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COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

PHILLIPPE ANTWAN BAKER, APPELLANT

APPEAL FROM THE SUPERIOR COURT
OF SPOKANE COUNTY

BRIEF OF RESPONDENT

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I. ISSUES PRESENTED

1. Whether RCW 9.94A.760(5)'s grant of unlimited jurisdiction for collecting legal financial obligations on offenses occurring after July 1, 2000, is never subject to expiration?
2. Whether the specific provisions in RCW 9.94A.760(5) prevail over the general provisions of RCW 6.17.020(4)?

II. STATEMENT OF THE CASE

On January 17, 2006, Phillippe A. Baker pled guilty in Spokane County Superior Court to the amended charge of second degree unlawful possession of a firearm. CP 1-14. Based on his criminal history, which included an adult conviction in 1999 for third degree assault with a sexual motivation enhancement and an adult conviction in 1998 for second degree robbery, Baker faced a standard range of 4-12 months incarceration. CP 3. At sentencing, the court imposed 12 months incarceration, a \$500.00 victim assessment fee and a \$200.00 court costs fee for a total of \$700.00 in legal financial obligations ("LFOs").¹ CP 4-5. The court set a monthly payment on the LFOs of \$25.00 per month commencing June 1, 2006. CP 5.

¹ The court also imposed 12 months' community custody. CP 8. However, this was stricken at the State's request upon discovering this conviction did not qualify for community custody. CP 15-16.

On February 1, 2011, Baker entered a payment agreement for outstanding LFOs in this matter. CP 23. On June 20, 2013, an order was entered re-establishing monthly payments after Baker failed to make payments as required by the February 1, 2011, agreement. CP 24-25.

On August 26, 2014, a noncompliance report was filed stating Baker failed to make any payments since the June 20, 2013, order was entered. CP 26-27. On January 28, 2015, another order was entered memorializing Baker's agreement to make the same monthly payments originally agreed upon in 2011. CP 35-36.

On February 15, 2018, the court suspended collection of Baker's LFOs based on his sworn declaration showing an inability to pay. CP 42. Baker was required to submit annual financial declarations to review the collection suspension. CP 42.

On May 10, 2019, Baker filed a motion for relief from his LFOs arguing the period to collect LFOs expired because 10 years passed after Baker's release from custody and the clerk did not seek an extension. CP 43-47. On May 22, 2019, the court granted Baker's motion. CP 62. On May 28, 2019, the State filed a brief requesting reconsideration. CP 63-65. On May 31, 2019, Baker filed a response brief. CP 66-69.

On June 7, 2019, the court granted the State's motion for reconsideration, finding *State v. Gossage*, 165 Wn.2d 1, 195 P.3d 525

(2008), and RCW 9.94A.760 grant the court jurisdiction over LFO payments until the obligation is satisfied. CP 70. The court found the State was not required to renew the judgment under RCW 6.17.020 for the court to retain jurisdiction. CP 70. Baker appeals.

III. ARGUMENT

RCW 9.94A.760(5) clearly and unambiguously grants the sentencing court jurisdiction to collect LFOs from an offender for life or until the LFOs are satisfied. There is no requirement to obtain extensions to retain the ability to enforce collection of LFOs because jurisdiction never expires until the obligation is paid in full. RCW 9.94A.760(5) is not in conflict with RCW 6.17.020(4) because RCW 6.17.020(4) applies to offenses occurring before July 1, 2000, and additional efforts by other entities to execute on the judgment and sentence.

Further, the legislative history confirms the intent to confer unlimited jurisdiction over all offenses occurring after July 1, 2000, to ensure LFOs were satisfied without imposing a limitation period. The legislative history of the 2002 amendments to RCW 6.17.020 shows the Legislature was aware of the unlimited jurisdiction for collecting LFOs and was not making any changes to or undermining RCW 9.94A.760(5). Rather, the revisions to RCW 6.17.020(4) were meant to codify and maintain the current practices for collecting on judgments. The Legislature did not see

these amendments as conflicting with RCW 9.94A.760 nor did the amendments change the jurisdictional period to execute on judgments in any way.

Because RCW 9.94A.760(5) and RCW 6.17.020(4) are clear, unambiguous, and not in conflict with each other, this Court should affirm the order of the Spokane County Superior Court.

