NO. 46605-8-II

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

STATE OF WASHINGTON, Respondent

v.

ZAIDA YESENIA CARDENAS FLORES, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO.14-1-00298-0

RESPONDENT'S SUPPLEMENTAL BRIEF

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A. ANSWERS TO ASSIGNMENTS OF ERROR

I. THIS ASSIGNMENT OF ERROR WAS WAIVED AND THIS COURT SHOULD NOT CONSIDER IT.

II. THIS ASSIGNMENT OF ERROR WAS WAIVED AND THIS COURT SHOULD NOT CONSIDER IT.

B. STATEMENT OF THE CASE

On August 27, 2014, Ms. Cardenas-Flores was sentenced. CP 28-37; RP 441-47. As part of her sentence, the trial court ordered Ms. Cardenas-Flores to pay $3,109.00 in legal financial obligations. CP 32-33. During the sentencing hearing, neither Ms. Cardenas-Flores nor her attorney objected to the imposition of the legal financial obligations. RP 441-47.

C. ARGUMENT

I. MS. CARDENAS-FLORES WAIVED HER CHALLENGE TO IMPOSITION OF LEGAL FINANCIAL OBLIGATIONS BECAUSE SHE DID NOT OBJECT AT THE TRIAL LEVEL.

"A defendant who makes no objection to the imposition of discretionary LFOs [(legal financial obligations)] at sentencing is not automatically entitled to review" of that issue on appeal. *State v. Blazina*, 182 Wn.2d 827, 832, 344 P.3d 680 (2015). The defendant is not entitled to review because in Washington it is "well settled that an 'appellate court

may refuse to review any claim of error which was not raised in the trial court.'" Id. (quoting RAP 2.5(a)). Thus, under *Blazina*, it remains the law that "[u]npreserved LFO errors do not command review as a matter of right." Id. Accordingly, *Blazina* held, regarding the consolidated cases on review, that "the Court of Appeals did not err in declining to reach the merits" of the LFO issue, and instead, "properly declined discretionary review." Id. at 830.

Moreover, this Division of the Court of Appeals has recently held that it will not consider a challenge to LFOs raised for the first time on appeal if the defendant's sentencing occurred after this court issued its opinion in *State v. Blazina*, 174 Wn.App. 906, 301 P.3d 492 (2013). *State v. Lyle*, --- Wn.App. ----, --- P.3d ---- (2015). As *Lyle* explained, "because the sentencing hearing was after we issued our opinion in *Blazina*, counsel should have been aware that to preserve any issue related to the LFOs he was required to object." *Id.*

Here, Ms. Cardenas-Flores's sentencing took place on August 27, 2014, which is well after this court issued its decision in *Blazina*. Ms. Cardenas-Flores did not object to trial court's imposition of LFOs. Thus, she finds herself in the exact position of the defendant in *Lyle*. This court should follow *Lyle* and decline to address her LFO challenge.

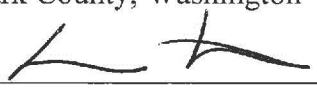
D. CONCLUSION

For the reasons argued above, Ms. Cardenas-Flores cannot raise her legal financial obligations for the first time on appeal.

DATED this 10th day of July, 2015.

Respectfully submitted:

ANTHONY F. GOLIK
Prosecuting Attorney
Clark County, Washington

By: 

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July 10, 2015 - 3:34 PM

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