

34656-1-III

COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON

---

STATE OF WASHINGTON,

Respondent,

v.

SYLVESTER CANTU LOPEZ, SR.,

Appellant.

---

DIRECT APPEAL  
FROM THE SUPERIOR COURT  
OF WALLA WALLA COUNTY

---

RESPONDENT'S BRIEF

---

Respectfully submitted:



by: Teresa Chen, WSBA 31762  
Deputy Prosecuting Attorney

P.O. Box 5889  
Pasco, Washington 99301  
(509) 545-3561

TABLE OF CONTENTS

|   | Page No. |
|---|----------|
| I. <u>IDENTITY OF RESPONDENT</u> .....  | 1        |
| II. <u>RELIEF REQUESTED</u> .....   | 1        |
| III. <u>ISSUES</u> .....  | 1        |
| IV. <u>STATEMENT OF THE CASE</u> .....  | 2        |
| V. <u>ARGUMENT</u> .....  | 4        |
| A. <u>The Court Did Not Abuse Its Discretion<br/>        In Finding the LFO's Did Not Impose<br/>        A Manifest Hardship On The Defendant<br/>        Or His Immediate Family</u> .....         | 4        |
| B. <u>The Court Did Not Violate Due Process<br/>        By Denying The Defendant's Motion To Remit</u> .....  | 11       |
| C. <u>RAP 14.2 Does Not Categorically Prohibit<br/>        The Imposition Of Costs On A Criminal Defendant<br/>        Who Is Indigent For Purposes Of Appointment<br/>        Of Counsel</u> ..... | 14       |
| D. <u>If The State Substantially Prevails On Appeal,<br/>        The Court Should Impose Costs</u> .....  | 18       |
| VI. <u>CONCLUSION</u> .....   | 18       |

TABLE OF AUTHORITIES

State Cases

Page No.

*City of Richland v. Wakefield*,  
186 Wn.2d 596, 380 P.3d 459 (2016)..... 6, 7

*Matter of Flippo*,  
187 Wn.2d 106, 385 P.3d 128 (2016)..... 13

*State v. Blank*,  
131 Wn.2d 230, 930 P.2d 1213 (1997)..... 12, 13

*State v. Blazina*,  
182 Wn.2d 827, 344 P.3d 680 (2015)..... 8

*State v. Cobos*,  
182 Wn.2d 12, 338 P.3d 283 (2014)..... 2

*State v. Crook*,  
146 Wn. App. 24, 189 P.3d 811 (2008)..... 8, 13, 14

*State v. Curry*,  
118 Wn.2d 911, 829 P.2d 166 (1992)..... 11, 12

*State v. Lopez*,  
107 Wn. App. 270, 27 P.3d 237 (2001)..... 2

*State v. Lopez*,  
147 Wn.2d 515, 55 P.3d 609 (2002)..... 2

*State v. Shirts*,  
195 Wn. App. 849, 381 P.3d 1223 (2016)..... 4, 5, 6, 8

Statutes

Page No.

|                           |             |
|---------------------------|-------------|
| RCW 10.01.160(3).....     | 8           |
| RCW 10.01.160(4).....     | 4, 8, 9, 10 |
| RCW 10.01.170 .....       | 4           |
| RCW 72.09.015(15).....    | 14          |
| RCW 9.94A.030(46).....    | 3           |
| RCW 9.94A.729(3)(b) ..... | 3           |

## **I. IDENTITY OF RESPONDENT**

The State of Washington, represented by the Walla Walla County Prosecutor, is the Respondent herein.

## **II. RELIEF REQUESTED**

Respondent asserts no error occurred in the denial of the Appellant's motion to remit LFO's.

## **III. ISSUES**

1. Did the superior court abuse its discretion in denying the motion to remit LFO's where the inmate failed to satisfy the court that the LFO's will impose manifest hardship on him or his immediate family?
2. Does the superior court's application of a constitutional statute violate due process where no collection is being made and where no sanctions are being threatened?
3. Can the language in RAP 14.2, which sets the standard as "ability to pay," be interpreted to prohibit the imposition of costs against offenders who are appointed counsel?
4. Should costs be imposed if the State substantially prevails on appeal?

