

FILED
Court of Appeals
Division II
State of Washington
12/10/2018 8:00 AM

NO. 50212-7-II

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

STATE OF WASHINGTON,

Respondent,

v.

CARSIE TIKKA,

Appellant.

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

The Honorable Scott A. Collier, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

	Page
A. ASSIGNMENT OF ERROR.....	1
1. The trial court erred by ordering Mr. Tikka to pay a \$100 DNA collection fee.....	1
B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR	
1. 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 DNA collection fee upon an offender whose DNA has already been collected pursuant to a previous felony conviction. Must this court vacate the trial court order requiring Mr. Tikka to pay a \$100 DNA collection fee when his DNA has already been collected in the past?.....	1
C. STATEMENT OF THE CASE.....	1
D. ARGUMENT.....	2
THE WASHINGTON SUPREME COURT’S RECENT DECISION IN RAMIREZ REQUIRES THIS COURT TO VACATE THE ORDER REQUIRING MR. TIKKA TO PAY A DNA COLLECTION FEE.....	2
E. CONCLUSION.....	3
CERTIFICATE OF SERVICE.....	4

TABLE OF AUTHORITIES

Page

Washington Supreme Court Cases

State v. Ramirez, --- Wn.2d ---, 426 P.3d 714 (September 20, 2018) 2, 3

Statutes

RCW 10.01.160..... 2

Other Authorities

HB 1783..... 2

Laws of 2018 2

A. ASSIGNMENT OF ERROR

1. The trial court erred by ordering Mr. Tikka to pay a \$100 DNA collection fee.

B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

1. 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 DNA collection fee upon an offender whose DNA has already been collected pursuant to a previous felony conviction. Must this court vacate the trial court order requiring Mr. Tikka to pay a \$100 DNA collection fee when his DNA has already been collected in the past?

C. STATEMENT OF THE CASE

Per page 5 of the Judgment and Sentence, the trial court ordered Mr. Tikka to pay a \$100 DNA collection fee. (CP 91). Per Appendix 2.2 (“Declaration of Criminal History”) attached to the Judgment and Sentence, Mr. Tikka ‘s criminal history includes prior Washington felony convictions between 1999 and 2014. (CP 98-99).

The trial court found Mr. Tikka indigent. CP 90, 102-03.

D. ARGUMENT

THE WASHINGTON SUPREME COURT’S RECENT DECISION IN *RAMIREZ* REQUIRES THIS COURT TO VACATE THE ORDER REQUIRING MR. TIKKA TO PAY A DNA COLLECTION 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. Finally, a sentencing court may not order an indigent person to pay a \$100 DNA collection fee if s/he has already paid that fee previously because of a prior felony conviction. Laws of 2018, ch. 269, §§ 1, 18, 7; *Id.*

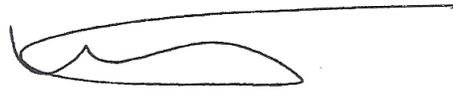
Because he is indigent and has already had DNA collected as a result of previous felony convictions, the sentencing court is prohibited

from ordering Mr. Tikka to pay the \$100 DNA collection fee under HB 1783. *Id.*

E. CONCLUSION

Ramirez applies prospectively to Mr. Tikka's case, which is currently pending on direct appeal. *Id.* Accordingly, this Court must vacate the order requiring Mr. Tikka to pay a \$100 DNA collection fee.

Respectfully submitted December 9, 2018.



LISA E. TABBUT/WSBA 21344
Attorney for Carsie Tikka

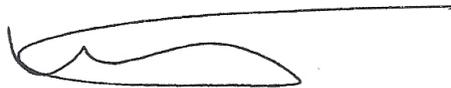
CERTIFICATE OF SERVICE

Lisa E. Tabbut declares as follows:

On today's date, I filed the Brief of Appellant to (1) Clark County Prosecutor's Office, at cntypa.generaldelivery@clark.wa.gov; (2) the Court of Appeals, Division II; and (3) I mailed it to Carsie Tikka, DOC#797282, Washington State Penitentiary, 1313 North 13th Avenue Walla Walla, WA 99362.

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

Signed December 9, 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 Carsie Tikka, Appellant

LAW OFFICE OF LISA E TABBUT

December 09, 2018 - 11:35 AM

Transmittal Information

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