

FILED  
Court of Appeals  
Division III  
State of Washington  
4/2/2019 8:00 AM

NO. 35851-8-III

COURT OF APPEALS

STATE OF WASHINGTON

DIVISION III

---

**STATE OF WASHINGTON,**

Plaintiff/Respondent,

V.

**DOUGLAS DEAN SCYPHERS,**

Defendant/Appellant.

---

**ORIGINAL 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

ASSIGNMENT OF ERROR 1

ISSUE RELATING TO ASSIGNMENT OF ERROR 1

ARGUMENT 1

**TABLE OF AUTHORITIES**

**CASES**

*Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 l. Ed.2d 498 (1967)  
..... 1

*State v. Ramirez, slip opinion* 95249-3 ..... 1, 2

**OTHER AUTHORITIES**

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

**STATUTES**

RCW 36.18.020 (2)(h) ..... 2

## ASSIGNMENT OF ERROR

1. The trial court erroneously imposed a \$200.00 filing fee and a \$100.00 DNA fee when it sentenced Douglas Dean Scyphers on January 30, 2018.

### 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. Scyphers of the obligation to pay a filing fee and DNA fee?

## ARGUMENT

On September 13, 2018 Mr. Scyphers filed an *Anders*<sup>1</sup> brief. On September 20, 2018 the State Supreme Court entered its opinion in *State v. Ramirez*, slip opinion 95249-3.

The *Ramirez* case raises an issue which appellate counsel had not previously recognized at the time the *Anders* brief was filed. 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 October 11, 2018 Mr. Scyphers filed a Motion to File Supplemental Brief. The Court of Appeals granted that motion on October 15, 2018.

---

<sup>1</sup> *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed.2d 498 (1967)

The following excerpt from the *Ramirez* decision supports Mr. Scyphers'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.*

In addition to the amendment to RCW 36.18.020 (2)(h) the Supreme Court also addressed the DNA fee. It appears that Mr. Scyphers' prior felony history involved a federal offense as opposed to a state offense and thus the DNA fee was properly imposed.

DATED this 2nd day of April, 2019.

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. 35851-8-III**

**COURT OF APPEALS**

**DIVISION III**

**STATE OF WASHINGTON**

STATE OF WASHINGTON, )  
 ) SPOKANE COUNTY  
 Plaintiff, ) NO. 14 1 02950 1  
 Respondent, )  
 )  
 v. ) **CERTIFICATE OF SERVICE**  
 )  
 **DOUGLAS DEAN SCYPHERS,** )  
 )  
 Defendant, )  
 Appellant. )  
 \_\_\_\_\_ )

I certify under penalty of perjury under the laws of the State of Washington that on this 2nd day of April, 2019, I caused a true and correct copy of the *ORIGINAL 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'Brian  
[SCPAAppeals@spokanecounty.org](mailto:SCPAAppeals@spokanecounty.org)

E-FILE

Douglas Dean Scyphers #404358  
Coyote Ridge Correction Center  
PO Box 769  
Connell, Washington 99326

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)

**April 02, 2019 - 6:47 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 35851-8  
**Appellate Court Case Title:** State of Washington v. Douglas Dean Scyphers  
**Superior Court Case Number:** 14-1-02950-1

**The following documents have been uploaded:**

- 358518\_Briefs\_20190402064518D3168897\_8462.pdf  
This File Contains:  
Briefs - Appellants  
*The Original File Name was Original Brief of Appellant Scyphers.pdf*

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

- bobrien@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 20190402064518D3168897**