

August 20, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

DYLAN LEE ASEPH,

Appellant.

No. 52176-8-II

UNPUBLISHED OPINION

LEE, J. — Dylan L. Aseph appeals his sentence, arguing that as an indigent defendant, the sentencing court erred in imposing interest on nonrestitution legal financial obligations (LFOs). The State concedes that the interest accrual provision on nonrestitution LFOs should be stricken. We agree and remand to the sentencing court to strike the provision imposing interest on nonrestitution LFOs in Aseph’s judgment and sentence.

FACTS

The State charged Aseph by amended information with one count of second degree taking a motor vehicle without permission, one count of second degree vehicle prowling, and one count of hit and run unattended vehicle. Aseph pleaded guilty as charged in the amended information.

The sentencing court sentenced Aseph to an exceptional sentence upward of 366 days confinement. The court also imposed a \$500 crime victim penalty assessment fee and ordered restitution to be set at a later date.¹ Although the court found Aseph indigent and waived all other LFOs, a provision in the judgment and sentence imposed interest on LFOs and stated 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.” Clerk’s Papers at 52.

Aseph appeals.

ANALYSIS

Aseph challenges the provision of his judgment and sentence imposing interest on nonrestitution LFOs in light of *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018). The State concedes that the interest accrual provision on nonrestitution LFOs should be stricken. We accept the State’s concession.

Recent legislative amendments to the LFO statutes prohibit sentencing courts from imposing interest accrual on the nonrestitution portions of LFOs. RCW 10.82.090(2)(a); *Ramirez*, 191 Wn.2d at 746-47. Our Supreme Court has held that the amendments apply prospectively to

¹ Following sentencing, the State filed a restitution report, which calculated owed restitution at \$481.00. The record shows that a restitution review hearing was scheduled for October 18, 2018. However, the appellate record does not contain the transcript of that hearing or any resulting order imposing restitution.

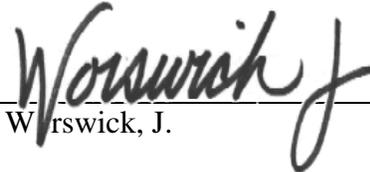
all cases pending on direct review and not final when the amendment was enacted. *Id.* at 747. Therefore, we accept the State's concession that the interest accrual provision on nonrestitution LFOs should be stricken, and we remand to the sentencing court to strike the interest accrual provision on nonrestitution LFOs from Aseph's judgment and sentence.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

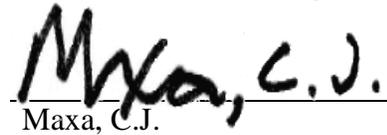


Lee, J.

We concur:



Worswick, J.



Maxa, C.J.