A. STANDARD OF REVIEW

Issues of statutory interpretation are reviewed *de novo*. *State v. Alvarado*, 164 Wn.2d 556, 561, 192 P.3d 345 (2008). “If the language of a statute is clear on its face, courts must give effect to its plain meaning and should assume the Legislature means exactly what it says.” *State v. Chapman*, 140 Wn.2d 436, 450, 998 P.2d 282 (2000). Additionally, “[i]f a statute is unambiguous, its meaning must be derived from the wording of the statute itself. A statute that is clear on its face is not subject to judicial interpretation.” *Id.*

Further,

[E]ach provision of a statute should be read together (in para material) with other provisions in order to determine the legislative intent underlying the entire statutory scheme. The purpose of interpreting statutory provisions together with related provisions is to achieve a harmonious and unified statutory scheme that maintains the integrity of the respective statutes. Statutes relating to the same subject will

be read as complementary, instead of in conflict with each other.

Id. at 448; *see also In re Estate of Kerr*, 134 Wn.2d 328, 335, 949 P.2d 810 (1998) (“In interpreting a statute, we are obliged to construe the enactment as a whole, and to give effect to *all* language used. Every provision must be viewed in relation to other provisions and harmonized if at all possible”) (emphasis in original). Each word in a statute must be given effect rather than interpreting in such a way that “renders words useless, superfluous, or ineffectual.” *In re Nichols*, 120 Wn. App. 425, 431, 85 P.3d 955 (2004).

B. RCW 9.94A.760(5) PROVIDES UNLIMITED JURISDICTION TO COLLECT BAKER’S LEGAL FINANCIAL OBLIGATIONS WITH NO EXPIRATION OR REQUIREMENT FOR RENEWAL.

Under RCW 9.94A.760, “[w]henver a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence.” RCW 9.94A.760(1). The statute also sets forth the procedure for the county clerk to apply payments towards LFOs and restitution. RCW 9.94A.760(2). If an offender fails to make payments on LFOs, the clerk may, *inter alia*, seek a payroll deduction (RCW 9.94A.760(4)) or issue an order to withhold and deliver property (RCW 9.94A.760(6)).

Additionally, “[i]ndependent of the [Department of Corrections] or the county clerk, the party or entity to whom the legal financial obligation

is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation.” RCW 9.94A.760(5). The “other remedies” mentioned above “include[s] enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed.” *Id.*

RCW 9.94A.760(5) further provides the timeframe within which LFOs may be collected. LFOs for offenses committed prior to July 1, 2000 “may be enforced at any time during the ten-year period following the offender’s release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later.” *Id.* Additionally, “[p]rior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims’ assessments.” *Id.*

However, LFOs from offenses committed on or after July 1, 2000,

may be enforced at any time the offender remains under the court’s jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender’s compliance with payment of the legal financial obligations, ***until the obligation is completely satisfied, regardless of the statutory maximum for the crime.***

Id. (emphasis added). “The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.” *Id.* The

Supreme Court has found the language of RCW 9.94A.760 is plain and unambiguous. *Gossage*, 165 Wn.2d at 7.

A plain reading of RCW 9.94A.760 establishes LFOs are subject to one of two distinct jurisdictional timeframes depending on when the offense was committed. For offenses committed before July 1, 2000, the sentencing court retains jurisdiction for ten years to enforce LFOs, with the possibility of one 10-year extension.

For offenses, like Baker's, occurring after July 1, 2000, the sentencing court "shall retain jurisdiction" until LFOs are "completely satisfied." RCW 9.94A.760(5). Unlike offenses occurring before July 1, 2000, there is no mention of extensions because jurisdiction never expires. Requiring an extension of a judgment presupposes the court's jurisdiction has an expiration date. However, such a requirement runs counter to the explicit language of the statute. There is nothing in the statute suggesting the court's jurisdiction would expire absent an extension nor is there any compelling reason to read one into the statute.

Further, the statute specifically states the county clerk "is authorized to collect unpaid legal financial obligations *at any time* the offender remains under the jurisdiction of the court." RCW 9.94A.760(5) (emphasis added). Again, requiring an extension would change the plain meaning of the statute to make the clerk's authorization at any time provided it is within 10 years

of the final release from confinement or after a 10-year extension was timely sought and granted. There is no language in the statute to support such a reading. A simple comparison of the language addressing offenses before July 1, 2000, and after that date shows the Legislature both knew how to require extensions and also decided to not require extensions in its grant of unlimited jurisdiction. Because the plain language of the statute does not require an extension or otherwise temporally limit the jurisdiction of the court to collect LFOs, the court’s decision should be affirmed.

This reading of RCW 9.94A.760(5) is confirmed through the legislative history and the Supreme Court’s opinion in *Gossage*, 165 Wn.2d 1.² In 2000, the Legislature added the language in the current version of RCW 9.94A.760³ that extends jurisdiction for life until LFOs are paid for offenses occurring after July 1, 2000. *See* Laws of 2000, ch. 226, §§ 3, 4; H.B. REP. on Substitute S.B. 6336, 56th Leg., Reg. Sess. (2000).