#### **IV. STATEMENT OF THE CASE**

In May 2000, the Defendant Sylvester Cantu Lopez, Sr. was convicted by jury of two counts of assault in the first degree, two counts of assault in the second degree, and one count of unlawful possession of a firearm and initially received a sentence of life without the possibility of parole. CP 9; *State v. Lopez*, 147 Wn.2d 515, 518-19, 55 P.3d 609 (2002); *State v. Lopez*, 107 Wn. App. 270, 273, 27 P.3d 237 (2001). Four appeals and three personal restraint petitions followed.

- 19373-0-III/71606-4 (direct appeal from jury verdict and LWOP sentence) - *State v. Lopez*, 147 Wn.2d 515, 518-19, 55 P.3d 609 (2002); *State v. Lopez*, 107 Wn. App. 270, 273, 27 P.3d 237 (2001).
- 21797-3-III (appeal from resentencing) – mandate 1/11/05
- 23489-4-III (appeal of CrR 7.8 motion) – mandate 8/24/06
- 79424-3 (PRP 1) – certificate of finality 4/5/07
- 79912-1 (PRP 2) – certificate of finality 11/26/07
- 84709-6 (PRP 3) – certificate of finality 8/17/11
- 30659-3-III/88947-3 (appeal of CrR 7.8 motion) – order terminating review 10/2/13

His sentence was amended to 297 months under the “no second chance rule.” CP 51. That rule has since been superseded by statute. *State v. Cobos*, 182 Wn.2d 12, 15, 338 P.3d 283, 284 (2014).

On July 20, 2016, the Defendant filed a motion to modify his LFO’s. CP 99-102. He requested the court vacate the LFO’s or waive interest. CP 101. The motion attached a document showing an LFO balance of \$15,703.37.

CP 102. He noted that the superior court could not have anticipated the appellate costs that would accumulate when it made its finding of ability to pay and imposed a mere \$778.69 in LFO's at the sentencing hearing. CP 100. He noted that as a long-time inmate, he remains indigent. CP 101. He argued that he is unlikely to find work paying more than minimum wage due to his education, ex-felon status, and projected age<sup>1</sup> upon release. CP 101.

On July 25, 2016, the court denied the motion, finding that:

1. Mandatory LFO's cannot be waived.
2. The LFO's did not impose a manifest hardship on the Defendant or his family.
3. The Defendant could renew his petition upon release from confinement.
4. The Defendant could petition for waiver of accrued interest after he had paid off the principal.

CP 103. On August 8, 2016, after the court's order had been entered, the Defendant filed a "Reply." CP 105-10. He argued that his LFO's will "continue to grow with no end in sight." CP 106. He anticipates that he will be

---

<sup>1</sup> The Defendant born August 1, 1958 is serving a sentence of 297 months on charges filed in the year 2000. Under RCW 9.94A.729(3)(b), the Defendant is eligible to earn a reduction of up to 15% of his sentence. RCW 9.94A.030(46) (assault in the first degree is a "serious violent offense"). In other words, he may be released after serving 21 years. He would be 63.

in his sixties upon release, and intends to apply for public assistance. CP 106 (social security, food stamps, and other senior citizen benefits).

In this fifth appeal, the Defendant challenges the denial of his motion to modify and/or remit LFO's.

## V. ARGUMENT

### A. THE COURT DID NOT ABUSE ITS DISCRETION IN FINDING THE LFO'S DID NOT IMPOSE A MANIFEST HARDSHIP ON THE DEFENDANT OR HIS IMMEDIATE FAMILY.

The Defendant's motion is governed by RCW 10.01.160(4):

A defendant who has been ordered to pay costs and who is not in contumacious default in the payment thereof may at any time petition the sentencing court for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

As the petitioner, the Defendant bears the burden of proving manifest hardship to the superior court's satisfaction. *State v. Shirts*, 195 Wn. App. 849, 860, 381 P.3d 1223 (2016) (the court determines "whether the *defendant* made a satisfactory showing"). The court found that "requiring payment of the legal

financial obligations by the defendant *will not impose a manifest hardship*<sup>2</sup> on the defendant or the defendant's immediate family." CP 103.

The complaint is to the form of the court's ruling. The Defendant believes the order should have more words. BOA at 5 (describing the two-page, four-point order as "a one-sentence ruling"). The Defendant argues that the court's determination was not "substantive" or "meaningful" and did not satisfy the statute. Brief of Appellant (BOA) at 5-6. He provides no authority or definition for this argument. Insofar as he relies on *State v. Shirts*, he finds no support in that opinion.

