NOTICE: SLIP OPINION
(not the court's final written decision)

The opinion that begins on the next page is a slip opinion. Slip opinions are the written opinions that are originally filed by the court.

A slip opinion is not necessarily the court's final written decision. Slip opinions can be changed by subsequent court orders. For example, a court may issue an order making substantive changes to a slip opinion or publishing for precedential purposes a previously "unpublished" opinion. Additionally, nonsubstantive edits (for style, grammar, citation, format, punctuation, etc.) are made before the opinions that have precedential value are published in the official reports of court decisions: the Washington Reports 2d and the Washington Appellate Reports. An opinion in the official reports replaces the slip opinion as the official opinion of the court.

The slip opinion that begins on the next page is for a published opinion, and it has since been revised for publication in the printed official reports. The official text of the court's opinion is found in the advance sheets and the bound volumes of the official reports. Also, an electronic version (intended to mirror the language found in the official reports) of the revised opinion can be found, free of charge, at this website: https://www.lexisnexis.com/clients/wareports.

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Filed
Washington State
Court of Appeals
Division Two

November 24, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. SHANE I. VANDERVORT, Appellant.	No. 51973-9-II ORDER AMENDING PUBLISHED OPINION

The court on its own motion amends the November 26, 2019 published opinion in part as follows.

On page 3, the last paragraph before the signatures, we remove

> Because the time to appeal the imposition of his LFOs had passed one year after the court imposed Vandervort's original DOSA sentence, we dismiss the appeal as untimely.

We replace it with

> Because the time to appeal the imposition of his LFOs has passed 30 days after the court imposed Vandervort's original DOAS sentence, we dismiss the appeal as untimely.

We do not amend any other portion of the opinion or the result. Accordingly, it is

SO ORDERED.

Melnick, J.

We concur:

Worswick, J.

Lee, A.C.J.

Filed
Washington State
Court of Appeals
Division Two

November 26, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. SHANE I. VANDERVORT, Appellant.	No. 51973-9-II PUBLISHED OPINION

MELNICK, J. — In May 2017, the superior court sentenced Shane Vandervort to a residential drug offender sentencing alternative (DOSA). It imposed legal financial obligations (LFOs). In December 2017, the court issued an order revoking his DOSA sentence but did not amend the judgment and sentence. Vandervort appeals only the imposition of the LFOs from his original sentence. We dismiss the appeal as untimely.

FACTS

Vandervort pled guilty to one count of possession of methamphetamine and one count of criminal trespass in the first degree. On May 26, 2017, the trial court sentenced Vandervort to a 24-month DOSA sentence. As part of this sentence, the court imposed LFOs. Vandervort did not appeal the sentence.

On December 1, 2017, the trial court revoked Vandervort's DOSA sentence because he failed to report to the Department of Corrections. The trial court ordered him to serve 18 months. It did not enter a new or amended judgement and sentence, only an order.

Vandervort filed a late notice of appeal on May 18, 2018. The notice stated that Vandervort sought review of the order revoking his DOSA sentence. We subsequently granted Vandervort's motion for extension of time because his attorney had not discussed his appeal rights with him. Vandervort's brief assigns error to the trial court's imposition of LFOs but does not challenge the revocation of his DOSA sentence.

ANALYSIS

The State argues that the challenge to the LFOs is untimely because Vandervort filed a notice of appeal well beyond 30 days after the original DOSA sentence. Vandervort argues that the appeal is timely because we granted an extension of time to file the notice of appeal. We agree with the State.[1]

We do not consider untimely appeals. RAP 5.2(a). A notice of appeal must be filed within 30 days after the entry of the trial court's decision that the party filing the notice wants reviewed. RAP 5.2(a)(1). Judgments are entered immediately after they are signed by the judge, and the time available to file an appeal begins to run from that date. RAP 5.2(c); CR 58(a); *In re Pers. Restraint of Wolf*, 196 Wn. App. 496, 509-10, 384 P.3d 591 (2016). However, a criminal appeal may not be dismissed as untimely unless the State shows that the defendant voluntarily, knowingly, and intelligently abandoned his appeal. *State v. Kells*, 134 Wn.2d 309, 314, 949 P.2d 818 (1998).

In *Wolf*, the defendant filed a personal restraint petition (PRP) to challenge the 2012 revocation of his special sex offender sentencing alternative (SSOSA) sentence. 196 Wn. App. at 499. In the PRP, he challenged LFOs imposed in his original 2008 SSOSA disposition. *Wolf*, 196 Wn. App. at 500. We concluded that his challenge was time barred because the SSOSA revocation did not involve the LFOs imposed seven years previously. *Wolf*, 196 Wn. App. at 500. We

[1] Because we dismiss the appeal as untimely, we do not address the validity of the LFOs.

determined that because the SSOSA revocation "did not involve the LFOs imposed in 2008," and the defendant did not appeal the original sentence, the LFOs were final on the date the original sentence was entered in 2008. *Wolf*, 196 Wn. App. at 510.

We granted Vandervort's extension motion and accepted his notice of appeal. However, the motion to appeal designated the DOSA revocation as the decision to be reviewed. The DOSA revocation, however, did not address the LFOs or the original judgement and sentence. As in *Wolf*, the trial court imposed LFOs as part of Vandervort's original sentence, which he did not appeal. Similar to the SSOSA revocation in *Wolf*, a DOSA revocation is not a resentencing. Rather, it is one of the "sanctions" the superior court can impose when an offender violates a condition of the DOSA sentence. RCW 9.94A.660(7)(a), (b), (c).

Because the time to appeal the imposition of his LFOs had passed one year after the court imposed Vandervort's original DOSA sentence, we dismiss the appeal as untimely.

Melnick, J.

We concur:

Worswick, J.

Lee, A.C.J.