

Analysis Complete Date: 9/13/2010 2:46:06 PM
Analysis Status: Profile Obtained
RFLP Complete Date:
STR Complete Date: 9/13/2010 2:48:47 PM

Destination CODIS Index: Convicted Offender
CODIS Own Date: 9/14/2010 8:41:00 AM
CODIS Confirm Date: 9/14/2010 8:57:37 AM

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL

CIRCUIT OF ILLINOIS, ADAMS COUNTY

DEFENDANT: **SHANE DOUGLAS HARVEY**

CASE#: **13 CF 394**

JUDGE: **WALDEN**

THIRD SUPPLEMENT TO THE PRESENTENCE INVESTIGATION REPORT

NAME: Shane Douglas Harvey
ALIAS: None

ADDRESS: Adams County Jail
1826 Cherry Street, Quincy, Illinois

PHONE: (217) 223-9102

DOB: May 23, 1981 AGE: 32

POB: Quincy, Illinois

HEIGHT: 5'6" WEIGHT: 160

HAIR: Brown EYES: Blue

RACE: White SEX: Male

EMPLOYED: No EDUCATION: GED

SOCIAL SECURITY: 338-70-5310

DRIVER'S LICENSE: Never had one

MARITAL STATUS: Single

VICTIM: Michelle Dierker

OFFENSE: Domestic Battery

DATE OF OFFENSE: June 12, 2013

BOND: Remanded on $15,000 – 10% to apply

PROSECUTOR: Jon Barnard

DEFENSE ATTORNEY: Holly Henze

INVESTIGATING PO: Jennifer R. Fischer

DNA: Completed

SENTENCING DATE: February 4, 2014 at 1:00 p.m.

DAYS SERVED: 236

CO-DEFENDANT: No

RESTITUTION: Yes

SC C3

ORDINANCE TO INCREASE FEES IN THE SHERIFF'S OFFICE
2011-09-024-001

WHEREAS, 55 ILCS 5/4-5001 provides that Sheriff's fees may be increased by the County if the increase is justified by an acceptable cost study showing that the fees allowed by this Section are not sufficient to cover the costs of providing the service; and

WHEREAS, a cost study was prepared in 2003, which was used to determine appropriate fees which were increased on September 9, 2003; and

WHEREAS, a statement of cost and cost analysis by MAXIMUS prepared in 2003 is attached hereto and made a part hereof; and

WHEREAS, 55 ILCS 5/4-5001 does not require a new cost analysis and the Adams County Sheriff believes the cost in 2011 is the same or greater than the 2003 Actual Cost.

WHEREAS, based on the 2003 MAXIMUS study, the County Board recommends the County Code be amended to increase the Sheriff's fees.

NOW, THEREFORE, BE IT ORDAINED that the County Code is amended as follows:

SHERIFF'S FEES	Current Fee Amount	2003 Actual Cost	Sheriff's Proposed New Price	Board Adopted
For each civil process service and return	$30.00	$40.51	$40.00	$40.00
For tax notice personal service and return For tax notice by certified mail	$30.00 $30.00	$52.06 N/A	$40.00 $20.00	$40.00 $20.00
For service of warrant/body attachment	$35.00	$46.80	$40.00	$40.00
For taking bond	$15.00	$19.81	$15.00	$15.00
Mileage for service, per mile, each way	$.50	N/A	$.50	$.50

NOTES TO TABLE: The current actual cost and proposed prices above are net of any additional charges for remittances to automation funds or other units of government. Those amounts would apply and be charged in addition to the figures used above. Increases shall be implemented beginning October 1, 2011.

THE OFFICIAL SEAL ADAMS STATE OF ILLINOIS

Chairman of the Board

County Clerk

10-11-11
Dated

II SHERIFF'S DEPARTMENT

The fees generated by civil process and other services that are the purview of the Adams County Sheriff are deposited in the General Fund. Currently, a large share of these services are provided by the Department at a substantial subsidy.

