

**FILED**  
**Dec 15, 2016**  
Court of Appeals  
Division III  
State of Washington

NO. 34173-9-III  
COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION III

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**STATE OF WASHINGTON,**

Plaintiff/Respondent,

V.

**PATRICK GALE WILSON,**

Defendant/Appellant.

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**REPLY BRIEF**

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## ARGUMENT

The State misinterprets the current state of the law as it pertains to legal financial obligations (LFOs).

Initially, the State claims that Mr. Wilson has no right of appeal under RAP 2.5 (a).

The proper analysis is set out in *State v. Shirts*, 195 Wn. App. 849 (2016).

The *Shirts* Court overruled *State v. Mahone*, 98 Wn. App. 342, 989 P.2d 583 (1999), finding that Mr. Shirts was an aggrieved party whose petition to remit LFOs under RCW 10.01.160 (4) was appealable based upon the case of *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015).

Moreover, the trial court's denial of remission is founded upon a clearly erroneous basis. The ruling violates RCW 10.01.160 (4) and existing caselaw.

... [T]he defendant's motion to remit his legal financial obligations is denied. The proper time for the defendant to file a motion to terminate or modify his legal financial obligations is after he has been released from prison.

(CP 13)

The State recognizes that remission may be requested at any time. However, then the State's argument departs from commonsense and maintains that since no collection action has occurred Mr. Wilson's petition was untimely. The inconsistency is apparent.

Mr. Wilson presented documentation to the Court outlining his inability to pay due to loss of his social security disability payments. Those payments will only be reinstated when he is released from custody. He has no other source of income.

In *Richland v. Wakefield*, 186 Wn.2d 596, 609 (2016) the court stated:

... [W]e hold that federal law prohibits courts from ordering defendants to pay LFOs if the person's only source of income in social security disability.

The State fails to even address the *Wakefield* case in its brief.

Furthermore, the State may have been unaware of *State v. Shirts*, *supra* when it filed its brief. The *Shirts* Court noted at 860:

Here, Shirts filed his petitions, with supporting affidavits and other filings, asserting that his LFOs imposed "sever[e] hardship" upon him and his family.... At that point, the statute requires the superior court to determine whether Shirts had made a satisfactory showing of "manifest hardship"... But the superior court did not do so. Instead,

**the superior court denied the motion as untimely because the State had not sought to collect.** The superior court, by failing to exercise its discretion, abused its discretion.

(Emphasis supplied.)

Mr. Wilson otherwise relies upon the argument contained in his original brief and urges the court to grant his appeal and direct remission of the non-mandatory LFOs.

DATED this 15th day of December, 2016.

Respectfully submitted,

s/ Dennis W. Morgan

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**NO. 34173-9-III**

**COURT OF APPEALS**

**DIVISION III**

**STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	
	)	BENTON COUNTY
Plaintiff,	)	NO. 09 1 01031 9
Respondent,	)	
	)	
v.	)	<b>CERTIFICATE OF SERVICE</b>
	)	
PATRICK GALE WILSON,	)	
	)	
Defendant,	)	
Appellant.	)	
	)	

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I certify under penalty of perjury under the laws of the State of Washington that on this 15th day of December, 2016, I caused a true and correct copy of the *REPLY BRIEF* and to be served on:

COURT OF APPEALS, DIVISION III  
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E-FILE

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E-FILE

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