The Legislature’s intent was “to address the problem” of LFOs expiring 10 years after entry of the judgment and sentence. *See Gossage*, 165 Wn.2d at 7-8. The argument for the amendment was summarized

² This brief discusses legislative history not because it is necessary—the plain language of the statutes is clear—but to reinforce that plain language and demonstrate the Legislature had no contrary intent.

³ Until 2001, this statute was codified as RCW 9.94A.145.

thusly: “It is very important to the rights of crime victims that offenders continue to be held accountable for the results of their actions. Offenders should be required to pay for whatever length of time it takes them to pay it off.” H.B. REP. on Substitute S.B. 6336, 56th Leg., Reg. Sess. (2000). Those opposed to the amendment argued the 10-year limitation and potential 10-year extension under then-current law were sufficient; however, the Legislature ultimately found this argument unpersuasive. *Id.*

Baker would have this Court read that history as indicating the Legislature intended to maintain limited jurisdiction but only change the number of extensions from one to an infinite number. Such a result flies in the face of the Legislature’s express intent and the problem it sought to fix: “that the limitations period might discourage payment and defeat the punitive and restorative purposes of the obligation.” *Gossage*, 165 Wn.2d at 8. If the Legislature intended to limit jurisdiction, it would have so stated in RCW 9.94A.760(5) just as it did for offenses occurring before July 1, 2000. It is illogical to place an expiration date for something unlimited in time.

The Legislature decided to extend jurisdiction for life so sentencing courts could more effectively enforce LFOs. That purpose would be undermined if lifetime jurisdiction were subject to expiration after 10 years if an extension was not sought. Baker seeks to undo the Legislature’s 2000

amendment and reintroduce the same problems the Legislature attempted to fix. His arguments have already been rejected by the Legislature.

RCW 9.94A.760(5) grants the sentencing court unlimited jurisdiction to collect LFOs, consistent with the Legislature's intent. For offenses occurring after July 1, 2000, the sentencing court *shall* have jurisdiction until the LFOs are paid in full. Extensions are unnecessary because jurisdiction never expires. Baker's attempts to change the statute and add language where there is none runs counter to both the plain reading and legislative intent of RCW 9.94A.760(5). Since the statute is clear and unambiguous on its face, this Court should enforce the plain reading of the statute and affirm the superior court.

C. RCW 6.17.020(4) DOES NOT REQUIRE EXTENSIONS ON JUDGMENTS FOR CRIMINAL OFFENSES OCCURRING AFTER JULY 1, 2000.

RCW 6.17.020 provides the means by which a party may execute on a judgment. In particular,

A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence, or the assignee or the current holder thereof, may execute, garnish, and/or have legal process issued upon the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW.

RCW 6.17.020(4).

Further, “[t]he clerk of superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190, providing that no filing fee shall be required.” *Id.*

RCW 6.17.020 sets forth the general means and timing to execute on judgments and governs absent a more specific statute. *See State v. Danforth*, 97 Wn.2d 255, 257, 643 P.2d 882 (1982) (stating “we have consistently applied the rule that when two statutes are concurrent, the specific statute prevails over the general”). RCW 9.94A.760(5) is a more specific statute granting unlimited jurisdiction for a specific subset of criminal judgments: offenses occurring after July 1, 2000. Further, chapter 9.94A RCW provides other specific means of enforcement for the county clerk not specifically granted in RCW 6.17.020(4). *See* RCW 9.94A.760(4); RCW 9.94A.7606. As demonstrated in the legislative history discussed above, the 2000 amendments to RCW 9.94A.760(5) removed LFOs from the prior statutory scheme and instead granted the sentencing court unlimited jurisdiction not subject to expiration or requirement of extensions. Since RCW 9.94A.760 is a more specific statute, it governs over the general provisions contained in RCW 6.17.020(4) to the extent there is conflict. Allowing RCW 6.17.020(4) to trump the specific provisions in RCW 9.94A.760(5) would render RCW 9.94A.760(5) ineffective. *See*

In re Nichols, 120 Wn. App. at 431 (holding such interpretations should be avoided).

However, nothing about RCW 6.17.020(4) conflicts with RCW 9.94A.760(5). Statutes are to be read harmoniously, if possible, and such a reading is readily available here. *See Chapman*, 140 Wn.2d at 448. RCW 6.17.020(4)'s reference to a 10-year limit to collect LFOs applies to offenses occurring before July 1, 2000. For offenses prior to July 1, 2000, RCW 9.94A.760(5) retains the jurisdictional paradigm set forth in RCW 6.17.020(4) whereby collection is limited to 10 years plus an additional 10-year extension, if sought. RCW 6.17.020 provides details for how to collect and how to obtain an extension. It also provides clarity as to what "any other remedies" are available for parties to execute on the judgment independent of the county clerk.