In *State v. Shirts*, the inmate defendant made a motion to remit, arguing that his "LFO's were causing him to be denied transitional classes and classification advances in the Department of Corrections (DOC)." *State v. Shirts*, 195 Wn. App. at 852. The Defendant requested to be transported for a hearing. *State v. Shirts*, 195 Wn. App. at 853. The superior court denied the motions for failure "to allege or provide evidence that Clark County is attempting or seeking enforcement/collection of Legal Financial Obligations at this time." *Id.* *Shirts* appealed. The court of appeals held that:

- he was aggrieved under RAP 3.1, because he provided evidence that he

---

<sup>2</sup> The Defendant claims it "is, at best, unclear" whether the court made a manifest hardship determination. BOA at 8-9. There is nothing unclear about it.

was denied access to transitional classes and classification advances due to outstanding LFO's;

- it was error to deny the motion *on the basis that* there was no ongoing collection; and
- no evidentiary hearing was required.

*State v. Shirts*, 195 Wn. App. at 857. Because the lower court had not reached the question of manifest hardship, the matter was remanded for the lower court to determine whether Shirts had made a satisfactory showing. *State v. Shirts*, 195 Wn. App. at 860.

Nowhere does this opinion state how many sentences must be included in a ruling. Nowhere does it state the court must do more than determine whether it was satisfied that the defendant had shown manifest hardship. It only states that, where the issue was not reached, it would be remanded for the lower court to reach it.

Nor does the Defendant's discussion of *City of Richland v. Wakefield*, 186 Wn.2d 596, 380 P.3d 459 (2016) shed any light in this case. BOA at 8-9. He notes that the opinion admonishes judges not to set payment schedules with such small payments such that interest accumulates and becomes unmanageable. BOA at 8 (citing *Wakefield*, 186 Wn.2d at 607). But first, the

instant case does not discuss the payment schedule. And second, Walla Walla County does not collect interest.

The Defendant mentions the GR 34 discussion in *Wakefield*. BOA at 8. This also has no relevance here. *Wakefield* reiterated the identical language in *Blazina* on this topic. *Wakefield*, 186 Wn.2d at 606. *Blazina* recommended courts look to the GR 34 comment for guidance. *State v. Blazina*, 182 Wn.2d at 838. In determining indigency for purposes of waiving filing fees in civil matters, the courts consider whether a person receives assistance from a needs-based, means-tested assistance program. For LFO purposes, the fact of public assistance is not an end to the inquiry, but it can be instructive. But the Defendant, unlike *Wakefield*, was not on public assistance.

*Wakefield* was not incarcerated at the time that she requested remission. The public assistance she was receiving was not enough to meet her basic needs at a bare bones level. *Wakefield*, 186 Wn.2d at 602. The Defendant, on the other hand, is having his basic needs fully met. The State provides him all his meals; it pays all his rent; and it provides medical care without co-pays.

The Defendant argues that the court is required to make an individualized inquiry in determining a remission petition. BOA at 7-8, (citing

*State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015)). This is false. First, this contradicts *Shirts*, which explains that no hearing is required. *See also State v. Crook*, 146 Wn. App. 24, 26, 189 P.3d 811 (2008) (rejecting the claim that it was error to deny the motion without a hearing). If there is no hearing, there can be no inquiry.

Asking us to interpret the phrase: “[i]f it appears to the satisfaction of the court” to mean an evidentiary hearing must be held would require us to interpret, or add language to, an unambiguous statute, contrary to the rules of statutory interpretation. RCW 10.01.160(4); *Thorne*, 129 Wash.2d at 762–63, 921 P.2d 514 (holding that appellate courts do not engage in judicial interpretation of an unambiguous statute). If the superior court is able to make its “manifest hardship” determination on the pleadings alone, an evidentiary hearing would be superfluous. On the other hand, if the superior court reviews the pleadings and believes an evidentiary hearing would be instructive, the statute does not prohibit an evidentiary hearing.

*State v. Shirts*, 195 Wn. App. at 860–61.

Second, *Blazina* addressed the imposition statute, not the remission statute. ***At the sentencing hearing***, when the superior court is making a decision about whether to order costs and how much to impose, the court shall “take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.” RCW 10.01.160(3). ***After*** sentencing, when the defendant petitions for remission, the court has no duty to

inquire. RCW 10.01.160(4). The burden falls upon the party seeking to modify or vacate a valid court order to provide evidence. The court's only duty is to decide whether it is satisfied by what the defendant has produced.

