

FILED  
Court of Appeals  
Division II  
State of Washington  
3/25/2020 11:21 AM  
No. 53719-2-II

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II

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**STATE OF WASHINGTON,**

Respondent,

vs.

**SEAN COLE MORGAN,**

Appellant.

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Appeal from the Superior Court of Washington for Lewis County

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**Respondent's Brief**

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**None Cited**

**I. ISSUES**

- A. The State concedes the community custody fees should be stricken from the judgement and sentence.

**II. STATEMENT OF THE CASE**

Sean Morgan was charged and pleaded guilty to three counts of indecent exposure and one count of driving while license suspended in the third degree. CP 9-12, 15-25. All three counts of indecent exposure were second or subsequent offenses, thereby making them felonies, and counts I and II were with sexual motivation. *Id.* The State recommended an exceptional sentence of 36 months, which the trial court imposed. RP 11-18, 24-26; CP 45-59. Morgan is on SSDI and the State requested the trial court only impose the mandatory victim penalty assessment. RP 16-17. The trial court stated it was only imposing the \$500 crime victim assessment. RP 26. Morgan timely appeals his sentence. CP 61-77.

The State will supplement the facts as necessary throughout its argument below.

### **III. ARGUMENT**

#### **A. THE STATE CONCEDES THE COMMUNITY CUSTODY FEES SHOULD BE STRICKEN FROM THE JUDGMENT AND SENTENCE.**

Morgan asserts the trial court erroneously imposed the community custody supervision fees in his judgment and sentence. Brief of Appellant. The State concedes the preprinted community custody supervision fees were clearly missed on judgement and sentence. RP 16-17, 26. The deputy prosecutor gave a detailed sentencing recommendation regarding Morgan's sentence. RP 11-18. It was clearly the intention of the deputy prosecuting attorney that Morgan only be assessed the \$500 crime victim penalty assessment. RP 16-17. The trial court agreed with the recommendation and only assessed the \$500 penalty assessment on Morgan. RP 26. The judgment and sentence, a form created by the Administrative Office of the Courts contains preprinted language regarding community custody fees, pursuant to under the Community Custody section, 4.2(B)(7) and Appendix H, (a)(5). CP 48, 57. Given that Morgan is on Social Security Disability Income, assessing this fee was not the intention of the State and trial court. The State concedes the fee should be stricken and asks the Court to remand the matter to allow the trial court to strike the fee from the judgment and sentence.

**IV. CONCLUSION**

The State and the trial court did not intend for Morgan to be assessed any fee except the crime victim penalty assessment. This Court should remand the matter to allow the trial court to correct the judgment and sentence by striking the community custody fee.

RESPECTFULLY submitted this 25<sup>th</sup> day of March, 2020.

JONATHAN L. MEYER  
Lewis County Prosecuting Attorney

A handwritten signature in blue ink, appearing to be 'SIB', written over a horizontal line.

by: \_\_\_\_\_  
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**LEWIS COUNTY PROSECUTORS OFFICE**

**March 25, 2020 - 11:21 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 53719-2  
**Appellate Court Case Title:** State of Washington, Respondent v Sean Cole Morgan, Appellant  
**Superior Court Case Number:** 19-1-00237-3

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