

FILED
Court of Appeals
Division II
State of Washington
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NO. 53698-6-II

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

STATE OF WASHINGTON, Respondent

v.

JASON STEWART FERGUSON, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NOS.04-1-00494-2,
01-1-01497-8, 01-1-01816-7

BRIEF OF RESPONDENT

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RESPONSE TO ASSIGNMENTS OF ERROR

I. The State agrees this Court should grant Ferguson’s request to remit non-mandatory LFOs.

STATEMENT OF THE CASE

The State accepts Ferguson’s statement of the case.

ARGUMENT

Ferguson asks this Court to order the trial court to remit costs imposed in his case. The State agrees this Court should remit non-mandatory costs imposed in Ferguson’s case. Ferguson alleged a noneconomic manifest hardship that his LFOs are causing and will cause upon his release. The State agrees that non-mandatory LFOs may be stricken to alleviate this hardship.

Former RCW 10.01.160(4) allows a defendant to petition for remission of LFOs at any time if they are not in contumacious default. The defendant must show that the amount due will pose a manifest hardship on him or his family. *Id.* The term “manifest hardship” is undefined in former RCW 10.01.160(4). *City of Richland v. Wakefield*, 186 Wn.2d 596, 606, 380 P.3d 459 (2016). The only case law interpretation of “manifest hardship” has to do with financial hardship and not noneconomic hardship as Ferguson alleges here. However, the State is satisfied that Ferguson has

shown that the existence of the LFOs is causing him hardship and has no objection to this Court ordering his non-mandatory LFOs be remitted.

CONCLUSION

The State has no objection to this Court ordering Ferguson's non-mandatory LFOs be remitted.

DATED this 25th day of March, 2020.

Respectfully submitted:

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