These provisions operate separate and independent from the grant of unlimited jurisdiction in RCW 9.94A.760(5) for offenses occurring after July 1, 2000. The two statutes can be rationally, reasonably read in harmony, and conflict is not inherent in the plain language of the two statutes. RCW 9.94A.760(5) simply removes offenses occurring after July 1, 2000, from the time limitation in RCW 6.17.020(4). Subjecting criminal judgments for offenses occurring after July 1, 2000, to expiration would create conflict between the two statutes. Thus, RCW 6.17.020 should

not be read to have required the State to seek an extension within 10 years after Baker was released from custody.

Further, nothing in the legislative history of the 2002 amendments to RCW 6.17.020 evinces an intent to modify RCW 9.94A.760 or suggest all criminal judgments are subject to the extension requirement. In 2002, the Legislature amended RCW 6.17.020 in several ways. First, the bill “expanded” the “class of courts whose judgments may be extended for an additional 10 years ... to include” federal courts, all courts within Washington State, and courts from other states and jurisdictions. H.B. REP. on S.B. 5827, 57th Leg., Second Reg. Session (2002). The bill also added “assignee or other current holder of a judgment” as a party who can execute on judgments or seek a ten year extension. *Id.* The bill explicitly included garnishment or “other legal process” as enforcement mechanisms for a judgment creditor. *Id.* The bill made extensions to be granted as a matter of right and exempted county collection agencies from a filing fee when seeking an extension. *Id.* Last, the bill addressed recorded judgment liens. *Id.*

The Legislative summary of the bill acknowledged: “Generally, judgments are not enforceable beyond 20 years past the date of entry of the judgment in the originating court. However, the 20-year limit does not apply

to judgments for child support or to court-ordered legal obligations in adults or juvenile criminal cases.” *Id.*

The legislative history of RCW 6.17.020 reveals the Legislature was concerned with expanding the judgments subject to execution in this state and the people who may execute on judgments. Nowhere is there any mention of revising RCW 9.94A.760(5) or otherwise subjecting all criminal judgments to expiration after 10 years absent an extension. To the contrary, the legislative history specifically acknowledges “the 20-year limit does not apply to... court-ordered legal obligations.” After making this acknowledgement referring to RCW 9.94A.760, the Legislature made no effort to change or undermine that law, nor did the Legislature indicate the revisions to RCW 6.17.020(4) would conflict with the unlimited jurisdiction in RCW 9.94A.760(5). The Legislature acknowledged the general rule of RCW 6.17.020(4) and also acknowledged a more specific exception for LFOs in RCW 9.94A.760(5).

The Legislature was aware offenses committed after July 1, 2000, were subject to unlimited jurisdiction for collecting LFOs and made no effort to change that jurisdiction through the 2002 amendments to

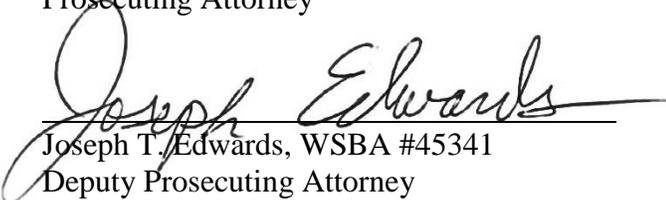
RCW 6.17.020. Baker's arguments to the contrary overlook the plain language of RCW 9.94A.760(5) and the Legislature's intent.⁴

IV. CONCLUSION

RCW 9.94A.760(5) provides unlimited jurisdiction for the sentencing court to collect LFOs from Baker. Because jurisdiction never expires, it is unnecessary for the State or clerk to seek an extension of the judgment. This is the plain language of the statute and the Legislature's expressed intent. RCW 6.17.020(4) is a general statute and nothing in the 2002 revisions thereto suggest it was intended to or impacted the specific grant of unlimited jurisdiction in RCW 9.94A.760(5). Thus, the sentencing court retains jurisdiction to enforce Baker's LFOs for life or until they are paid in full. For all the foregoing reasons, this Court should affirm.

Dated this 21 day of November, 2019.

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⁴ Baker also makes policy arguments in favor of his interpretation. However, "the court should not proceed directly to policy reasoning, but should first look to the legislative history of the statute to discern and effectuate legislative intent." *Gossage*, 165 Wn.2d at 7. Because the legislative history is clear and the statutes are only subject to one reasonable interpretation, it is unnecessary to consider public policy.

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

STATE OF WASHINGTON,

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PHILLIPPE BAKER,

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NO. 36915-3-III

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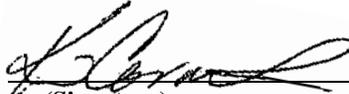
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