70447-7

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No. 70442-7-I

COURT OF APPEALS DIVISION I

STATE v. PANG

AMENDED BRIEF

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 MAY 23 AM 11:50

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COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

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MARTIN PANG Petitioner, vs. STATE OF WASHINGTON Respondent.	Case No: 70442-7-I AMENDED BRIEF – MOTION FOR APPEAL OF ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LEGAL FINANCIAL OBLIGATIONS.

I. INTRODUCTION

MARTIN PANG, APPELLANT, PRO SE, MOVES THIS COURT FOR AN APPEAL OF ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LEGAL FINANCIAL OBLIGATIONS, DATED 19 APRIL, 2013, SIGNED BY KING COUNTY SUPERIOR COURT JUDGE BETH M. ANDRUS.

II ASSIGNMENTS OF ERROR

No. 1. THE TRIAL COURT ERRED IN ENTERING THE ORDER OF 19 APRIL, 2013, DENYING THE DEFENDANT'S MOTION TO TERMINATE LEGAL FINANCIAL OBLIGATIONS.

No. 2. THE PLAINTIFF - STATE OF WASHINGTON - ERRED IN ITS BELIEF THAT THE TEN-YEAR PERIOD WITHIN WHICH TO COLLECT LEGAL FINANCIAL OBLIGATIONS HAD NOT YET STARTED.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

No. 1 DID THE TRIAL COURT ENTER THE ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LEGAL FINANCIAL OBLIGATIONS IN ERROR, BY NOT REVIEWING AND APPLYING THE LEGAL INTENT AND LAW OF THE EXTENSION NOTICE? (ASSIGNMENT OF ERROR 1)

No. 2 DID THE PLAINTIFF ERR IN ITS BELIEF THAT THE TEN-YEAR PERIOD WITHIN WHICH TO COLLECT

LEGAL FINANCIAL OBLIGATIONS HAD NOT YET STARTED?
(ASSIGNMENT OF ERROR 2)

IV STATEMENT OF THE CASE

ON MARCH 23, 1998, APPELLANT PLED GUILTY TO FOUR COUNTS OF MANSLAUGHTER IN THE FIRST DEGREE.
CLERK'S PAPERS (CP) 201 JUDGMENT AND SENTENCE

ON JULY 28, 1998, THE COURT ENTERED AN ORDER SETTING RESTITUTION AND EXTRADITION COSTS
(CP) 262 ORDER DENYING TERMINATE LFO

ON NOVEMBER 1, 2007, AN EXTENSION NOTICE FOR LFO'S WAS SENT TO APPELLANT.
(CP) 262 ORDER DENYING TERMINATE LFO

ON MARCH 27, 2013 DEFENDANT FILED A MOTION TO TERMINATE LFO'S. (CP) 259 MOTION TO TERMINATE LFO'S

ON APRIL 4, 2013, PLAINTIFF FILED A RESPONSE TO DEFENDANT'S MOTION TO TERMINATE LFO'S
(CP) 260 RESPONSE/PLA

ON 19 APRIL, 2013 SUPERIOR COURT JUDGE BETH M. ANDRUS FILED AN ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LFO'S. (CP) 262 ORDER DENYING TERMINATE LFO

V. ARGUMENT

No. 1 DID THE TRIAL COURT ENTER THE ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LFO'S IN ERROR, BY NOT REVIEWING AND APPLYING THE LEGAL INTENT AND LAW OF THE EXTENSION NOTICE?

THE TRIAL "COURT REVIEWED THE PLEADINGS OF THE PARTIES, THE JUDGMENT AND SENTENCE AND ORDER SETTING RESTITUTION AND EXTRADITION COSTS..." (ORDER AT PAGE 2) (CP) 262

BUT, THE EXTENSION NOTICE WAS MERELY REFERED TO. (ORDER AT PAGE 1) (CP) 262

THE LEGAL FACT IS THAT THE SUPERIOR COURT

CLERK OFFICE CRIMINAL LEGAL FINANCIAL OBLIGATIONS, INTENDED TO EXTEND DEFENDANT'S EXPIRING FINANCIAL OBLIGATION, AS THE EXTENSION NOTICE CLEARLY STATES IN UNDERLINED CAPITAL LETTERS: 'YOUR EXPIRING FINANCIAL OBLIGATION(S) WILL BE EXTENDED AN ADDITIONAL TEN YEARS IN 2008.' THE EXTENSION NOTICE BASES THIS ON RCW 9.94a.760 (4), AND STATES THAT 'YOU WILL MOST LIKELY BE REQUIRED TO APPEAR IN COURT. THE PROSECUTING ATTORNEY'S OFFICE WILL CONTACT YOU REGARDING YOUR HEARING DATE.'

THE INTENT OF THIS EXTENSION NOTICE IS QUITE CLEAR. INTENT - 'IN DOCUMENTS, INTENTION IS THE MEANING GATHERED FROM THE WORDS WITHIN.' - GILBERTS LEGAL DICT. (1997)

THE EXTENSION NOTICE ALSO PROVES DE FACTO ADMISSION, KNOWLEDGE, AND EVIDENCE OF THE

SUPERIOR COURT'S CRIMINAL LEGAL FINANCIAL OBLIGATIONS

OFFICE INTENT TO EXTEND DEFENDANTS LFO'S.