Civil Process and Take Bond

Civil Process & Take Bond	Annual Demand	Current Revenue Per One	Current Revenue Total	Actual Cost Per One	Actual Cost Total	Difference Per one	Difference Total
Civil Process - Service	858	$ 10.00	$ 8,135	$ 40.51	$ 34,757	$ 30.51	$ 28,622
Tax Notice	50	15.00	750	52.06	2,603	37.06	1,853
Warrants / Body Attachments	1	15.00	15	48.60	49	33.60	34
Taking Bond	1,000	1.00	1,000	19.81	19,814	18.81	18,814
Total			$ 7,900		$ 57,222		$ 49,322

Notes to table

- *These estimates are based on several different factors, including the number of times a service like take bond is performed annually. Actual additional revenue generation from raising the fees included in this study could vary widely from these estimates.*
- *Revenue and cost data excluded mileage charges, which would be charge in addition to amounts shown above.*
- *Approximately 33% of the papers served by the Department may be charged a fee. This percentage is low compared to other Illinois counties, where the proportion of paying papers is, on average, about 50% of the total civil process workload. The lower percentage in Adams County may reflect competition from private civil process servers. The cost estimates account only for these "paying" papers. Non-paying papers – such as orders of protection – have been excluded in order to present a more accurate estimate of additional revenue from fee increases.*
- *Number of evictions performed annually is based on estimates of 3 per week.*

A. Civil Process

Throughout Illinois (and indeed, nationally), process servers tell us that most papers to be served are done so using the same method. Papers of the same priority that are served using the same method were classified generically as "Civil Process" and the cost of activity was determined as a group. The costs of these services are applicable to each and every type of civil paper included in the group. However, there were two categories of papers in Adams County where the administrative support and patrol service required more time than "regular" civil process papers. Therefore, we provided separate cost estimates for tax notice, and service on warrants.

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

FILED

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

Shane Harvey

P 03 2013

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To E.J. Pullins, Quincy Police Department

Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

We command you and each of you personally to be and appear before the said Court in Courtroom # 2A at the Court House in Quincy, FORTHWITH, on the 9-20th day of September A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane Harvey Defendant ...., at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 29th day of August A.D., 2013

Lori R. Geschwandner Clerk.

By ..... Deputy.

I have served the within Writ, by reading the same to the within named E. J. Pullins

this 2nd day of Sept 2013

Chief Robert A. Copley, Q.P.D. Sheriff, A. C., Ill.

By 29 Deputy QPD

I can not in my County find the within named .....

this ..... day of ....

..... Sheriff, A. C., Ill.

By ..... Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 25

Returning Subpoena - - - $ 5

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 31.00

Chief Robert A. Copley, Q.P.D. C22
Sheriff, A. C., Ill.

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

FILED 13-16059

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394

vs.

Shane Harvey

SEP 03 2013

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Matt Hermsmeier, Quincy Police Department

Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

We command you and each of you personally to be and appear before the said Court in Courtroom # 2A at the Court House in Quincy, FORTHWITH, on the 9-20th day of September A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane Harvey Defendant ___, at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 29th day of August A.D., 2013

Lori R. Geschwandner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named Matt Hermsmeier

this 2nd day of Sept 2013

Chief Robert A. Copley, Q.P.D. Sheriff, A. C., Ill.

By _____ Deputy. QPD

I can not in my County find the within named _____

this _____ day of _____.

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 25

Returning Subpoena - - - $ 5

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 31.00

Chief Robert A. Copley, Q.P.D.
Sheriff, A. C., Ill.

C23

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

Shane Harvey

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Ben Powell, Quincy Police Department

We command you and each of you personally to be and appear before the said Court in Courtroom # 2A

at the Court House in Quincy, FORTHWITH, on the 9-20th day of September

A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane Harvey Defendant, at the instance of said People

FILED
SEP 06 2013

laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court and the seal thereof, at Quincy, ILLINOIS, ADAMS CO.

this 29th day of August A.D., 2013

Lori R. Geschwandner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named Ben Powell

this 6th day of Sept. 2013

Chief Robert A. Copley, C.P.D. Sheriff, A. C., Ill.

By _____ Deputy.

I can not in my County find the within named _____

this _____ day of _____

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 25

Returning Subpoena - - - $ 5

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 31.00

Chief Robert A. Copley, C.P.D. C27
Sheriff, A. C., Ill.

