Supreme Court No. 99394-7
No. 36951-0-III & 36952-8-III

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

STEPHEN HARRIS,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SPOKANE COUNTY

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER AND DECISION BELOW

Stephen Harris asks this court to review the opinion of the Court of Appeals in *State v. Harris*, Nos. 36951-0-III & 36952-8-III (Dec. 3, 2020). A copy of the opinion (hereinafter "Ruling") is attached as an appendix.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Due process requires that citizens have fair warning of proscribed conduct and thus prohibits unconstitutionally vague laws. Here, Mr. Harris was prohibited from having any contact with DOC-identified "drug offenders." However, this condition could encompass incidental and inadvertent contact, does not clearly define a "drug offender," and does not require that Mr. Harris know that an individual has been identified as a "drug offender" by DOC. Is the condition unconstitutionally vague in violation of due process, warranting review? RAP 13.4(b)(3).

2. Any condition that impinges on the fundamental right to freedom of association must be reasonably necessary to accomplish the essential needs of the state and public order. Any condition that fails to satisfy this requirement is unconstitutionally overbroad. Here, Mr. Harris was prohibited from contact with "drug offenders," which could be interpreted to mean anyone with a drug offense on their record. Accordingly, he was prohibited from even casual contact with thousands

of people, without regard to these individuals' actual influence on Mr. Harris to recidivate. Is the condition unconstitutionally overbroad, warranting review? RAP 13.4(b)(3).

3. Supervision fees, including the costs of urinalysis, are discretionary and should not be imposed on indigent defendants. Here, the sentencing court made a finding of indigency but still imposed supervision fees. Should the supervision fees be stricken and any fees Mr. Harris paid be reimbursed? RAP 13.4(b)(4).

C. STATEMENT OF THE CASE

Stephen Harris was charged and pled guilty to two counts of possession of a controlled substance and one count of resisting arrest. CP 3, 8–18, 78; Supp. CP __ (Sub. No. 31); 7/17/2018 at RP 8–9. He requested and received a residential Drug Offender Sentencing Alternative (DOSA), which required him to participate in residential chemical dependency treatment for three to six months, and then serve two years on community custody. CP 29, 91; 8/1/2018 RP at 5–6. The sentencing court also imposed several conditions of community custody. CP 30, 34, 92, 96.

Mr. Harris was unable to complete the DOSA due to his sciatica, which caused him severe pain. 10/28/2018 RP 3, 7–8. Because of this, Mr. Harris was medically discharged from the required residential

chemical dependency treatment program after only a few days of treatment. 10/28/2018 RP 4. Mr. Harris explained to the court he did not ask for the medical discharge. 10/28/2018 RP 13. Mr. Harris was found to be in violation of the terms of the DOSA but was eventually permitted to return to treatment. 11/28/2018 RP 9. However, Mr. Harris left the second round of treatment of his own accord after a few days due to his ongoing medical issues not being met by the treatment facility. 6/14/2019 RP 15. In response, the Court revoked the DOSA, ordering Mr. Harris into custody. 6/14/2019 RP 18–19.

Mr. Harris challenged aspects of his sentence on appeal. The Court of Appeals correctly held that it had jurisdiction to review Mr. Harris' sentence, but rejected his sentencing claims. *See* Ruling.

D. ARGUMENT

1. The condition prohibiting Mr. Harris from having contact with "DOC ID'd drug offenders" is unconstitutionally vague and interferes with Mr. Harris' freedom of association.

"A trial court abuses its discretion if it imposes an unconstitutional condition" of community custody. *State v. Padilla*, 190 Wn.2d 672, 677, 416 P.3d 712 (2018). Although sentencing courts are permitted to order a defendant to "[r]efrain from direct or indirect contact with" "a specified class of individuals," these conditions of community custody must

comport with constitutional requirements. RCW 9.94A.703(3)(b); *Padilla*, 190 Wn.2d at 677. Here, Mr. Harris was ordered to have "[n]o contact with DOC [Department of Corrections] ID'd [identified] drug offenders except in a treatment setting." CP 30, 92; *see also* CP 34, 96 ("Defendant shall have no contact with: DOC ID'd drug offenders.")[1] This condition is both unconstitutionally vague in violation of due process and infringes on Mr. Harris' First Amendment right to free association. Unconstitutional conditions are not presumed valid and may be challenged for the first time on appeal. *State v. Bahl*, 164 Wn.2d 739, 744–45, 753, 193 P.3d 678 (2008); *State v. Valencia*, 169 Wn.2d 782, 792, 239 P.3d 1059 (2010).

a. The condition is unconstitutionally vague in violation of due process.

