

FILED
Court of Appeals
Division III
State of Washington
11/9/2018 10:37 AM

NO. 35035-5-III

COURT OF APPEALS
STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Plaintiff/Respondent,

V.

ROY HOWARD MURRY,

Defendant/Appellant.

SUPPLEMENTAL BRIEF OF APPELLANT

Dennis W. Morgan WSBA #5286
Attorney for Appellant
P.O. Box 1019
Republic, Washington 99166
(509) 775-0777

TABLE OF CONTENTS

TABLE OF AUTHORITIES	
TABLE OF CASES	ii
OTHER AUTHORITIES	ii
ASSIGNMENT OF ERROR	1
ISSUE RELATING TO ASSIGNMENT OF ERROR	1
ARGUMENT	1

TABLE OF AUTHORITIES

CASES

State v. Ramirez, slip opinion 95249-3 (9/20/2018) 1, 2

OTHER AUTHORITIES

ESHB 1783, LAWS OF 2018.....1

ASSIGNMENT OF ERROR

1. The trial court erroneously imposed the \$200.00 filing fee when it sentenced Roy Howard Murry on January 12, 2017. (CP 2575)

ISSUE RELATING TO ASSIGNMENT OF ERROR

1. Even though the trial court was unaware that the Legislature was going to enact a new statute effective June 7, 2018, did the enactment of that statute result in the need to relieve Mr. Murry of the obligation to pay a filing fee?

ARGUMENT

On September 20, 2018 the State Supreme Court entered its opinion in *State v. Ramirez*, slip opinion 95249-3.

Counsel was aware of the enactment of ESHB 1783, **LAWS OF 2018**, but was unaware that the Supreme Court would rule that it applied prospectively.

On November 1, 2018 Mr. Murry filed a Motion to File Supplemental Brief. The Court of Appeals granted that Motion on November 5, 2018.

The following excerpt from the *Ramirez* decision supports Mr. Murry's position that he should be relieved of the obligation to pay a court filing fee:

After we granted review, the legislature enacted House Bill 1783 which amends former RCW 10.01.160 (3) to categorically prohibit the imposition

of any discretionary costs on indigent defendants. Laws of 2018, ch. 269, § 6 (3). House Bill 1783 also amends the criminal filing fee statute, former RCW 36.18.020 (2)(h)(2015), to prohibit courts from imposing the \$200.00 filing fee on indigent defendants. Laws of 2018, ch. 269, § 17 (2)(h).

State v. Ramirez, slip opinion, p. 7.

The \$200.00 filing fee should be removed from the Judgment and Sentence.

DATED this 9th day of November, 2018.

Respectfully submitted,

s/ Dennis W. Morgan
DENNIS W. MORGAN WSBA #5286
Attorney for Defendant/Appellant.
P.O. Box 1019
Republic, WA 99166
(509) 775-0777
(509) 775-0776
nodblspk@rcabletv.com

NO. 35035-5-III

COURT OF APPEALS

DIVISION III

STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	SPOKANE COUNTY
Plaintiff,)	NO. 15 1 02422 2
Respondent,)	
)	
v.)	CERTIFICATE OF SERVICE
)	
ROY HOWARD MURRY,)	
)	
Defendant,)	
Appellant.)	
_____)	

I certify under penalty of perjury under the laws of the State of Washington that on this 9th day of November, 2018, I caused a true and correct copy of the *SUPPLEMENTAL BRIEF OF APPELLANT* to be served on:

COURT OF APPEALS, DIVISION III
Attn: Renee Townsley, Clerk
500 N Cedar St
Spokane, WA 99201

E-FILE

CERTIFICATE OF SERVICE

Spokane County Prosecuting Attorney
Attn: Brian O'Brien
bobrien@spokanecounty.org

E-FILE

Roy Howard Murry #396387
Washington State Penitentiary
1313 North 13th Avenue
Walla Walla, Washington 99362

U.S. MAIL

s/ Dennis W. Morgan
DENNIS W. MORGAN WSBA #5286
Attorney for Defendant/Appellant.
P.O. Box 1019
Republic, WA 99169
Phone: (509) 775-0777
Fax: (509) 775-0776
nodblspk@rcabletv.com

November 09, 2018 - 10:37 AM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 35035-5
Appellate Court Case Title: State of Washington v. Roy Howard Murry
Superior Court Case Number: 15-1-02422-2

The following documents have been uploaded:

- 350355_Briefs_20181109103639D3800219_8020.pdf
This File Contains:
Briefs - Appellants - Modifier: Supplemental
The Original File Name was Supplemental Brief of Appellant Murry.pdf

A copy of the uploaded files will be sent to:

- bobrien@spokanecounty.org
- lsteinmetz@spokanecounty.org
- scpaappeals@spokanecounty.org

Comments:

Sender Name: Dennis Morgan - Email: nodblspk@rcabletv.com

Address:

PO BOX 1019

REPUBLIC, WA, 99166-1019

Phone: 509-775-0777

Note: The Filing Id is 20181109103639D3800219