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Court of Appeals
Division III
State of Washington
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No. 36689-8-III

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

STATE OF WASHINGTON,

Respondent,

v.

GLORIA R. REDMANN,

Appellant.

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

The Honorable Annette S. Plese

APPELLANT'S REPLY BRIEF

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A. INTRODUCTION

Appellant Gloria R. Redmann accepts this opportunity to reply to the State’s brief. Ms. Redmann requests that the Court refer to her opening brief for issues not addressed in this reply.

B. ARGUMENT IN REPLY

1. Whether the DOC supervision fees imposed as a condition of community custody are a cost.

This argument pertains to Issue 1, raised in Ms. Redmann’s opening brief. (Appellant’s Opening Brief, pgs. 2-4).

The State claims DOC supervision fees are not a “cost” pursuant to RCW 10.01.160(3) and thus the trial court did not err in imposing these fees. (State’s Brief, pgs. 4-5). However these fees have been recognized as discretionary costs. *State v. Lilly*, 2019 WL 6134572, at *1 (Wash. Ct. App. Nov. 18, 2019) (community supervision cost is discretionary); *see also* GR 14.1(a) (authorizing citation to unpublished opinions of the Court of Appeals filed on or after March 1, 2013, as nonbinding authority). Ms. Redmann requests this Court strike the DOC supervision fees.

2. Whether the defendant’s indigency precludes the imposition of a court cost not authorized by statute.

This argument pertains to Issue 2 raised in Ms. Redmann’s opening brief. (Appellant’s Opening Brief, pgs. 4-6).

The State argues this issue is barred from appellate review. (State’s Brief, pgs. 2-4). However, Ms. Redmann requests this Court exercise its discretion to review the merits of an LFO issue raised for the first time on appeal, as was done in *State v. Blazina*. *State v. Blazina*, 182 Wn.2d 827, 835, 344 P.3d 680 (2015); RAP 2.5(a).

The State asserts the record does not support the finding Ms. Redmann is indigent pursuant to RCW 10.101.010(3)(a)-(c). RCW 10.101.010(3)(d), notably, does define indigent persons as those unable to pay for counsel. However, Ms. Redmann also directs the Court to her motion and declaration in support of review at public expense. (CP 437-440). The declaration reflects Ms. Redmann owns no real estate, stocks, bonds, or notes, is not a beneficiary to a trust account, and owes significant debt on two motor vehicles, does not have income from interest or dividends, had only \$500 in checking, and was not employed. (CP 437-439). Ms. Redmann was sentenced to the term of 78 months and while incarcerated is unlikely to earn any significant income. (CP 428). Moreover, while Ms. Redmann indicated public assistance for veterans' disability and social security benefits, those sources of income were likely suspended or reduced while she was incarcerated. *See State v. Kinney*, 2017 WL 359102, at *6 (Wn. Ct. App. Jan. 24, 2017); *see also* GR 14.1(a) (authorizing citation to unpublished opinions of the Court of Appeals filed on or after March 1, 2013, as nonbinding authority)¹. Ms. Redmann is indigent as she could not meet the 125 percent or less of the current federal poverty level based on the significant reduced income. RCW 10.101.010(3)(c); Annual Update of the HHS Poverty Guidelines, 83 FR 2642-01 (2018).

Finally, if this Court determines the record is underdeveloped as to Ms. Redmann's indigency status, Ms. Redmann respectfully requests this Court remand for further clarification of her indigent status. *State v. LaFontaine*, 2019 WL 720916, at *6 (Wash. Ct. App. Feb. 20, 2019) (remanded to determine basis of indigency); *State v.*

¹ Explaining the reduction in veterans' benefits during incarceration.
<https://www.benefits.va.gov/BENEFITS/factsheets/misc/incarcerated.pdf>

Tate, 2019 WL 1643809, at *10 (Wash. Ct. App. Apr. 16, 2019) (same); *see also* GR 14.1(a) (authorizing citation to unpublished opinions of the Court of Appeals filed on or after March 1, 2013, as nonbinding authority).

Ms. Redmann requests this Court strike the \$200 filing fee; or, in the alternative, remand for determination of Ms. Redmann's indigency status.

C. CONCLUSION

Based upon the arguments set forth above and those set forth in Ms. Redmann's opening brief, her DOC supervision fees and \$200 filing fee should be stricken from the judgment and sentence.

Respectfully submitted this 20th day of December, 2019.

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/s/ Jill S. Reuter
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COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON) COA No. 36689-8-III
Plaintiff/Respondent)
vs.) Spokane Co. No. 16-1-04940-1
)
GLORIA R. REDMANN,) PROOF OF SERVICE
Defendant/Appellant)
_____)

I, Jill S. Reuter, assigned counsel for the Appellant herein, do hereby certify under penalty of perjury that on December 20, 2019, I deposited for mailing by U.S. Postal Service first class mail, postage prepaid, a true and correct copy of the Appellant's reply brief to:

Gloria Rae Redmann, DOC No. 414922
Washington Corrections Center for Women
9601 Bujacich Rd. NW
Gig Harbor, WA 98332-8300

Having obtained prior permission, I also served a copy on the Respondent at SCPAappeals@SpokaneCounty.org using the Washington State Appellate Courts' Portal.

Dated this 20th day of December, 2019.


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