Due process requires that citizens have fair warning of proscribed conduct and thus prohibits unconstitutionally vague laws. U.S. Const. amend. XIV; Const. art. I, § 3; *Bahl*, 164 Wn.2d at 752. A condition is unconstitutionally vague if it (1) "does not define the criminal offense

[1] Mr. Harris pled guilty and was sentenced to charges in two separate case numbers. *See* 7/17/18 RP at 8 (pleading guilty to charges in both cases); 8/1/18 RP at 5 (sentencing on both cases). Accordingly, there are two judgments and sentences that contain the same sentence. CP 24–38 (judgment and sentence for Case No. 18-1-01866-9, COA No. 36951-0-III); CP 86–100 (judgment and sentence for Case No. 17-1-04055-1, COA No. 36952-8-III); *see also* CP 62 (revoking DOSA and imposing concurrent sentence for both cases). Mr. Harris cites to both judgments and sentences where relevant.

with sufficient definiteness that ordinary people can understand what conduct is proscribed," or (2) "does not provide ascertainable standards of guilt to protect against arbitrary enforcement." *Id.* at 752–53 (internal citations and quotation marks omitted). "Vagueness concerns are more acute when a law implicates First Amendment rights and a heightened level of clarity and precision is demanded." *Id.* at 754 (citations and quotation marks omitted).

First, the condition's prohibition on *any* contact with DOC identified "drug offenders" is unconstitutionally vague, as it could encompass incidental and inadvertent contact. *Cf. United State v. Vega*, 545 F.3d 743, 749 (9th Cir. 2008) (noting that the term "association" does not include incidental contact and is thus not unconstitutionally vague); *State v. Houck*, 9 Wn. App. 2d 636, 644, 446 P.3d 646 (2019) (citing *Vega*).

Second, the condition does not define "drug offenders," leaving this term open to several interpretations. The condition could be read to include anyone convicted of a drug offense. However, it could also be intended to prohibit Mr. Harris from contact with repeat drug offenders, or individuals with drug histories known to DOC, or some other subjective definition imposed by Mr. Harris' assigned community custody officer (CCO). Accordingly, the condition does not provide Mr. Harris with

adequate definiteness of exactly what conduct is prohibited. *Bahl*, 164 Wn.2d at 752–53. The condition further invites arbitrary enforcement by leaving it up to the CCO to determine which individuals Mr. Harris is prohibited from contacting. *See id.*; *Houck*, 9 Wn. App. 2d at 644 (a condition that "explicitly require[s] further definition or clarification from a CCO" may lead to arbitrary enforcement).

Further, the condition prohibits Mr. Harris from contact with "DOC ID'd drug offenders," but does not require that Mr. Harris *know* that an individual has been identified as such by DOC. CP 30, 34, 92 96. In order to resolve vagueness issues concerning a defendant's mental state, a condition of community custody must set out the mental element explicitly so as to provide notice and avoid arbitrary enforcement. *See Valencia*, 169 Wn.2d at 794. For example, in *Houck*, this Court held that a condition prohibiting contact with "known" drug users and dealers was not unconstitutionally vague. 9 Wn. App. 2d at 645. This Court reasoned that a condition that prohibits "the *offender's knowing* contact" "provides fair warning of proscribed conduct and meaningful guidance to protect against arbitrary enforcement." *Id.* (emphasis in the original).

Without citing any factual basis in the record, the Court of Appeals concluded that "[t]hose offenders who the DOC has identified as drug offenders is a list the offender is capable of obtaining, and a person of

ordinary intelligence can understand this prohibition is from contact with anyone on this list." Ruling at 7. Accordingly, the Court of Appeals erroneously concluded the condition was constitutional, citing *State v. Hearn*, 131 Wn. App.\ 601, 128 P.3d 139 (2006). Ruling at 7.

