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Division II
State of Washington

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

STATE OF WASHINGTON,

Respondent,

v.

ANGELA MARIE JANTZI,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF
KITSAP COUNTY, STATE OF WASHINGTON
Superior Court No. 17-1-00823-9

BRIEF OF RESPONDENT

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DATED June 5, 2018, Port Orchard, WA 
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I. COUNTERSTATEMENT OF THE ISSUES

1. Whether the trial court received sufficient stipulated evidence for substantial evidence of guilt to obtain and to support her findings and conclusions establishing guilt?

2. Whether discretionary legal financial obligations (LFO) should be stricken where negative financial information was presented on a motion for order of indigency after sentencing and where Jantzi had previously agreed to pay all LFO in her drug court petition?

II. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

Angela Marie Jantzi was charged by information filed in Kitsap County Superior Court with second degree burglary and first degree possession of stolen property. CP 1-2. The charge was supported by police reports that detail her crime and the investigation of it.

Later, a first amended information added two counts of second degree burglary from the same incident as the original information. CP51-2. The first amended information also added an unrelated charge of third degree retail theft with special circumstances. CP 53. Again, police reports were filed in support of the new charges.

Jantzi petition for and was accepted into drug court. CP 63. In

doing so, she confessed to the underlying crimes and agreed to waive her rights to a jury trial should she be terminated from drug court. She stipulated that if she were revoked from drug court, the trial court would read the police reports and any other material submitted by the state in deciding her guilt.

She was revoked. The trial court read the previously filed police reports in her file and summarily found Jantzi guilty. She was sentenced to the high end of the standard range as promised in her drug court petition. Jantzi having previously promised to pay the fees and assessments in the case, the trial court levied several discretionary legal financial obligations against her.

B. FACTS

The trial court's Findings of Fact indicate that Jantzi and her confederates broke into at least three different storage units and took cash and property. CP 100. Out of one unit, the thieves took over \$100,000 in cash. Id.

Jantzi was identified as a suspect. CP 101. When confronted, Jantzi confessed and was found to be in possession of some of the stolen property. Id.

Next, Jantzi was caught stealing merchandise from a local retail

business, Sportsman’s Warehouse, on two occasions. CP 101. She was also caught stealing merchandise from the Port Orchard Walmart. Id.

The stipulated facts allowed the trial court to conclude that Jantzi was guilty of the charged crimes. CP 102.

III. ARGUMENT

A. THE ALLEGEDLY MISSING DOCUMENTS WERE IN FACT IN THE TRIAL COURT’S FILE AND JANTZI STIPULATED THAT THOSE FACTS WERE ADMISSIBLE AND SUFFICIENT.

Jantzi argues that the trial court erred by entering conviction in a stipulated facts trial without presentation of substantial evidence. She also argues that the same paucity of proof fails to give support by substantial evidence to the trial court’s findings of fact and conclusions of law. This claim is without merit because the facts upon which convictions were based were already included in the trial court’s file.

Jantzi order Clerks’ Papers to perfect this appeal. On page four of the clerk’s papers, under the heading “Certificate of Probable Cause” a report prepared by the police—a police report—is found. That report is a comprehensive recitation of the investigation of this incident that covers the elements of the crimes it was intended to support. Thus only four

pages into reading this appeal, the state finds the document that the trial court relied upon, allowed by stipulation of the parties, that provided the facts upon which Jantzi was convicted.

Similarly, a report of the Port Orchard Police Department (CP 56) and the Kitsap County Sheriff's Office (CP 57-62) support the additional charges first amended information.

Jantzi confessed her guilt to the underlying crimes in her drug court petition. CP 63. She waived her right to jury trial. CP 64.¹ She stipulated that she understood she was submitting the case on "a stipulated record." Id. She stated her understanding that this means that "the Judge will read the police reports and other material in the Prosecuting Attorney's possession and, based upon those facts, the Judge will decide if I am guilty of the crime(s) as set forth in the information." CP 64. Next, she agreed that the facts in those reports "are sufficient for the trier of fact to find me guilty." Id.