Here, the court made that decision. It decided that there was no manifest hardship. This decision was reasonable and not an abuse of discretion. The Defendant made a bald allegation of hardship. A bald allegation of hardship cannot satisfy the court that criminal fines and costs, imposed after a finding beyond reasonable doubt of criminal liability, should be remitted. The Defendant must "satisfy" the court of his claim.

The Defendant failed to prove in his motion that the LFO's currently impose a manifest hardship on him. Nor can he. The Defendant is serving a 297 month sentence. The LFO's do not deprive him of food, shelter, or medical care. The State is providing him with all of this. The Defendant did not prove, much less allege, that he is receiving income as a prisoner upon which his family relies. They do not. He did not even prove he has a family. In the Report as to Continued Indigency, the Defendant acknowledges that his children are grown.

The Defendant argues the court should have been satisfied by his self-serving claim as to his future prospects. BOA at 9. He says when he is in his

60's and no longer incarcerated, he expects it will be hard to find employment, and that he expects he will go on public assistance. BOA at 6, 9. A defendant's self-serving assertions are not the standard, nor should they be the standard. This assertion, in particular, does not prove current manifest hardship. It does not even prove future manifest hardship. It proves nothing at all. The Defendant himself cannot know what waits for him after 297 months incarceration. When he is released, if circumstances are indeed hard, he will then be able to manifestly demonstrate this. He cannot do so now. The court does not abuse its discretion because it is dissatisfied with the Defendant's self-serving, bleak predictions.

The Defendant claims that the court "violated" RCW 10.01.160(4) by explaining that he has the right to petition for relief after his release from confinement. BOA at 9-10. The court does not "violate" the law by observing what is written in the statute. This is in fact the law. Criminal defendants have the right to petition for relief at any time. When they do so, to obtain relief they must show manifest hardship. The Defendant cannot begin to show manifest hardship until after his release from incarceration, because the collection of LFO's does not threaten his basic needs which are being provided for by the DOC.

His claim is that the superior court could not have anticipated how frivolously litigious he would be in the ensuing years. (Costs are only imposed when the opposing party substantially prevails. RAP 14.2.) This is not a legal basis for relief.

B. THE COURT DID NOT VIOLATE DUE PROCESS BY DENYING THE DEFENDANT'S MOTION TO REMIT.

The Defendant argues that the court's discretionary decision to deny his insufficient and unsubstantiated motion to vacate multiple courts' previous orders violated his due process. The constitutionality of the statute is a decided matter. *State v. Curry*, 118 Wn.2d 911, 918, 829 P.2d 166 (1992).

The [United States Supreme] Court implicitly held that several features of the Oregon statute were constitutionally required. This court applied *Fuller* in *State v. Barklind*, 87 Wash.2d 814, 557 P.2d 314 (1976). There, we delineated the salient features of a constitutionally permissible costs and fees structure. The following requirements must be met:

1. Repayment must not be mandatory;
2. Repayment may be imposed only on convicted defendants;
3. Repayment may only be ordered if the defendant is or will be able to pay;
4. The financial resources of the defendant must be taken into account;
5. A repayment obligation may not be imposed if it appears there is no likelihood the defendant's indigency will end;

6. The convicted person must be permitted to petition the court for remission of the payment of costs or any unpaid portion;

7. The convicted person cannot be held in contempt for failure to repay if the default was not attributable to an intentional refusal to obey the court order or a failure to make a good faith effort to make repayment.

*State v. Eisenman*, 62 Wash.App. 640, 644 n. 10, 810 P.2d 55, 817 P.2d 867 (1991) (citing *Barklind*). In *Barklind*, the court noted that these requirements were met, and that the Washington statute was, therefore, constitutional. 87 Wash.2d at 818, 557 P.2d 314. The court stated:

We fail to perceive the constitutional deficiency in the system which allows the trial court discretion to grant probation and in effect, as a condition, tell the defendant that he should recognize some obligation to society for the crime which he voluntarily committed.

*Barklind*, at 816, 557 P.2d 314.

*State v. Curry*, 118 Wn.2d at 915–16.

The Defendant argues that the superior courts are not applying the statute in such a way as to pass constitutional muster. BOA at 12-13 (citing *State v. Blank*, 131 Wn.2d 230, 242, 930 P.2d 1213 (1997)).