However, the condition in *Hearn* employed similar language to the modifications Mr. Harris argued below would cure the condition's constitutional issues. *Compare Hearn*, 131 Wn. App. at 607 (upholding a condition instructing defendant to "refrain from *associating* with *known* drug offenders") (emphasis added) *with* Brief of Appellant at 10 (arguing the condition could be modified to read "Mr. Harris shall not *knowingly associate* with persons *currently* involved in the *unlawful* use, sale, and/or possession of controlled substances.") (emphasis in the original). *Vega*, 545 F.3d 743, 749 (9th Cir. 2008); *Houck*, 9 Wn. App. 2d at 644. Contrary to the Court of Appeals' conclusion, *Hearn* actually supports Mr. Harris' request for a condition modification in this case. *See also State v. Peters*, 10 Wn. App. 2d 574, 595, 455 P.3d 141 (2019) (suggesting similar language) (unpublished portion of opinion).[2]

[2] Mr. Harris cites *Peters* as persuasive authority pursuant to GR 14.1.

b. The condition's restriction on Mr. Harris' freedom of association is overbroad.

The fundamental right to freedom of association is protected by the First Amendment. U.S. Const. amends. I, XIV. Although an individual's fundamental rights can be restricted pursuant to a condition of sentencing, these limitations must be "imposed sensitively." *State v. Riley*, 121 Wn.2d 22, 37, 846 P.2d 1365 (1993). "A law is unconstitutionally overbroad if it sweeps within its prohibitions free speech activities protected under the First Amendment." *State v. Riles*, 135 Wn.2d 326, 346–47, 957 P.2d 655 (1998), *abrogated on other grounds by Valencia*, 169 Wn.2d at 792; *accord State v. Moutrie*, 143 Wn. App. 387, 398–99, 177 P.3d 776 (2008).

The right to freedom of association protects choices to enter into and to maintain certain human relationships. *See Moultrie*, 143 Wn. App. at 399 & n.21. Any restriction on this freedom "must be narrowly tailored to further the State's legitimate interest." *Padilla*, 190 Wn.2d at 678. Accordingly, conditions of community custody that restrict a defendant's association with others "must be reasonably necessary to accomplish the essential needs of the state and public order." *Id.*; *accord Moultrie*, 143 Wn. App. At 399.

Here, the condition's language ostensibly prohibits contact with *anyone* with a drug offense on their record. CP 30, 34, 92, 96. Under this

interpretation, the condition prohibits Mr. Harris from even casual contact with thousands of people in Washington. *See Padilla*, 190 Wn.2d at 678. In 2018 alone, there were approximately 11,916 arrests for drug crimes in Washington.[3] Despite this broad prohibition, the condition disregards that many people convicted of a drug offense go on to live productive, crime-free lives. *See, e.g., Matter of Simmons*, 190 Wn.2d 374, 398, 414 P.3d 1111 (2018) (noting that individuals convicted of felonies, including drug offenses, have the "ability to change if he or she has the will and opportunity to do so.")

Accordingly, the condition restricts Mr. Harris' freedom of association without regard to these individuals' actual influence on Mr. Harris to recidivate. *Cf. Matter of Brettell*, 6 Wn. App. 2d 161, 170, 430 P.3d 677 (2018) (upholding a condition interpreted to prohibit contact with *current* "users and sellers"). Because the condition is not "reasonably necessary to accomplish the essential needs of the state and the public order," as the Court of Appeals concluded, it is unconstitutional and must be stricken or modified. *See Padilla*, 190 Wn.2d at 678; Ruling at 7.

[3] Washington Association of Sheriffs and Police Chiefs, 2018 Crime in Washington Annual Report 50 (2018), *available at* https://www.waspc.org/assets/CJIS/2018%20ciw.pdf (last accessed March 6, 2020).

2. The supervision fees must be stricken as Mr. Harris is indigent.

As the sentencing court found, Mr. Harris is indigent and lacks the ability to pay legal financial obligations. 8/1/18 RP 5; *see also* CP 30, 92. Accordingly, the sentencing court waived the discretionary $200 filing fee. 8/1/18 RP 5. However, the sentencing court also ordered Mr. Harris to "pay the statutory rate to DOC, while on community custody, to offset the cost of urinalysis." CP 30, 92. The court also ordered Mr. Harris to "pay supervision fees as determined by DOC." CP 34, 96. This was in error.

