

FILED
Court of Appeals
Division II
State of Washington
12/3/2018 8:00 AM

NO. 50160-1-II

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

STATE OF WASHINGTON,

Respondent,

v.

WILLIAM CANNING,

Appellant.

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

The Honorable Gary Bashor, Judge
The Honorable Michael Evans, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

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A. ASSIGNMENT OF ERROR

The trial court erred by ordering Mr. Canning to pay a \$200 criminal filing fee.

B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

The recent amendments to the statutes addressing legal financial obligations (LFOs) apply prospectively to all cases on direct appeal. Those amendments prohibit the imposition of a filing fee upon indigent criminal defendants. Must this court vacate the trial court order requiring Mr. Canning, who is indigent, to pay a \$200 criminal filing fee?

C. STATEMENT OF THE CASE

Per the page 6 of the Judgment and Sentence, the trial court ordered Mr. Canning to pay a \$200 criminal filing fee. (CP 27).

D. ARGUMENT

THE WASHINGTON SUPREME COURT'S RECENT DECISION IN *RAMIREZ* REQUIRES THIS COURT TO VACATE THE ORDER REQUIRING MR. CANNING TO PAY A CRIMINAL FILING FEE.

On September 20, 2018, the Washington Supreme Court decided in *State v. Ramirez*, --- Wn.2d ---, 426 P.3d 714 (September 20, 2018), that the amendments to the Legal Financial Obligations (LFO) statutes passed

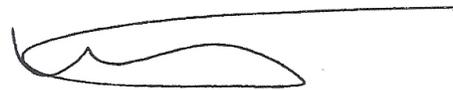
as HB 1783 applies prospectively to all cases pending on direct appeal. *Ramirez*, --- Wn.2d at ---, 426 P.2d at 722. Pursuant to those amendments, a trial court may no longer impose discretionary LFOs upon indigent persons. RCW 10.01.160(3). Likewise, a sentencing court may no longer order an indigent person to pay the \$200 criminal filing fee. Laws of 2018, ch. 269, § 17; *Ramirez*, --- Wn.2d at ---, 426 P.2d at 722.

Because he is indigent, the sentencing court is prohibited from ordering Mr. Canning to pay the \$200 criminal filing fee under HB 1783. CP 38, 46-48.

E. CONCLUSION

Ramirez applies prospectively to Mr. Canning's case, which is currently pending on direct appeal. Accordingly, this Court must vacate the order requiring Mr. Canning to pay a \$200 criminal filing fee.

Respectfully submitted December 2, 2018.



LISA E. TABBUT/WSBA 21344
Attorney for William Canning

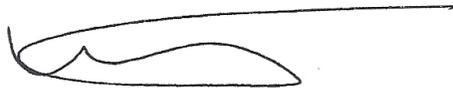
CERTIFICATE OF SERVICE

Lisa E. Tabbut declares as follows:

On today's date, I efiled the Brief of Appellant to (1) Cowlitz County Prosecutor's Office, at appeals@co.cowlitz.wa.us, and Sean Brittain at brittains@co.cowlitz.wa.us; (2) the Court of Appeals, Division II; and (3) I mailed it to William Canning at 158 Beauvais Rd, Kelso, WA 98626.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed December 2, 2018, in Winthrop, Washington.

A handwritten signature in black ink, appearing to read 'Lisa E. Tabbut', with a long horizontal line extending to the right.

Lisa E. Tabbut, WSBA No. 21344
Attorney for William Canning, Appellant

LAW OFFICE OF LISA E TABBUT

December 02, 2018 - 11:31 AM

Transmittal Information

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