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

Shane D. Harvey

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Matt Hermsmeier, Quincy Police Department

We command you and each of you personally to be and appear before the said Court in Courtroom # 2A

at the Court House in Quincy, FORTHWITH, on the 15-25th day of October

A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Harvey

Defendant at the instance of said People

and all [illegible] and excuses whatsoever, under penalty of what the law directs.

FILED

SEP 12 2013

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 9th day of September A.D., 2013

Lori R. Geschwandner Clerk.

Lori R. Geschwandner, Clerk Circuit Court 8th Judicial Circuit ILLINOIS, ADAMS CO.

By Deputy.

I have served the within Writ, by reading the same to the within named Matt Hermsmeier

this 11 day of September 2013

Sheriff, A. C., Ill.

By E. A. Tompy Deputy.

I can not in my County find the within named

this day of

Sheriff, A. C., Ill.

By Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 2.50

Returning Subpoena - - - $ 5.00

1 Miles' Travel - - - $ .00

Total Amount - - - $ 7.50

Chief Robert A. Copley, Q.P.D. Sheriff, A. C., Ill.

C30

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

Shane D. Harvey

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To E.J. Pullins, Quincy Police Department

We command you and each of you personally to be and appear before the said Court in Courtroom # 2A at the Court House in Quincy, FORTHWITH, on the 15-25th day of October A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Harvey Defendant, at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

FILED

SEP 12 2013

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 9th day of September A.D., 2013.

Lori R. Geschwandner Clerk.

By Lori R. Geschwandner Deputy.

Lori R. Geschwandner
Clerk of the Circuit Court
ILLINOIS, ADAMS County

Served the within Writ, by reading the same to the within named E.J. Pullins

this 11 day of September 2013.

Sheriff, A. C., Ill.

By S.A. Tony Deputy.

I can not in my County find the within named

this day of

Sheriff, A. C., Ill.

By Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 2.50

Returning Subpoena - - - $ 5.00

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 8.50

S.A. Tony
Sheriff, A. C., Ill.

C31

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

Shane D. Harvey

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Ben Powell, Quincy Police Department

We command you and each of you personally to be and appear before the said Court in Courtroom #2A at the Court House in Quincy, FORTHWITH, on the 15-25th day of October A.D. 20 13 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Harvey Defendant, at the instance of said People laying aside all excuses whatsoever, under penalty of what the law directs.

FILED
SEP 12 2013

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 9th day of September A.D. 2013

Lori R. Geschwandner Clerk.

Lori R. Geschwandner
Clerk Eighth Judicial Circuit
ILLINOIS, ADAMS CO.

By Deputy.

I have served the within Writ, by reading the same to the within named Ben Powell

this 12th day of Sept. 2013

Sheriff, A. C., Ill.

By Lt. Cpl/Det DPS Deputy.

I can not in my County find the within named

this day of

Sheriff, A. C., Ill.

By Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 25

Returning Subpoena - - - $ 5

1 Miles' Travel - - - $ 1

Total Amount - - - $ 31

Chief Robert A. Copley, C...

Sheriff, A. C., Ill.

C32

10/28 - S81 - DH

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

PEOPLE OF THE STATE OF ILLINOIS)
)
Plaintiff,)
)
vs.) No. 13-CF-394
)
SHANE D. HARVEY,)
)
Defendant.)

#1 740-448

FILED
OCT 29 2013
Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

SUBPOENA

The Public Defender to the Sheriff of **ADAMS COUNTY, ILLINOIS; GREETING:**
To- Hope Cress, 421 Locust, Quincy, IL 62301

We command you and each of you personally to be and appear before the Court in **Courtroom #1B** at the Adams County Courthouse in Quincy, IL FORTHWITH, on the **12th day of November, 2013, at the hour of 9:00 A.M.** to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, and at the instance of said Defendant laying aside all pretenses and excuses whatsoever, under penalty of what the law directs, and to bring with you the following items AND/OR follow the following instructions: **Please CALL (217) 277-2195 immediately upon receipt of this Subpoena to provide the Defendant's attorney with your contact information so you can be advised of the exact date and time of your testimony.**

Witness LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, IL this 25th day of October, A.D., 2013.

