

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

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STATE OF WASHINGTON,

Respondent,

v.

ANTHONY RENE VASQUEZ,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT  
OF THE STATE OF WASHINGTON FOR GRANT COUNTY

The Honorable John M. Antosz

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REPLY BRIEF OF APPELLANT

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A. ARGUMENT IN REPLY

THIS COURT SHOULD REMAND TO THE TRIAL COURT FOR CORRECTION OF THE JUDGMENT AND SENTENCE AND NOT AWARD COSTS.

The State argues that “there is no confusion in the Judgment and Sentence” but concedes that “it would have been better to fill out the line for the actual number of months confined.” Brief of Respondent at 1. The States does not dispute that omission of the total number of months of confinement ordered by the trial court constitutes clerical error. This Court should therefore remand to the trial court to correct the judgment and sentence. *State v. Hayes*, 177 Wn. App. 801, 812, 312 P.3d 784 (2013).

Furthermore, the State does not dispute that Mr. Vasquez remains indigent and does not have the current or likely future ability to pay costs. Brief of Respondent at 1-2. Accordingly, this Court should exercise its discretion and not award costs if the State prevails on appeal. RAP 14.2.

B. CONCLUSION

For the reasons stated here and in appellant’s opening brief, this Court should remand for correction of the judgment and sentence and not impose appellate costs.

DATED this 18<sup>th</sup> day of March, 2019.

Respectfully submitted,

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**DECLARATION OF SERVICE**

On this day, the undersigned sent by email a copy of the document to which this declaration is attached to the Grant County Prosecutor's Office at [kburns@grantcountywa.gov](mailto:kburns@grantcountywa.gov) by agreement of the parties.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18<sup>th</sup> day of March, 2019.

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