

**FILED**

DEC 04, 2015

Court of Appeals  
Division III  
State of Washington

No. 33270-5-III

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION III

STATE OF WASHINGTON,  
Plaintiff/Respondent,

vs.

ESTEBAN JOEL FLORES,  
Defendant/Appellant.

APPEAL FROM THE WALLA WALLA COUNTY SUPERIOR COURT  
JUVENILE DEPARTMENT  
Honorable M. Scott Wolfram, Judge

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REPLY BRIEF OF APPELLANT

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**A. ARGUMENT IN REPLY TO STATE’S RESPONSE**

**1. A court lacks statutory authority to impose local sanctions upon a conviction for disturbing school activities where RCW 28A.635.030 specifies the penalty shall be a fine no more than fifty dollars.**

Mr. Flores relies upon his Brief of Appellant to address this issue. Brief of Appellant at 4–13 and Appendix A.

**2. The imposition of \$110 in court costs in a juvenile disposition is not authorized by statute.**

The state responds, “Juvenile court may impose court costs. RCW 13.40.192. Mr. Flores’ argument fails.” Brief of Respondent at 15. In relevant part, the statute provides: “If a juvenile is ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, court costs, and restitution, the money judgment remains enforceable for a period of ten years.” RCW 13.40.192(1). The provision, which merely addresses enforceability of a money judgment, does not provide authority to impose court costs against a juvenile offender. The state does not cite any statute granting such authority.

RCW 13.04.160 provides that “No fees shall be charged or collected by any officer or other person for filing petition, serving

summons, or other process under this chapter.” The juvenile court was not authorized to impose the \$110 filing fee as a court cost.

In his opening brief, appellant inadvertently cited the current version of RCW 36.18.020(h), which reads in part: “[u]pon conviction . . . , *an adult* defendant in a criminal case shall be liable for a fee of two hundred dollars.” Laws of 2015, Ch.265 § 28 (effective July 24, 2015). The prior version applied to “a defendant”, and was in effect at the time of Mr. Flores’ February 26, 2015 disposition. However, RCW 13.04.160 was also in effect at the time of his disposition and clearly states legislative intent that court costs not be assessed against a juvenile offender. Accord, Laws of 2015, Ch.265 § 5 (effective July 24, 2015) (“Cities, towns, and counties may not impose any legal financial obligations, fees, fines, or costs associated with juvenile offenses unless there is express statutory authority for those legal financial obligations, fees, fines, or costs.”).

“ ‘[C]osts are the creature of statute’ ”; there is “ ‘no inherent power in the courts to award costs’ ” absent express statutory authority.” *State v. Sizemore*, 48 Wn. App. 835, 839, 741 P.2d 572, 574 (1987), citing *Pierce County v. Magnuson*, 70 Wash. 639, 641, 127 P. 302 (1912). In the absence of express statutory authority allowing imposition of court costs, the costs must be stricken.

**B. CONCLUSION**

For the reasons stated here and in the Brief of Appellant, the matter should be remanded for resentencing.

Respectfully submitted on December 4, 2015.

/s/ Susan Marie Gasch  
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PROOF OF SERVICE (RAP 18.5(b))

I, Susan Marie Gasch, do hereby certify under penalty of perjury that on December 4, 2015, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of reply brief of appellant:

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