

FILED
Court of Appeals
Division II
State of Washington
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NO. 50474-0-II

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

STATE OF WASHINGTON,

Respondent,

v.

ANDREW FORREST,
Appellant.

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

Kitsap County Cause No. 15-1-01324-4

The Honorable William C. Houser, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

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SUPPLEMENTAL ISSUES AND ASSIGNMENTS OF ERROR

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

ISSUE 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 filing fee upon indigent criminal defendants. Must this court vacate the trial court order requiring Mr. Forrest, who is indigent, to pay a \$200 criminal filing fee?

STATEMENT OF FACTS AND PRIOR PROCEEDINGS

Mr. Forrest's criminal case is currently pending on direct appeal. His Opening Brief was filed in this Court on January 24, 2018.

At sentencing, the court ordered Mr. Forrest to pay a \$200 criminal filing fee. CP 103. The court also found Mr. Forrest indigent at the end of the proceedings in trial court. CP 6.

ARGUMENT

THE WASHINGTON SUPREME COURT'S RECENT DECISION IN RAMIREZ REQUIRES THIS COURT TO VACATE THE ORDERS REQUIRING MR. FORREST 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. 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, the sentencing court is prohibited from ordering Mr. Forrest to pay the \$200 criminal filing fee under HB 1783.

Id.

CONCLUSION

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

Respectfully submitted on November 2, 2018,



Skylar T. Brett, WSBA No. 45475
Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellant's Opening Brief, postage prepaid, to:

Andrew Forrest/DOC#399615
Bellingham Work Release
1127 N. Garden St.
Bellingham, WA 98225

With the permission of the recipient(s), I delivered an electronic version of the brief, using the Court's filing portal, to:

Kitsap County Prosecuting Attorney
kcpa@co.kitsap.wa.us

I filed the Appellant's Opening Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

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

Signed at Seattle, Washington on November 2, 2018.



Skylar T. Brett, WSBA No. 45475
Attorney for Appellant

LAW OFFICE OF SKYLAR BRETT

November 02, 2018 - 1:11 PM

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