

FILED
Court of Appeals
Division III
State of Washington
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NO. 36419-4-III

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

STATE OF WASHINGTON,

Respondent,

v.

IZAAC INNES,

Appellant.

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

The Honorable Julie M. McKay, Judge

AMENDED BRIEF OF APPELLANT

LISA E. TABBUT
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A. SUPPLEMENTAL ASSIGNMENT OF ERROR

The trial court erred in ordering interest accrual on non-restitution legal financial obligations.

B. SUPPLEMENTAL ISSUE PERTAINING TO ASSIGNMENT OF ERROR

Whether the trial court erred in ordering interest accrual on non-restitution legal financial obligations when the law prohibits it?

C. SUPPLEMENTAL STATEMENT OF THE CASE

In sentencing Mr. Innes, the court imposed the mandatory \$500 victim assessment. CP 257.

The court failed to strike the outdated interest accrual language from the judgment and sentence. CP 258.

D. ARGUMENT

Issue: The court must modify Mr. Innes' judgment and sentence to eliminate interest accrual on the non-restitution legal financial obligations.

The law prohibits interest accrual on Mr. Innes' non-restitution legal financial obligations.

In 2018, the legislature amended former RCW 10.82.090 to prohibit interest accrual on non-restitution LFOs as of June 7, 2018. Laws of 2018, ch. 269, § 1.

The court sentenced Mr. Innes on October 18, 2018, well after the amended law went into effect. See RP Sentencing 10/18/18; CP 252-62. At sentencing, the court failed to strike the following paragraph from the judgment and sentence:

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090.

CP 258. The court imposed a \$500 victim assessment fee pursuant to RCW 10.99.080. CP 257.

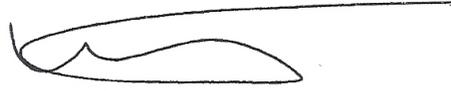
Because the court failed to strike the boilerplate interest language from the judgment and sentence, Mr. Innes is subject to improper interest accrual on the \$500 mandatory LFO.

Mr. Innes raises this issue for the first time on appeal. Illegal or erroneous sentences may be raised for the first time on appeal. *State v. Nitsch*, 100 Wn. App. 512, 519, 997 P.2d 1000 (2000). Remand to strike any accrued and accruing interest is required as its accrual was not legal on Mr. Innes' sentencing date. *State v. Ramirez*, 191 Wn.2d 732, 746-47, 426 P.3d 714 (2018).

E. CONCLUSION

On remand, the trial court should strike the interest accrual obligation imposed against Mr. Innes.

Respectfully submitted March 9, 2020.

A handwritten signature in black ink, appearing to read "Lisa E. Tabbut". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

LISA E. TABBUT/WSBA 21344
Attorney for Izaak Innes

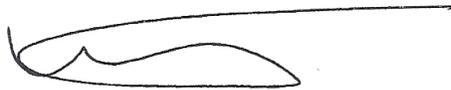
CERTIFICATE OF SERVICE

Lisa E. Tabbut declares as follows:

On today's date, I filed the Supplemental Brief of Appellant to (1) Spokane County Prosecutor's Office, at SCPAAppeals@spokanecounty.org; (2) the Court of Appeals, Division III; and (3) I mailed it to Izaak Innes/DOC#852077, Washington State Penitentiary, 1313 North 13th Avenue, Walla Walla, WA 99362.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed March 9, 2020, in Winthrop, Washington.

A handwritten signature in black ink, appearing to read 'Lisa E. Tabbut', with a long horizontal line extending to the right.

Lisa E. Tabbut, WSBA No. 21344
Attorney for Izaak Innes, Appellant

LAW OFFICE OF LISA E TABBUT

March 09, 2020 - 9:11 AM

Transmittal Information

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