The supervision costs of community custody are discretionary and are subject to an ability to pay inquiry. *See State v. Dillon*, 12 Wn. App. 2d 133, 152, 456 P.3d 1199 (2020); *State v. Lundstrom*, 6 Wn. App. 2d 388, 396 n.3, 429 P.3d 116 (2018); RCW 9.94A.703(2)(d) ("Unless waived by the court . . . the court shall order an offender to . . . [p]ay supervision fees as determined by the department."); RCW 10.01.160 (3) ("The court shall not order a defendant to pay costs if the defendant at the time of sentencing is indigent."). Consistent with the sentencing court's waiver of other discretionary costs, the Court of Appeals correctly

concluded that the sentencing court "should have waived the costs of community custody supervision as well." Ruling at 8.

However, the Court erroneously concluded "these costs are moot" because "[Mr. Harris] is no longer being required to pay the costs." Ruling at 8. However, the State only averred that Mr. Harris was no longer being required to pay the costs of urinalysis, as his DOSA had been revoked. Brief of Respondent at 10-11, 17-18. The State did not argue Mr. Harris was not still required to pay other costs of supervision, and conceded that, if reviewable, the language imposing these costs "may be stricken" from the judgment and sentence. Brief of Respondent at 18.

Further, the Court erroneously concluded the issue was moot because Mr. Harris was not entitled to reimbursement of any fees he may have paid, citing language in the 2018 legal financial obligations reform bill that "[n]othing in this act requires the courts to refund or reimburse amounts *previously* paid towards legal financial obligations or interest on legal financial obligations." Ruling at 9 (citing Laws of 2018, ch. 269, § 20) (emphasis added).

Contrary to the Court of Appeal's interpretation, the clear intent of this language was to preclude retroactive application of the act's reforms. However, while the plain language of the act did not create a right to reimbursement for amounts paid *before* the act was passed, it does not

foreclose reimbursement for amounts erroneously paid in violation of the act after its passage. This Court should accept review in order to correct the Court of Appeals' erroneous interpretation of the act as a matter of substantial public interest. RAP 13.4(b)(4).

E. CONCLUSION

For the reasons stated above, this Court should accept review.

DATED this 4th day of January, 2021.

Respectfully submitted,

/s Jessica Wolfe

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Respondent, v. STEPHEN BENTON HARRIS JR., Appellant.	))))))))))	No. 36951-0-III (consolidated with No. 36952-8-III) UNPUBLISHED OPINION

LAWRENCE-BERREY, J. — RAP 2.4(b) allows appellate review of prior orders or rulings, even those that were immediately appealable, if they prejudicially affect the decision designated in the notice. One question before us is whether RAP 2.4(b) permits appellate review of a criminal judgment and sentence when the decision designated in the notice is an order revoking a drug offender sentencing alternative (DOSA) sentence. Supreme Court authority constrains us to review the judgment and sentence. Nevertheless, we generally affirm.

FACTS

Stephen Harris pleaded guilty to two counts of possession of a controlled substance and one count of resisting arrest. On August 1, 2018, the trial court entered its judgment and sentence. Specifically, the trial court imposed a DOSA sentence for the drug offenses, determined that Harris was indigent, and imposed a number of community

custody conditions and various fees and assessments together with interest. The judgment and sentence explicitly notified Harris he had 30 days to file a direct appeal and one year to file a collateral attack.

Harris repeatedly violated the terms of his DOSA sentence. The State moved to revoke Harris's DOSA sentence and have him serve his sentence in confinement. On June 17, 2019, the trial court heard argument and granted the State's motion. On July 12, 2019, Harris appealed the DOSA revocation order.

ANALYSIS

On appeal, Harris raises issues about his August 1, 2018 sentence. He does not raise any issue about the June 17, 2019 DOSA revocation order. The State, citing RAP 5.2(a), urges us to dismiss the appeal of the sentence as untimely. Harris, citing RAP 2.4(b), argues his appeal of the sentence is timely.

SCOPE OF REVIEW

Generally, an appellate court will "review the decision or parts of the decision designated in the notice of appeal . . . and other decisions in the case provided in sections (b), (c), (d), and (e)." RAP 2.4(a). RAP 2.4(b) provides:

> The appellate court will review a trial court order or ruling not designated in the notice, including an appealable order, if (1) the order or ruling prejudicially affects the decision designated in the notice, and (2) the order is entered, or the ruling is made, before the appellate court accepts review.

This allows a defendant to avoid a "trap for the unwary . . . that a failure to appeal an appealable order could prevent its review upon appeal from a final judgment." *Adkins v. Alum. Co. of Am.*, 110 Wn.2d 128, 134, 750 P.2d 1257, 756 P.2d 142 (1988).

