

IN THE SUPREME COURT OF THE STATE OF
WASHINGTON

STATE OF WASHINGTON,)	
)	
Respondent,)	No. 101512-7
)	
vs.)	
)	ANSWER TO BRIEF OF
JASON MICHAEL RAMOS,)	AMICI CURIAE IN
)	SUPPORT OF PETITION
Petitioner.)	FOR REVIEW
)	
)	
)	

Petitioner Ramos has asked this Court to grant review of the Court of Appeal’s decision in this case that the restitution, interest on restitution, and Victim Penalty Assessment in this case do not violate the Excessive Fines clause of the state or federal constitution. The Court of Appeals held that (1) restitution for the actual medical expenses incurred for treatment of the victim’s injuries is not grossly disproportionate to the criminal act that caused the injuries, and (2) neither

interest on restitution nor the Victim Penalty Assessment are punitive in nature.

Amici curiae Civil Survival Project, et al., urge this Court to grant review, and offer a series of policy arguments on topics such as whether restitution for victim losses should be mandatory in every case and whether the classification of a financial obligation as punitive or non-punitive should turn on the legislature's intent, as this Court's precedent dictates, or on how a defendant *experiences* the financial obligation. Policy arguments about the wisdom our statutory restitution scheme must be addressed to the legislature rather than this Court.

Moreover, amici consistently focus on the effect that restitution has on defendants without ever addressing the effect that *not* ordering restitution has on victims, who are frequently just as indigent and marginalized as any defendant.¹ Amici

¹ This case is a perfect example. The man Ramos assaulted and robbed, Jarvis Capucion, was a person of color experiencing homelessness, just like Ramos. CP 7; RP 11.

would have this Court grant review in order to hold that an indigent defendant cannot be constitutionally required to pay restitution, even when that means that an equally indigent victim must instead bear the cost of the defendant's crime.

More importantly, amici fail to address the fact that Ramos's appeal in this case is an untimely collateral attack. As explained in the State's Answer to the Petition for Review, in the wake of State v. Blake, 197 Wn.2d 170, 481 P.3d 521 (2021), Ramos's offender score and standard range became erroneous, which constituted a facial invalidity that Ramos was entitled to have corrected. Answer to Petition at 15. However, he was not entitled to modification of the other portions of his judgment and sentence, because correction of an offender score and standard range does not disturb the finality of other facially valid portions of the judgment and sentence. State v. Rowland, 174 Wn.2d 150, 154-56, 272 P.3d 242 (2012); In re Pers. Restraint of Goodwin, 146 Wn.2d 861, 877, 50 P.3d 618

(2002). No exception to the one-year time-bar on collateral attacks applied here to permit modification of Ramos's legal financial obligations. RCW 10.73.090; RCW 10.73.100.

The trial court neither reconsidered Ramos's legal financial obligations nor had statutory authority to do so. Ramos's claims are therefore procedurally barred, and review by this Court is not warranted in this case. See State v. Molnar, 198 Wn.2d 500, 511, 497 P.3d 858 (2021) (noting that if lower court had not erroneously ruled that defendant could withdraw his plea, "we might have dismissed review as improvidently granted" based on late identification of untimely collateral attack). To the extent this Court believes that it should provide further guidance to lower courts on whether restitution interest and the Victim Penalty Assessment are punitive, and whether a constitutional excessive fines analysis requires consideration of a defendant's indigency, this Court should reach those issues in a case in which they are properly presented.

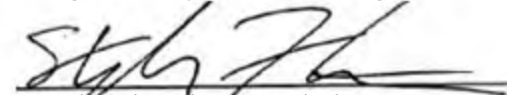
A grant of further review of Ramos's untimely collateral attack would undercut the finality of the original sentencing court's decisions regarding legal financial obligations. It would also confuse lower courts by suggesting, contrary to this Court's well-established caselaw, that defendants entitled to correction of a Blake-caused facial invalidity are also entitled to bring untimely collateral attacks against other facially valid portions of their judgments and sentences.

Many lower courts are already struggling to deal with pandemic-related backlogs and the ripple effects of the Blake decision. To grant further review of the Court of Appeals' denial of Ramos's untimely collateral attack would exacerbate that struggle by turning Blake-related sentence corrections into an avenue for bringing otherwise-time barred challenges to facially valid portions of a long-final judgment and sentence. For all these reasons, this Court should reject amici's arguments in favor of the petition for review.

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