

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

VINCENT VALENTINE PORTOMENE,

Appellant.

No. 81264-5-I

DIVISION ONE

UNPUBLISHED OPINION

PER CURIAM — Vincent Portomene pled guilty to violation of a no-contact order. At sentencing, the trial court ordered Portomene to “pay supervision fees as determined by DOC” without conducting an ability-to-pay inquiry. The court also ordered that “[t]he 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.” On appeal, Portomene contends that supervision fees are a “cost” under RCW 10.01.160 and because Portomene is indigent, the trial court erred by ordering him to pay them. He argues, alternatively, that supervision fees are a discretionary legal financial obligation (LFO) and the trial court erred by ordering him to pay them without conducting an ability-to-pay inquiry. Finally, Portomene argues that because no restitution was ordered, the trial court erred by ordering that interest accrue on the LFOs in Portomene’s judgment.

The State concedes that Portomene is indigent. It does not agree that supervision fees are costs, and it asserts that the trial court had discretion to

order Portomene to pay them notwithstanding his indigency. Nevertheless, the State does not oppose striking supervision fees from Portomene's judgment and sentence, acknowledging that because the trial court decided not to impose a criminal filing fee even though it was part of Portomene's plea agreement, it is likely the court would strike the supervision fees on remand. The State concedes error with regard to the imposition of interest given that no restitution was ordered. See RCW 10.82.090(1) (providing that no interest shall accrue on non-restitution LFOs).

We remand to the trial court to strike from Portomene's judgment and sentence the provisions (1) ordering him to "pay supervision fees as determined by DOC" and (2) ordering interest to accrue on financial obligations imposed in the judgment.

For the Court:






