

2019 IL App (1st) 170668-U

No. 1-17-0668

Order filed June 27, 2019

Fourth Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 16 CR 06638
	)	
ARMOND FREEMAN,	)	Honorable
	)	Matthew E. Coghlan,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE REYES delivered the judgment of the court.  
Presiding Justice McBride and Justice Gordon concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's conviction for residential burglary is affirmed and the matter is remanded to allow him to file a motion raising any errors in his fines, fees, and costs order.

¶ 2 Following a bench trial, defendant Armond Freeman was found guilty of residential burglary (720 ILCS 5/19-3(a) (West 2016)) and sentenced to five years' imprisonment. The court also assessed a total of \$409 in fines and fees, and defendant was given 306 days of presentence custody credit. On appeal, defendant solely challenges the fines and fees imposed by the court.

For the following reasons defendant's conviction for residential burglary is affirmed and we remand the matter to allow defendant to file a motion in the trial court regarding any errors in his fines, fees, and costs order.

¶ 3 In April 2016, Paris Tucker was living in a two flat apartment building on the 7300 block of South Campbell Avenue. The building was family owned and Tucker, the sole occupant of the second-floor apartment, was in control of the entire building. On April 15, 2016, Tucker received a call from her boyfriend Randall Williams, who was caring for the apartment while she was on vacation. After speaking for a few moments, Tucker instructed Williams to go to "face time." While Williams was moving the phone through the apartment, Tucker observed that all of her electronic items were missing from her home. Tucker identified the items as four televisions, an Xbox gaming console, sound bar speakers, and headphones. When Tucker returned to Chicago on April 16, 2016, she observed that her back door had been kicked in and her bedroom was "tore up." Tucker noticed that all her shoes and bags were missing as well as the clothes from her drawers. Tucker reported the incident to the police.

¶ 4 On April 17, defendant arrived at the apartment and Tucker observed that he was wearing her "Gucci" belt and "True Religion" hat. Tucker and Williams detained defendant for the police. Defendant was arrested and admitted to police that he broke into the apartment through a window on the first floor and took the hat and belt. At trial, defendant denied breaking into the apartment and taking the belt and hat.

¶ 5 Defendant was sentenced to five years' imprisonment and assessed \$409 in fines and fees and given credit for 306 days in presentence custody.

¶ 6 On appeal, defendant challenges only his fines and fees order specifically arguing that we vacate an unauthorized fee and that several fees be classified as fines to be offset by his \$5 per day presentence custody credit. He acknowledges not raising these claims in the trial court as required. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010) (“to preserve a claim of sentencing error, both a contemporaneous objection and a written postsentencing motion raising the issue are required”). However, the State agrees that we may review the forfeited claims and has thus forfeited the forfeiture issue. *People v. Smith*, 2018 IL App (1st) 151402, ¶ 7.

¶ 7 On February 26, 2019, while this appeal was pending, our Supreme Court adopted new Illinois Supreme Court Rule 472, which sets forth the procedure in criminal cases for correcting sentencing errors in, as relevant here, the imposition or calculation of fines, fees, and assessments or costs, and the application of the \$5 per day credit. Ill. S. Ct. R. 472(a)(1), (2) (eff. Mar. 1, 2019). Subsequently, on May 17, 2019, Rule 472 was amended to provide that “[i]n all criminal cases pending on appeal as of March 1, 2019, or appeals filed thereafter in which a party has attempted to raise sentencing errors covered by this rule for the first time on appeal, the reviewing court shall remand to the circuit court to allow the party to file a motion pursuant to this rule.” Ill. S. Ct. R. 472(e) (eff. May 17, 2019). “No appeal may be taken” on the ground of any of the sentencing errors enumerated in the rule unless that alleged error “has first been raised in the circuit court.” Ill. S. Ct. R. 472(c) (eff. May 17, 2019). Therefore, pursuant to Rule 472, we remand to the circuit court to allow defendant to file a motion pursuant to this rule, raising the alleged errors regarding his fines and fees. Ill. S. Ct. R. 472(e) (eff. May 17, 2019).

¶ 8 Affirmed; remanded as to the fines, fees and costs.