Lori R. Geschwandner Clerk.

By_____ Deputy.

I have served the within Writ and read the same to the within named person: Hope Cress
_____ this 28 day of Oct., 2013.

Brent Fiscus Sheriff, Adams County, IL

By Irawbitz-Erwin Deputy.

I cannot in Adams County find the named person this___day of_____, 2013.

_____ Sheriff, Adams County, IL

By _____ Deputy.

SHERIFF'S FEES:
Service of Subpoena -------$ 30.00
Returning of Subpoena -----$ 10.00
Milage ---------------------$ 1.00
TOTAL SHERIFF'S FEES:$ 41.00

C35

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

SHANE D. HARVEY,

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Officer Ben Powell, Quincy Police Department, 110 South 8th Street, Quincy, IL 62301

We command you and each of you personally to be and appear before the said Court in Courtroom # 1B at the Court House in Quincy, FORTHWITH, on the 12th – 22nd day of November A.D. 2013 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Havey Defendant, at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

FILED
OCT 31 2013

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 28th day of October A.D., 2013.

Lori R. Geschwandner
Clerk of the Circuit Court
ILLINOIS, ADAMS CO.

Lori R. Geschwandner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named Ben Powell

this 30 day of Oct 2013

_____ Sheriff, A. C., Ill.

By JL Officer QRS Deputy.

I can not in my County find the within named _____

this _____ day of _____

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 25

Returning Subpoena - - - $ 5

1 Miles' Travel - - - $ 1

Total Amount - - - $ 31

Chief Robert A. [illegible]
Sheriff, A. C., Ill.

C38

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**No. 13-CF-394**
	)	
SHANE D. HARVEY,	)	
	)	
Defendant.	)	

FILED

OCT 31 2013

Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

SUBPOENA

The Public Defender to the Sheriff of **ADAMS COUNTY, ILLINOIS; GREETING:**
To- Officer Ben Powell, Quincy Police Department, 110 South 8th, Quincy, IL 62301

We command you and each of you personally to be and appear before the Court in **Courtroom #1B** at the Adams County Courthouse in Quincy, IL FORTHWITH, on the **12th day of November, 2013, at the hour of 9:00 A.M.** to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, and at the instance of said Defendant laying aside all pretenses and excuses whatsoever, under penalty of what the law directs, and to bring with you the following items AND/OR follow the following instructions: **Please CALL (217) 277-2195 immediately upon receipt of this Subpoena to provide the Defendant's attorney with your contact information so you can be advised of the exact date and time of your testimony.**

Witness LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, IL this 25th day of October, A.D., 2013.

Lori R. Geschwandner Clerk.

By_____Deputy.

I have served the within Writ and read the same to the within named person: Ben Powell this 30 day of Oct, 2013.

_____Sheriff, Adams County, IL

By [illegible] Deputy.

I cannot in Adams County find the named person this___day of_____, 2013.

_____Sheriff, Adams County, IL

By [illegible] Deputy.

SHERIFF'S FEES:
Service of Subpoena --------$ 25
Returning of Subpoena -----$ 5
Milage ----------$ 1
TOTAL SHERIFF'S FEES:$ 31

C39

10-29 S74

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**No. 13-CF-394**
	)	
SHANE D. HARVEY,	)	
	)	
Defendant.	)	

SUBPOENA

The Public Defender to the Sheriff of **ADAMS COUNTY, ILLINOIS; GREETING:**
To- Cathy Harvey, 1826 Cherry, Quincy, IL 62301

We command you and each of you personally to be and appear before the Court in **Courtroom #1B** at the Adams County Courthouse in Quincy, IL FORTHWITH, on the **12th day of November, 2013, at the hour of 9:00 A.M.** to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, and at the instance of said Defendant laying aside all pretenses and excuses whatsoever, under penalty of what the law directs, and to bring with you the following items AND/OR follow the following instructions: **Please CALL (217) 277-2195 immediately upon receipt of this Subpoena to provide the Defendant's attorney with your contact information so you can be advised of the exact date and time of your testimony.**

Witness [illegible] R. GEISCHWANDNER, Clerk of our said Circuit Court at Quincy, IL this 25th day of October A.D. 2013.