This sufficiency stipulation, if nothing else, and as Jantzi concedes, distinguishes the case from *State v. Colquitt*, 133 Wn. App. 789, 137 P.3d 892 (2006). In fact the *Colquitt* decision notes in the second sentence of the decision that there was no stipulation to the sufficiency of the evidence. Id. at 792. That that crucial passage was not in *Colquitt's* drug

court contract is discussed throughout the decision and ultimately drives the result. *See* ¶¶ 9, 10

Moreover, a second difference appears in the discussion: that the county in that case did not require a confession in the drug court petition. 133 Wn. App. at 793. Here, Jantzi’s confession is stated on the first page of her stipulation: “I also admit at this time that I am guilty of the underlying offense(s).” CP 63.

The trial court’s order terminating drug court recites that the trial court considered, *inter alia*, “the records and files herein.” CP 99. And, as has been seen, the police reports are a part of the records and files in this case.

The trial court’s findings and conclusions also recite that the trial court has considered the “records and files herein.” CP 100. Again, those records and files include the previously filed police reports.

It seems that Jantzi’s argument is that the deputy prosecutor should have taken the trial court’s file, taken the police reports out of the trial court’s file, and then handed the reports back to the trial court. But that is not really what the provision of the stipulation means. The first clause says “the Judge will read the police reports.” It simply does not provide

¹ Her agreement also says that she waives her right to appeal. CP 64.

that the prosecution will hand particular reports to the trial judge at a particular point in the procedure. The second part says “and any other material in the prosecutor’s possession.” The use of the word “other” shows that the “and” means “in addition to” in this context.

The trial court had the police reports already filed in its own file. It is patently false to assert that “the trial did not consider any evidence.” Brief at 11. Nothing in the stipulation or the law requires that the prosecutor hand those reports to the trial court at any particular point in the procedure of this case. The trial court read what it had on Jantzi’s stipulation and the reports read established substantial evidence that the crimes occurred as reported. The reports provided substantial evidence for the trial court’s findings and conclusions. There is no issue.

B. FACTS ALLEGED IN JANTZI’S MOTION FOR ORDER OF INDIGENCY WERE NOT BEFORE THE TRIAL COURT AT SENTENCING AND JANTZI HAD PREVIOUSLY AFFIRMATIVELY PROMISED THE TRIAL COURT THAT SHE WOULD PAY HER LFO.

Jantzi next claims that the trial court erred in assessing her discretionary legal financial obligations. This claim is without merit because Jantzi relies on information that was not presented to the trial

court at sentencing and Jantzi had previously promised the trial court that she could pay the legal financial obligations (LFO) that attend admission into the drug court program.

With regard to assessing Jantzi LFO, the trial court indicated that it was aware that Jantzi could petition for forbearance if the money becomes too much or “she’s indigent.” RP 17. Later, the trial court found her indigent with regard to the present appeal. But the facts asserted on the motion for order of indigency were not before the trial court at sentencing.

Moreover, there is evidence in the record that Jantzi intended to have a remunerative future—in her drug court contract she agreed to pay a \$1600 in drug court fees. CP 65. It is likely that anyone being sent out to prison for 29 months will have an income gap of at least that long. And thus they will have short term indigency for the purposes of an appeal. So the trial court had before it the unremarkable fact that the person being sentenced presently has no money for an appellate lawyer. But that same person had previously convinced the court that she will be able to pay the drug court fees.

On balance, then, Jantzi’s assertions in the procedure of the case allow the trial court’s belief that she will be able to pay in the future. And as the trial court stated, Jantzi retains the right to seek remission later if such ability does not come about. The trial court did not abuse its

discretion and Jantzi's bill should remain owing until she asserts her financial condition following release.

IV. CONCLUSION

For the foregoing reasons, Jantzi's conviction and sentence should be affirmed.

DATED June 5, 2018.

Respectfully submitted,

TINA R. ROBINSON
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A handwritten signature in black ink, appearing to read "John L. Cross". The signature is written in a cursive style with a large initial "J" and "C".

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