

FILED  
Court of Appeals  
Division II  
State of Washington  
5/3/2019 12:40 PM

No. 50731-5-II

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

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STATE OF WASHINGTON,

Respondent,

v.

GINA BUSH-FORD,

Appellant.

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

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APPELLANT'S SUPPLEMENTAL BRIEF

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TABLE OF CONTENTS

A. ARGUMENT ..... 1

This Court should strike the filing fee and DNA fee. Also, in accordance with *Catling*, this Court should instruct the sentencing court to amend the judgment and sentence to contain language forbidding the State from compelling Ms. Bush-Ford to use her social security disability income (SSDI) to pay the victim penalty assessment..... 1

B. CONCLUSION ..... 2

TABLE OF AUTHORITIES

**Washington Cases**

*State v. Catling*, No. 957941, 2019 WL 1745697 (Wash. Apr. 18, 2019).. 1  
*State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018)..... 1

## A. ARGUMENT

**This Court should strike the filing fee and DNA fee. Also, in accordance with *Catling*, this Court should instruct the sentencing court to amend the judgment and sentence to contain explicit language forbidding the State from compelling Ms. Bush-Ford to use protected funds to pay the victim penalty assessment.**

In *State v. Catling*, No. 957941, 2019 WL 1745697 (Wash. Apr. 18, 2019), our Supreme Court struck the imposition of the defendant's filing fee in accordance with its opinion in *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018). *Ramirez* held the legislative amendments to several Legal Financial Obligations (LFO) statutes applied prospectively to individuals with pending appeals. One of these fees includes the \$100 DNA fee, which the State can no longer impose if the State previously extracted the defendant's DNA. *Ramirez*, 191 Wn.2d at 747. The State notes and concedes that because it has previously extracted Ms. Bush-Ford's DNA, this Court should also strike the \$100 DNA fee. Resp. Supp. Br. at 3.

While our Supreme Court concluded the imposition of mandatory LFOs on SSDI recipients did not conflict with the anti-attachment provision of the Social Security Act, it still endorsed the Court of Appeals' direction "to amend [the] judgment and sentence to indicate that the LFOs

may not be satisfied out of any funds subject to [the anti-attachment provision of the Social Security Act].” *Catling*, 2019 WL at \*5-6. This is because the anti-attachment provision of the Social Security Act precludes the State from using an individual’s social security income to satisfy a debt. *Id.* at 4. Accordingly, this Court should direct the sentencing court to amend the judgment and sentence to include language forbidding the State from satisfying the \$500 victim penalty assessment with any of Ms. Bush-Ford’s SSI/SSDI income.

**B. CONCLUSION**

Based on the foregoing, this Court should strike the filing fee and DNA fee and direct the sentencing court to amend the judgment and sentence to forbid the State from collecting Ms. Bush-Ford’s SSI/SSDI income to satisfy the remaining \$500 victim penalty assessment.

DATED this 3<sup>rd</sup> day of May, 2019.

Respectfully submitted,

/s Sara S. Taboada  
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Attorney for Appellant

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
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STATE OF WASHINGTON,	)	
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Respondent,	)	
	)	
v.	)	NO. 50731-5-II
	)	
GINA BUSH-FORD,	)	
	)	
Appellant.	)	

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X \_\_\_\_\_

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# WASHINGTON APPELLATE PROJECT

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**Superior Court Case Number:** 15-1-01419-0

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