FILED
NOV 01 2013

Lori R. Geischwandner Clerk.

By _____ Deputy.

Lori R. Geischwandner

I have served the [illegible] read the same to the within named person: CATHY HARVEY this 30TH day of OCTOBER, 2013.

Sheriff, Adams County, IL

By _____ Deputy.

I cannot in Adams County find the named person this ___ day of _____, 2013.

_____ Sheriff, Adams County, IL

By _____ Deputy.

SHERIFF'S FEES:
Service of Subpoena --------$ 40
Returning of Subpoena -----$ 1
Milage ----------$ _____
TOTAL SHERIFF'S FEES:$ 41.00

C41

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, No. 13-CF-394 Q13-16059

vs.

SHANE D. HARVEY,

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Michelle Dierker, 1799 E. 1625th Street, Paloma, Illinois 62359 430-5224 4401570

~~Lib Hagerson~~ 431 N 5th Quincy, IL

We command you and each of you personally to be and appear before the said Court in Courtroom #1B at the Court House in Quincy, FORTHWITH, on the 12th – 22nd day of November A.D. 2013 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Havey Defendant, at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

FILED
NOV 01 2013
Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, this 28th day of October A.D., 2013

Lori R. Geschwandner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named

Michelle Dierker

this 30 day of Oct, 13

Brent Frieden Sheriff, A. C., Ill.

By Lynda Thompson Deputy.

I can not in my County find the within named _____

this _____ day of _____

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 30

Returning Subpoena - - - $ 10

1 Miles' Travel - - - $ 1

Total Amount - - - $ 41

Brent Frieden
Sheriff, A. C., Ill.

C42

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

FILED

NOV 04 2013

Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

THE PEOPLE OF THE STATE OF ILLINOIS,

13-CF-394
Q13-16059

No. _____

vs.

SHANE D. HARVEY,

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

To Officer Matt Hermsmeier, Quincy Police Department, 110 South 8th Street, Quincy, IL 62301

We command you and each of you personally to be and appear before the said Court in Courtroom #1B at the Court House in Quincy, FORTHWITH, on the 12th-22nd day of November A.D. 2013 at the hour of 9:00a m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Havey Defendant, at the instance of said People laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

WITNESS, LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy,

this 28th day of October A.D., 2013

Lori R. Geschwandner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named

Matt Hermsmeier

this 2nd day of NOV 13.

Chief Robert A. Copley, Q.P.D. Sheriff, A. C., Ill.

By _____ Deputy.

I can not in my County find the within named _____

this _____ day of _____

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ .25

Returning Subpoena - - - $ .5

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 31.00

Chief Robert A. Copley, Q.P.D.
Sheriff, A. C., Ill.

C43

11-1-13 S-76 DH

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

FILED

NOV 04 2013

Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**No. 13-CF-394**
	)	
SHANE D. HARVEY,	)	
	)	
Defendant.	)	

SUBPOENA

The Public Defender to the Sheriff of **ADAMS COUNTY, ILLINOIS; GREETING:**
To- Shawnae Hills, 400 Spruce, Quincy, IL 62301

We command you and each of you personally to be and appear before the Court in **Courtroom #1B** at the Adams County Courthouse in Quincy, IL FORTHWITH, on the **12th day of November, 2013, at the hour of 9:00 A.M.** to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, and at the instance of said Defendant laying aside all pretenses and excuses whatsoever, under penalty of what the law directs, and to bring with you the following items AND/OR follow the following instructions: **Please CALL (217) 277-2195 immediately upon receipt of this Subpoena to provide the Defendant's attorney with your contact information so you can be advised of the exact date and time of your testimony.**

Witness LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, IL this 28th day of October, A.D., 2013.

Lori R. Geschwandner Clerk.

By_____Deputy.

I have served the within Writ and read the same to the within named person: Shawnae Hills
_____this 4th day of Nov., 2013.

