

FILED
Court of Appeals
Division II
State of Washington
1/14/2019 11:42 AM
NO. 50826-5

**COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

JOSE MORENO-HERNANDEZ, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Gretchen Leanderson

No. 15-1-04778-9

Supplemental Brief of Respondent

MARY E. ROBNETT
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A. ISSUES PERTAINING TO APPELLANT'S SUPPLEMENTAL ASSIGNMENTS OF ERROR.

1. Should this court remand for the criminal filing fee and the interest accrual provision to be stricken?

B. STATEMENT OF FACTS

The statement of facts is contained in the State's response brief and incorporated here by reference.

C. ARGUMENT.

1. THIS COURT SHOULD ORDER THAT THE IMPOSITION OF THE CRIMINAL FILING FEE AND THE INTEREST ACCRUAL PROVISION BE STRIKEN.

In this case, the trial court found the defendant to be indigent. CP 175 - 176. The defendant's direct appeal is still pending. House Bill 1783, effective March 27, 2018, prohibits the imposition of the \$200.00 filing fee on defendants who were indigent at the time of sentencing. As the court held in *State v. Ramirez*, ___ Wn.2d ___, 426 P.3d 714 (2018), House Bill 1783 is applicable to cases that are on appeal and therefore not yet final. The State agrees that the criminal filing fee of \$200.00 that was imposed in this case should be stricken. The State further agrees that House Bill 1783 eliminates any interest accrual on nonrestitution legal financial obligations.

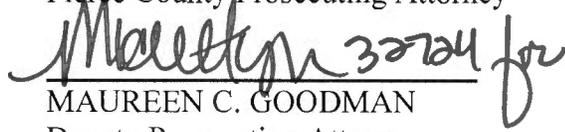
The State acknowledges that this defendant was found indigent by the sentencing court, and therefore the \$200.00 criminal filing fee and the interest accrual provision should be stricken.

D. CONCLUSION.

This court should remand for the trial court to strike the imposition of the \$200.00 filing fee and the interest accrual provision, and affirm all other issues as stated in the State's response brief.

DATED: January 14, 2019.

MARY E. ROBNETT
Pierce County Prosecuting Attorney


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Certificate of Service:

The undersigned certifies that on this day she delivered by efile U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

1/14/19 
Date Signature

PIERCE COUNTY PROSECUTING ATTORNEY

January 14, 2019 - 11:42 AM

Transmittal Information

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