In *Adkins*, the first trial resulted in a favorable verdict for the plaintiff, but the court granted a mistrial due to juror misconduct. The second trial resulted in a defense verdict, from which the plaintiff appealed. One of the issues on appeal was whether the appellate court should review the ruling granting the mistrial. The *Adkins* court concluded that the motion for mistrial was reviewable, reasoning:

> The requirements of RAP 2.4(b) are satisfied here. The second trial would not have occurred absent the trial court's decision granting the motion for a mistrial; thus the decision prejudicially affected the final decision which was designated in the notice of appeal. Obviously the trial court's action granting the mistrial occurred before the Court of Appeals accepted review.

Id. at 134-35.

Our Supreme Court discussed RAP 2.4(b) in *Franz v. Lance*, 119 Wn.2d 780, 781, 836 P.2d 832 (1992). There, the trial court orally ruled in favor of the plaintiffs on the trespass claim and stated it was inclined to award attorney fees.[1] In October 1990, the

[1] The Supreme Court's opinion in *Franz* was per curiam and omitted most of the underlying facts. We obtain the facts for this paragraph from the subsequent unpublished case of *Franz v. Lance*, noted at 72 Wn. App. 1042, 1994 WL 16180036.

trial court entered its findings and conclusions, together with its judgment quieting title and awarding damages. It reserved ruling on attorney fees for a later time. Two months later, the trial court issued a letter opinion awarding over $14,000 in attorney fees and costs. Supplemental findings and conclusions were entered in February 1991, and a supplemental judgment was entered in June 1991. The Court of Appeals dismissed the Lances' January 2, 1991 appeal of the October 1990 judgment as untimely. The Lances sought and received discretionary review.

The Supreme Court in *Franz* reversed and directed the Court of Appeals to review the October 1990 judgment. Citing the language of RAP 2.4(b), the *Franz* court held that the trial court's judgment on the merits "prejudicially affected its subsequent award." *Franz*, 119 Wn.2d at 782. The court concluded:

> We hold the trial court's October 29, 1990, judgment on the merits of the quiet title and trespass issues prejudicially affected its subsequent award of attorney fees and costs. That award was imposed against the Lances as a sanction under CR 11 and RCW 4.84.185 for filing a baseless answer to the Franzes' complaint and for filing a frivolous counterclaim. The award therefore must stand or fall based on the findings and conclusions the trial court entered in support of the 1990 judgment. Under the reasoning in [prior cases], the Franzes' timely notice of appeal from the award of sanctions should enable them to obtain review of the underlying judgment.

Id.

Here, the question is whether the first prong of RAP 2.4(b) is satisfied. In other words, does the October 2018 judgment and sentence prejudicially affect the June 2019 order revoking the DOSA sentence?

In *Adkins*, the Supreme Court held that the order granting mistrial prejudicially affected the second trial, because the second trial "would not have occurred absent" the earlier decision. 110 Wn.2d at 134. Applying this standard here, the judgment imposing the DOSA sentence prejudicially affected the order revoking the DOSA sentence. This is because the order revoking the DOSA sentence could not have occurred absent the DOSA sentence.

In *Franz*, the Supreme Court held that the findings and conclusions in the original judgment prejudicially affected the sanctions award because the sanctions award "must stand or fall" based on the findings and conclusions the trial court entered in the original judgment. 119 Wn.2d at 782. Applying this standard here, the judgment imposing the DOSA sentence *did not* prejudicially affect the order revoking the DOSA sentence. This is because the order revoking the DOSA sentence does not stand or fall on the sentence. Rather, it stands or falls on whether Harris complied with the conditions of his DOSA sentence.

So which standard do we apply? In *Right-Price Recreation, LLC v. Connells Prairie Community Council*, 146 Wn.2d 370, 46 P.3d 789 (2002), the court denied that the rule in *Franz* narrowed the rule in *Adkins*. *Id.* at 380. The court explained, the *Franz* "holding is a reiteration of the *Adkins* court's recognition that the order appealed from would not have happened but for the first order." *Id.* We are constrained to apply *Adkins*'s "but for" rule here and conclude that review of Harris's sentence is appropriate.[2]

COMMUNITY CUSTODY CONDITIONS

Harris contends the trial court erred by imposing the community custody condition prohibiting him from having contact with Department of Corrections (DOC) identified drug offenders. The State rightly points out that this issue is not preserved for appeal. However, because it is simpler to discuss why Harris's contention is incorrect rather than why this was not a manifest error, we exercise our discretion in reviewing this issue.