Brent Tuchy Sheriff, Adams County, IL

By Rhonda L Goodwin Deputy.

I cannot in Adams County find the named person this___day of_____, 2013.

_____Sheriff, Adams County, IL

By _____Deputy.

SHERIFF'S FEES:
Service of Subpoena -------$_____
Returning of Subpoena -----$_____
Milage ----------$_____
TOTAL SHERIFF'S FEES:$ 41.00

C44

10/28-E81-DH

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

PEOPLE OF THE STATE OF ILLINOIS)
)
Plaintiff,)
)
vs.) No. 13-CF-394
)
SHANE D. HARVEY,)
)
Defendant.)

FILED
NOV 06 2013
Lori R. Geschwandner
Clerk Circuit Court 8th Judicial Circuit
ILLINOIS, ADAMS CO.

SUBPOENA

The Public Defender to the Sheriff of **ADAMS COUNTY, ILLINOIS; GREETING:**
To- Damon Cress, 421 Locust, Quincy, IL 62301

We command you and each of you personally to be and appear before the Court in **Courtroom #1B** at the Adams County Courthouse in Quincy, IL FORTHWITH, on the **12th day of November, 2013, at the hour of 9:00 A.M.** to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, and at the instance of said Defendant laying aside all pretenses and excuses whatsoever, under penalty of what the law directs, and to bring with you the following items AND/OR follow the following instructions: **Please CALL (217) 277-2195 immediately upon receipt of this Subpoena to provide the Defendant's attorney with your contact information so you can be advised of the exact date and time of your testimony.**

Witness LORI R. GESCHWANDNER, Clerk of our said Circuit Court at Quincy, IL this 25th day of October, A.D., 2013.

Lori R. Geschwandner
_____Clerk.

By_____Deputy.

I have served the within Writ and read the same to the within named person: Damon Cress
_____this 5th day of November, 2013.

Brent Fisher Sheriff, Adams County, IL

By [signature] 1075 Deputy.

I cannot in Adams County find the named person this___day of_____, 2013.

_____Sheriff, Adams County, IL

By _____Deputy.

SHERIFF'S FEES:
Service of Subpoena -------$ 30.00
Returning of Subpoena ----$ 10.00
Milage ----------$ 1
TOTAL SHERIFF'S FEES:$ 41.00

C45

AC CR 13—PEOPLE'S SUBPOENA

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF ILLINOIS, ADAMS COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS,

No. 13-CF-394
Q13-16059

vs.

SHANE D. HARVEY,

FILED

The People of the State of Illinois to the Sheriff of Adams County—GREETING:

NOV 07 2013

To Officer E.J. Pullins, Quincy Police Department, 110 South 8th Street, Quincy, IL 62301

Lori R. Grachvanner
Circuit Court Clerk and Ex-Officio Recorder
ILLINOIS, ADAMS CO.

We command you and each of you personally to be and appear before the said Court in Quincy, ILLINOIS, ADAMS CO.

at the Court House in Quincy, FORTHWITH, on the 12th-22nd day of November

A.D. 2013 at the hour of 9:00a .m., to testify and the truth to speak in relation to a certain matter in controversy now pending and undetermined in said Circuit Court between THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs, and Shane D. Havey

Defendant, at the instance of said People

laying aside all pretenses and excuses whatsoever, under penalty of what the law directs.

WITNESS, [redacted] Clerk of our said Circuit Court at Quincy,

this 28th day of October A.D. 2013

Lori R. Grachvanner Clerk.

By _____ Deputy.

I have served the within Writ, by reading the same to the within named E. J. Pullins

this 7th day of November 2013.

_____ Sheriff, A. C., Ill.

By Sgt. D. A. Tony Deputy.

I can not in my County find the within named _____

this _____ day of _____

_____ Sheriff, A. C., Ill.

By _____ Deputy.

SHERIFF'S FEES

Service of Subpoena - - - $ 2.00

Returning Subpoena - - - $ 5.00

1 Miles' Travel - - - $ 1.00

Total Amount - - - $ 31.00

Chief Robert A. Copsey
Sheriff, A. C., Ill.

C46