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January 28, 2016 - 2:14 PM

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Case Name: State v. Forth

Court of Appeals Case Number: 47702-5

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Personal Restraint Petition (PRP)

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NO. 47702-5-II

**COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

CHRIS FORTH, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Katherine M. Stolz

No. 93-1-02523-0

BRIEF OF RESPONDENT

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Did the trial court err by not making an individualized inquiry into the defendant's current and future ability to pay before imposing appellate costs?

B. STATEMENT OF THE CASE.

A jury convicted Chris Forth (“defendant”) of child molestation in the first degree and bail jumping in 1994. Defendant was granted a SSOSA sentence by the trial court. While his case was on appeal, he fled to Idaho. Defendant was later arrested and extradited back to Washington.

This Court upheld these convictions in a consolidated appeal, Nos. 19429-5-II and 43041-0-II, but remanded the case to the trial court for a recalculation of the defendant’s credit for time served while he was held in Idaho awaiting extradition. CP 23-41.

At defendant’s hearing to determine his credit for time served, defendant requested that the trial court not impose appellate costs. RP 4-5. The trial court imposed the appellate costs. RP 5. Defendant timely appealed. CP 53.

C. ARGUMENT.

1. THE STATE AGREES THAT THE COURT SHOULD REMAND THIS CASE FOR THE TRIAL COURT TO MAKE AN INDIVIDUALIZED INQUIRY INTO DEFENDANT'S ABILITY TO PAY.

RCW 10.01.160(3) requires that the trial judge make an individualized inquiry into the defendant's current and future ability to pay before the court imposes LFOs. *State v. Blazina*, 182 Wn.2d 827, 839, 344 P.3d 680, 685 (2015). The trial court should also consider other important factors, such as incarceration and a defendant's other debts, including restitution, when determining a defendant's ability to pay his legal financial obligations. *Id.*

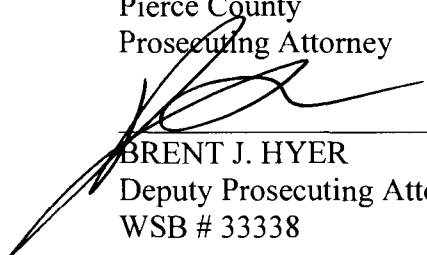
The State agrees that the record in this case does not reflect that the trial court made an individualized inquiry into defendant's ability to pay as required by *Blazina*.

D. CONCLUSION.

The Court should remand this case to the trial court to inquire about defendant's current and future ability to pay his legal financial obligations.

DATED: January 27, 2016.

MARK LINDQUIST
Pierce County
Prosecuting Attorney



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WSB # 33338

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

1-29-16 Theresa Kar
Date Signature