... the Constitution does not require an inquiry into ability to pay at the time of sentencing. Instead, the relevant time is the point of collection *and* when sanctions are sought for nonpayment. If at that time defendant is unable to pay through no fault of his own, *Bearden* and like cases indicate constitutional fairness principles are implicated.

*State v. Blank*, 131 Wn.2d at 242 (emphasis added).

The Defendant complains that the accrual of interest is a “mechanism of enforcement.” BOA at 13.

First, Defendant’s counsel is aware from his representation in *Matter of Flippo*, 187 Wn.2d 106, 385 P.3d 128 (2016) and the record attached thereto (92166-6 Respondent’s Additional Authorities filed 10/26/2016) that the Walla Walla County Clerk does not collect interest on LFO’s.

Second, a mere accounting program is not what is meant by enforcement of the debt. Under the constitutional test, the courts may not sanction defendants without first determining a willful failure to pay as compared with mere inability to pay. *State v. Blank*, 131 Wn.2d at 242. The Defendant is neither being collected upon, nor sanctioned at this time. He is not being collected upon, because DOC mandatory deductions from inmate are not collection actions. *State v. Crook*, 146 Wn. App. 24, 27-28, 189 P.3d 811 (2008) (“Corrections deductions from inmate wages for repayment of legal financial obligations are not collection actions by the State requiring inquiry into a defendant’s financial status.”) And the State is not threatening to imprison him for failing to pay his LFO’s. It would serve no purpose to threaten an already incarcerated person with incarceration. The Defendant is

currently serving his sentence, not a probation violation or contempt sentence.

The Defendant asks this Court to overrule *State v. Crook* as making “no sense at all.” BOA at 14-15. *State v. Crook* is an opinion of this Division that has been cited in 32 opinions over nine years and never questioned on this point. The Defendant quarrels with the definition of indigency in RCW 72.09.015(15) which requires the DOC to always leave at least a ten-dollar balance in an inmate’s account. This, of course, is in the context where the DOC provides for all an inmate’s essential needs, such that deductions cannot result in manifest hardship.

Regardless of whether the courts reinterpret “collection,” (1) there is no threat of sanction at this time, and (2) there is no duty to make an individual inquiry *after* imposition. There is no constitutional violation.

C. RAP 14.2 DOES NOT CATEGORICALLY PROHIBIT THE IMPOSITION OF COSTS ON A CRIMINAL DEFENDANT WHO IS INDIGENT FOR PURPOSES OF APPOINTMENT OF COUNSEL.

The Defendant claims that appellate costs may not be imposed on a criminal defendant if he or she has been found indigent for purposes of appointment of counsel. Motion on Appellate Costs (MOAC) (citing RAP

14.2). This is not what the rule says.

Normally, the commissioner or clerk “will award costs” to the substantially prevailing party. RAP 14.2. However, there is an exception when (1) the losing party is the criminal defendant and (2) the offender lacks the current or likely future ability to pay. Therefore, under the amended rule, the court considers ability to pay in assessing appellate costs. *But see* MOAP at 5-8 (misrepresenting the court’s practice as disregarding ability to pay). Where an offender’s ability to pay is marginal, the court has discretion. It may or may not impose appellate costs in full or in part. Under the plain language of the rule, the standard for awarding costs is “ability to pay,” not indigency for purposes of appointment of counsel.

The rule discusses indigency, but not for the point asserted by the Defendant. The rule states that a finding of indigency remains in effect unless a preponderance of the evidence determines the offender’s financial circumstances have significantly improved since the last determination of indigency. The rule also states that in the case of an indigent offender, “an award of costs will apportion the money owed between the county and the State.” It does not say, as the Defendant seems to believe, that indigency for the purposes of appointment of counsel prohibits an award of appellate costs

against an offender.

The Defendant argues that imposing attorney fees on an indigent offender is a conflict of interest. MOAP at 3. On the contrary, when the courts refuse to impose costs of any kind on a criminal defendant due to his financial circumstances, it unacceptably induces appeals, contrary to ABA Criminal Justice Standard 21-2.3, *ABA Standards for Criminal Justice: Prosecution and Defense Function*, 3d ed. (1993).

**Standard 21-2.3. Unacceptable inducements and deterrents to taking appeals**

(a) Administration of a system of elective appeals presupposes that the parties with the right to appeal will choose to do so only when they, with advice of counsel, have identified grounds on which substantial argument can be made for favorable action by the appellate court. The system should not contain factors that induce or deter appeals for other reasons.

