FILED
Court of Appeals
Division II
State of Washington
1/2/2019 9:34 AM

NO. 50212-7-II

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

STATE OF WASHINGTON, Respondent

v.

CARSIE TIKKA Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO.16-1-01142-0

SUPPLEMENTAL BRIEF OF RESPONDENT

Attorneys for Respondent:

ANTHONY F. GOLIK
Prosecuting Attorney
Clark County, Washington

RACHAEL ROGERS, WSBA #37878
Senior Deputy Prosecuting Attorney

Clark County Prosecuting Attorney
1013 Franklin Street
PO Box 5000
Vancouver WA 98666-5000
Telephone (360) 397-2261

TABLE OF CONTENTS

RESPOSE TO SUPPLEMENTAL ASSIGNMENT OF ERROR.....1

SUPPLEMENTAL STATEMENT OF THE CASE.....1

SUPPLEMENTAL ARGUMENT.....1

CONCLUSION.....3

TABLE OF AUTHORITIES

Cases

State v. Ramirez, ___ Wn.2d ___, 426 P.3d 714 (2018).....1

Statutes

RCW 10.01.160.....1
RCW 43.43.7541.....1, 2

Bills

House Bill 1783.....1, 2

RESPONSE TO SUPPLEMENTAL ASSIGNMENT OF ERROR

I. The State agrees the DNA fee should be stricken.

SUPPLEMENTAL STATEMENT OF THE CASE

The court sentenced Tikka on his convictions for two counts of Rape of a Child in the First Degree and two counts of Child Molestation in the First Degree. CP 87-97; RP 1002. At the time of sentencing, on April 14, 2017, House Bill 1783 had not yet been passed. From the record, it is clear that Tikka has previously been convicted for crimes for which he has been ordered to provide a DNA sample pursuant to RCW 43.43.7541. CP 98-99. The trial court, following the law in place at the time, ordered Tikka to pay a $100 DNA fee pursuant to this current conviction.

SUPPLEMENTAL ARGUMENT

I. The State agrees that Tikka's $100 DNA fee should be stricken.

Amendments to several LFO statutes went into effect on June 7, 2018, while Tikka's case was still pending on appeal. LAWS OF 2018, ch. 269. Those amendments, collectively made law by House Bill 1783, apply prospectively to any cases that were still pending on appeal when the costs statutes were amended. *State v. Ramirez*, ___ Wn.2d ___, 426 P.3d 714, 722 (2018). Accordingly, under *Ramirez*'s findings, the now current version of RCW 10.01.160, and several other LFO statues, should apply to Tikka. As it is clear that Tikka has previously had DNA collected pursuant to a prior conviction, the DNA fee in his case should be stricken.

House Bill 1783 worked to amend multiple statutes which now prohibit imposition of discretionary costs on an indigent defendant, prohibit imposition of the criminal filing fee on an indigent defendant, and provide that the DNA fee is no longer mandatory if the offender's DNA has been collected pursuant to a prior conviction. LAWS OF 2018, ch. 269, §§ 6(3), 17, 18. As Tikka was sentenced to life in prison, he would qualify as indigent under the relevant definitions, and thus the trial court would not have imposed the DNA fee on Tikka had the new law been in place at the time of his sentencing.

House Bill 1783 amended RCW 43.43.7541, which governs imposition of a DNA fee. The bill amended the statute to make the imposition of the fee contingent upon whether the State has previously collected the defendant's DNA as a result of a prior conviction. RCW 43.43.7541. Tikka's DNA was previously collected as a result of a prior conviction and therefore, giving Tikka the benefit of the new statutes, the $100 DNA fee imposed should be stricken. RCW 43.43.7541.

///

///

///

///

///

///

///

///

///

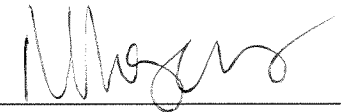
CONCLUSION

The State agrees with Tikka that this Court should strike the $100 DNA fee that was ordered to be collected by the trial court.

DATED this 31st day of December, 2018.

Respectfully submitted:

ANTHONY F. GOLIK
Prosecuting Attorney
Clark County, Washington

By: 

RACHAEL ROGERS, WSBA #37878
Senior Deputy Prosecuting Attorney
OID# 91127

CLARK COUNTY PROSECUTING ATTORNEY

January 02, 2019 - 9:34 AM

Transmittal Information

Filed with Court:	Court of Appeals Division II
Appellate Court Case Number:	50212-7
Appellate Court Case Title:	State of Washington, Respondent v Carsie James Tikka, Appellant
Superior Court Case Number:	16-1-01142-0

The following documents have been uploaded:

- 502127_Briefs_20190102093412D2974279_3693.pdf
  This File Contains:
  Briefs - Respondents - Modifier: Supplemental
  The Original File Name was Brief - Respondent Supplemental.pdf

A copy of the uploaded files will be sent to:

- ltabbutlaw@gmail.com
- valerie.lisatabbut@gmail.com

Comments:

Sender Name: Ashley Smith - Email: ashley.smith@clark.wa.gov
Filing on Behalf of: Rachael Rogers - Email: rachael.rogers@clark.wa.gov (Alternate Email: CntyPA.GeneralDelivery@clark.wa.gov)

Address:
PO Box 5000
Vancouver, WA, 98666-5000
Phone: (360) 397-2261 EXT 5686

Note: The Filing Id is 20190102093412D2974279