

No. 36866-8-II
Skamania County Superior Court no. 92-1-00036-7

STATE OF WASHINGTON,

Respondent,

vs.

ANTON LINDBECK,

Appellant.

STATE OF WASHINGTON
BY  DEPUTY

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FILED
COURT OF APPEALS
DIVISION II

BRIEF OF RESPONDENT

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I. STATEMENT OF THE CASE

On July 30, 1992, in Skamania County Superior Court, Anton Lindbeck, the appellant in the present case, entered a plea of guilty to one count of Murder in the First Degree. CP 3-7. No where within the "Statement of Defendant on Plea of Guilty" exists an inducement of the appellant's plea of guilty in exchange for consideration of when to pay sentenced legal financial obligations. Only within the "Judgment and Sentence" is there any mention of when the appellant must pay the sentenced legal financial obligations, wherein it is written "Payment shall commence on upon [sic] release from incarceration," followed by the initials "T.K." for Ted Kolbaba, the sentencing judge. CP 8-12.

According to the appellant, at some point in time Department of Corrections began collecting legal financial obligation from the appellant's offender trust account, a decision from which the appellant filed a CrR 7.8 motion for relief from judgment. CP 15-27.

On September 13, 2007, the Skamania County Superior Court denied the appellant's motion. CP 28.

In response to that denial, the appellant initiated this appeal. CP 29-31.

II. ARGUMENT

A. The trial court did not abuse its discretion in denying the appellant's CrR 7.8 motion

An abuse of discretion occurs when the trial court's decision is manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons. *State v. Aguirre*, 73 Wn. App. 682, 686, 871 P.2d 616, review denied, 124 Wn.2d 1028 (1994).

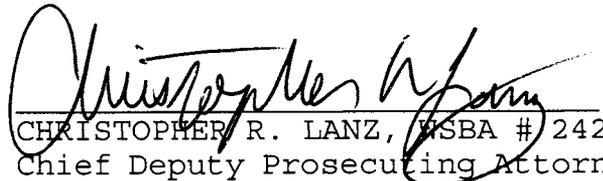
In the case before the court, the trial court did not abuse its discretion in denying the appellant's motion for relief of judgment because the trial court based its decision upon a Washington State Supreme Court case, *Anderson v. Dep't of Corr.*, 159 Wn.2d 849, 864, 154 P.3d 220 (2007), which affirms the Department of Corrections's authority under Chapter 72.11 RCW - the very source cited by the Department of Corrections when it notified the appellant it was the collecting the legal financial obligations - to collect legal financial obligations from all inmate accounts to pay legal financial obligations. Due to the fact the trial court based its decision on the mandatory

authority of a decision of the Washington State Supreme Court, that decision cannot now be argued by the appellant to be "manifestly unreasonable, exercised on untenable grounds, or for untenable reasons."

III. CONCLUSION

The court did not abuse its discretion in denying the appellant's motion for relief of judgment; therefore, the Court should affirm the trial court's decision and dismiss this appeal.

Respectfully Submitted this 21st day of May, 2008.


CHRISTOPHER R. LANZ, WSBA # 24220
Chief Deputy Prosecuting Attorney