(b) Examples of unacceptable inducements for defendants to appeal are:

(i) absence of any risk that a financial obligation may be imposed on an appellant who pursues a frivolous appeal;

...

Defenders should exercise client control, explaining both the merits of their claims and the risks of appeal, so that clients can make an informed decision. And the Court should consider how its decision on costs in this case and other cases affect the choices of criminal defendants to file appeals,

regardless of merit. Cases like this (an incarcerated person's claim of manifest hardship even as shelter, food, clothing, and medical care are assured) are devoid of merit and should be deterred.

The Defendant claims that a public defender "is best served by losing his clients' appeals." MOAP at 4. This is not rational, and undermines the credibility of the entire argument. A public defender is paid by the State regardless.

But assuming *arguendo* that a defender's payment is contingent on the outcome of the case, then the attorney's interests are squarely aligned with the clients. If a defender wins, the State pays the costs of appeal. If a defender loses, he must rely on an indigent client to pay the costs. At best, that payment is delayed until release from incarceration and then comes in under a payment schedule of a few dollars at a time. And even then, payment is subject to remission at any time.

The 2016 general order re. Request to Deny Cost Award is consistent with RAP 14.2. The general order requires the criminal defendant to provide the information that only the defendant possesses and which is necessary for a determination of ability to pay. The State has no ability to access a criminal defendant's private health records, employment records, or tax returns where

there is no nexus to a crime.

D. IF THE STATE SUBSTANTIALLY PREVAILS ON APPEAL, THE COURT SHOULD IMPOSE COSTS.

The Defendant argues that he lacks the ability to pay, because he has accrued LFO's<sup>3</sup> in this case through his excessive, litigious activities. MOAP at 8. To agree with this argument would be to encourage frivolous appeals.

The Defendant argues that he lacks the ability to pay, because he will be in his early sixties when he is released from incarceration and only has experience working in a laundry. MOAP at 8. This does not demonstrate an inability to pay.

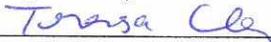
He has not established an inability to pay. Therefore, costs should be imposed if the State substantially prevails on appeal.

## VI. CONCLUSION

Based upon the forgoing, the State respectfully requests this Court affirm the lower court's denial of the motion for remission.

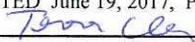
DATED: June 8, 2017.

Respectfully submitted:

  
\_\_\_\_\_  
Teresa Chen, WSBA#31762  
Deputy Prosecuting Attorney

---

<sup>3</sup> In the Report as to Continued Indigency, it is apparent the Defendant has no other obligations outside of his LFO's. He has no other debt, and his children are grown.

|   |   |
|---|---|
| <p>Kevin March<br/>&lt;MarchK@nwattorney.net&gt;<br/>&lt;nielsene@nwattorney.net&gt;<br/>&lt;sloanej@nwattorney.net&gt;</p> | <p>A copy of this brief was sent via U.S. Mail or via this Court's e-service by prior agreement under GR 30(b)(4), as noted at left. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.<br/>DATED June 19, 2017, Pasco, WA<br/><br/><b>Original filed at the Court of Appeals, 500 N. Cedar Street, Spokane, WA 99201</b></p> |
|---|---|

**June 19, 2017 - 9:35 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 34656-1  
**Appellate Court Case Title:** State of Washington v. Sylvester C. Lopez, Sr.  
**Superior Court Case Number:** 00-1-00013-5

**The following documents have been uploaded:**

- 346561\_Briefs\_20170619093352D3754274\_2124.pdf  
This File Contains:  
Briefs - Respondents  
*The Original File Name was 346561 BOR.pdf*

**A copy of the uploaded files will be sent to:**

- MarchK@nwattorney.net
- jnagle@co.walla-walla.wa.us
- nielsene@nwattorney.net
- sloanej@nwattorney.net

**Comments:**

PLEASE NOTE, THIS IS THE CORRECTED PDF. PREVIOUS SCAN WAS MISSING PAGE 14. THANK YOU, DARNELL.

---

Sender Name: Teresa Chen - Email: tchen@co.franklin.wa.us  
Address:  
PO BOX 5889  
PASCO, WA, 99302-5801  
Phone: 509-545-3543

**Note: The Filing Id is 20170619093352D3754274**