This court reviews challenges to community custody conditions for abuse of discretion and will reverse only when they are manifestly unreasonable. *State v. Valencia*, 169 Wn.2d 782, 791-92, 239 P.3d 1059 (2010). A community custody

[2] Harris's RAP 2.4(b) scope of review argument was raised in reply to the State's RAP 5.2(a) timeliness argument. The State did not have an opportunity to address RAP 2.4(b). Because we are affirming (except on an issue conceded by the State), we did not ask the State to provide additional briefing. The State is invited to address RAP 2.4(b) in a reconsideration motion if it believes we have erred on this issue.

condition is vague if it does not give fair warning of the prohibited conduct to the defendant. *State v. Bahl*, 164 Wn.2d 739, 752-53, 193 P.3d 678 (2008). "If 'persons of ordinary intelligence can understand what the [condition] proscribes, notwithstanding some possible areas of disagreement, the [condition] is sufficiently definite.'" *Id.* at 754 (quoting *City of Spokane v. Douglass*, 115 Wn.2d 171, 179, 795 P.2d 693 (1990)).

A defendant's right to association may be restricted if it is reasonably necessary to accomplish the essential needs of public order. *State v. Riley*, 121 Wn.2d 22, 37-38, 846 P.2d 1365 (1993). This includes restricting a defendant from contact with known drug offenders in order to curb recurring use of illegal drugs. *State v. Hearn*, 131 Wn. App. 601, 609, 128 P.3d 139 (2006).

This court, in *Hearn*, already decided that prohibiting a defendant from contact with "known drug offenders" is a constitutional custody condition. *Id.* The inclusion of "DOC [identified] drug offenders" does not change this. Clerk's Papers at 92. Those offenders who the DOC has identified as drug offenders is a list the offender is capable of obtaining, and a person of ordinary intelligence can understand this prohibition is from contact with anyone on this list.

LEGAL FINANCIAL OBLIGATIONS (LFOs)

Harris contends the trial court erred by imposing a fee for his urinalysis tests and for the supervision costs. He also contends the trial court erred by imposing interest on his LFOs. We agree in part.

Supervision costs of community custody are discretionary and are subject to the same inquiry regarding a defendant's ability to pay as other discretionary LFOs. *State v. Lundstrom*, 6 Wn. App. 2d 388, 396 n.3, 429 P.3d 1116 (2018), *review denied*, 193 Wn.2d 1007, 443 P.3d 800 (2019). Here, the trial court found that Harris was indigent and waived other discretionary LFOs. Consistent with this, it should have waived the costs of community custody supervision as well.

However, the State contends these costs are moot because he is no longer being required to pay the costs and it is unclear that he paid the fees at any point in the past. We agree with the State. An issue is moot when a court is no longer able to grant effective relief. *In re Cross*, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983).

Harris argues if this court strikes the LFOs, he would be entitled to reimbursement for costs he already paid. This is not the case. Engrossed Second Substitute House Bill 1783, 65th Leg., Reg. Sess. (Wash. 2018), which became effective June 7, 2018, prohibits trial courts from imposing discretionary legal financial obligations on defendants who are

indigent at the time of sentencing. LAWS OF 2018, ch. 269, § 6(3); *State v. Ramirez*, 191 Wn.2d 732, 738-39, 426 P.3d 714 (2018). However, this same bill included a provision stating that "[n]othing in this act requires the courts to refund or reimburse amounts previously paid towards legal financial obligations or interest on legal financial obligations." LAWS OF 2018, ch. 269, § 20.

Because Harris is not entitled to reimbursement of any fees he may have paid, this court cannot grant effective relief and this issue is moot.

Moving on to Harris's second argument, LFOs other than restitution do not accrue interest. RCW 3.50.100(4)(b). Therefore, we agree that the court erred by imposing interest on the LFOs.

Affirmed, but remanded to strike interest.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Lawrence-Berrey, J.

WE CONCUR:

(result only)
Korsmo, A.C.J.

Fearing, J.

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
RESPONDENT,	)	
	)	
v.	)	COA NO. 36951-0-III
	)	
STEPHEN HARRIS,	)	
	)	
PETITIONER.	)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 4TH DAY OF JANUARY, 2021, I CAUSED THE ORIGINAL **PETITION FOR REVIEW TO THE SUPREME COURT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION THREE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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