

FILED  
Court of Appeals  
Division III  
State of Washington  
11/15/2018 9:09 AM

NO. 35312-5-III

COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION III

---

**STATE OF WASHINGTON,**

Plaintiff/Respondent,

V.

**JOHN T. MELLGREN,**

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

OTHER AUTHORITIES

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 a \$200.00 filing fee when it sentenced John T. Mellgren on May 18, 2017.

## 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. Mellgren 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. Mellgren filed a Motion to File Supplemental Brief. The Court of Appeals granted that Motion on November 13, 2018.

The following excerpt from the *Ramirez* decision supports Mr. Mellgren'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 \$100.00 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 15th 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](mailto:nodblspk@rcabletv.com)

**NO. 36009-1-III**

**COURT OF APPEALS**

**DIVISION III**

**STATE OF WASHINGTON**

STATE OF WASHINGTON,	)
	) SPOKANE COUNTY
Plaintiff,	) NO. 16 1 04007 2
Respondent,	)
	)
v.	) <b>CERTIFICATE OF SERVICE</b>
	)
JOHN T. MELLGREN,	)
	)
Defendant,	)
Appellant.	)
_____	)

I certify under penalty of perjury under the laws of the State of Washington that on this 15th 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

Spokane County Prosecuting Attorney  
Attn: Brian O'Brien  
[SCPAAppeals@spokanecounty.org](mailto:SCPAAppeals@spokanecounty.org)

E-FILE

John T. Mellgren #399422  
Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam Bay, Washington 98326

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](mailto:nodblspk@rcabletv.com)

**November 15, 2018 - 9:09 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 35312-5  
**Appellate Court Case Title:** State of Washington v. John T. Mellgren  
**Superior Court Case Number:** 16-1-04007-2

**The following documents have been uploaded:**

- 353125\_Briefs\_20181115090844D3366776\_1788.pdf  
This File Contains:  
Briefs - Appellants - Modifier: Supplemental  
*The Original File Name was Supplemental Brief of Appellant Mellgren.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 20181115090844D3366776**