ADMISSION - 'A VOLUNTARY ACKNOWLEDGMENT OF THE EXISTENCE OF FACTS...' - GILBERTS LAW DICT. (1997)

KNOWLEDGE - 'COMPREHENSION OF THE TRUTH; UNDERSTANDING OF FACTS.' - GILBERTS LAW DICT. (1997)

EVIDENCE - 'ALL THE MEANS PRESENTED AT TRIAL TO PURSUADE THE COURT.... AS TO THE TRUTH OF A MATTER IN QUESTION.... 'PROOF IS THE RESULT OF EVIDENCE' WHICH ESTABLISHES THE EXISTENCE OF A FACT.' - GILBERTS LAW DICT (1997)

THE EXTENSION NOTICE CORRECTLY BASES ITS NOTICE ON RCW 9.94a.760(4), STATING: PRIOR 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.

THIS EXTENSION NOTICE IS A LEGAL DOCUMENT THAT WAS GLOSSED OVER BY THE TRIAL COURT, AND WHO'S LEGAL BASES WAS NOT APPLIED IN ITS DECISION TO ENTER ITS ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LFO'S.

No. 2. DID THE PLAINTIFF ERR IN ITS BELIEF THAT THE TEN-YEAR PERIOD WITHIN TO COLLECT LEGAL FINANCIAL OBLIGATIONS HAD NOT YET STARTED?

PLAINTIFF CLAIMS THAT "THE TEN-YEAR PERIOD WITHIN WHICH TO COLLECT LEGAL FINANCIAL OBLIGATIONS HAS NOT YET STARTED BECAUSE HE HAS NOT BEEN "RELEASE[d] FROM TOTAL CONFINEMENT." Id. THE PROVISION THAT AUTHORIZES AN EXTENSION, RELIED UPON BY PANGIN HIS MOTION, IS SIMPLY INAPPOSITE BECAUSE THE TIME HAS NOT

EVEN BEGUN." (RESPONSE AT PAGES 2-3) (CP) 260

THE LEGAL CRUX, THE FOCAL POINT OF THIS ARGUMENT IS THE INITIAL TEN-YEAR PERIOD, AS STATED IN THE EXTENSION NOTICE, AND ALSO IN RCW 9.94a.760(4), NOT THE JURISDICTION OR THE AUTHORITY TO COLLECT LFO'S.

IN APPELLANTS JUDGMENT AND SENTENCE, THE AMOUNT OF LFO'S IS TO BE DETERMINED BY THE COMMUNITY CORRECTIONS OFFICER, WHICH MEANS COLLECTION WOULD NOT BEGIN UNTIL APPELLANT IS RELEASED FROM CUSTODY. (CP) 201

THEREFORE, THE PLAINTIFF WOULD BE CORRECT IN STATING THAT THE TEN-YEAR PERIOD "HAS NOT YET STARTED." (CP) 260 RESPONSE / PLA

BUT PLAINTIFF LEAVES OUT THE WORD 'INITIAL', AS STATED IN RCW 9.44.760(4), IN THIER RESPONSE. (CP) 260 RESPONSE/PLA

THE LAWS OF 2004 ch. 121 § 4 CHANGED THE COLLECTION OF LFO'S, ALLOWING THEM TO BE COLLECTED DURING INCARCERATION, NO MATTER WHAT THE LANGUAGE OF THE J AND S STATED. SEE ALSO PRP OF MARTIN, 129 WN. APP. 135, 118 P.3d 387 (2005). COLLECTION STARTED BEFORE BEING RELEASED FROM TOTAL CONFINEMENT.

THIS ACT OF COLLECTION STARTED THE INITIAL TEN-YEAR PERIOD.

AND THIS IS PRECISELY WHY THE EXTENSION NOTICE WAS SENT. THE FACT THAT THIS WAS NOT FOLLOWED UP ON WAS OBVIOUSLY AN ADMINISTRATIVE

ERROR.

MOST IMPORTANTLY, AND THE LEGAL CRUX OF THIS ARGUMENT; THE ONE THAT IS BEING IGNORED, IS THAT THERE IS NO TOLLING FOR THE COLLECTION OF LFO'S, ONCE THE INITIAL TEN-YEAR PERIOD BEGINS, WHETHER THAT PERIOD BEGINS BEFORE OR AFTER THE INMATE HAS BEEN RELEASED FROM TOTAL CONFINEMENT, AS PLAINTIFF CLAIMS, (CP) 260 RESPONSE/PLA STATE V. ADAMS, 121 WN. APP. 438 (2004)

THE CORRECT LEGAL ANALYSIS, IS IF THE INITIAL TEN-YEAR PERIOD HAS STARTED, WHICH IT DID; VERIFIED BY THE SUPERIOR COURT'S OWN OFFICE, IN SENDING THE EXTENSION NOTICE, QUOTING RCW 9.94a. 760(4) PRIOR TO THE INITIAL TEN-YEAR PERIOD, THE SUPERIOR COURT MAY EXTEND THE CRIMINAL JUDGMENT

AN ADDITIONAL TEN YEARS FOR PAYMENT OF LEGAL FINANCIAL OBLIGATIONS. (UNDERLINE MINE)

VI CONCLUSION

THE CONTINUED COLLECTION OF LFO'S FROM APPELLANT IS UNLAWFUL AND MUST CEASE. THE INITIAL TEN-YEAR PERIOD HAS EXPIRED. THEREFORE, APPELLANT, PRO SE, ASKS THIS COURT TO OVERTURN THE ORDER DENYING DEFENDANT'S MOTION TO TERMINATE LEGAL FINANCIAL OBLIGATIONS, AND ORDER THE COLLECTION OF LFO'S TO CEASE.

DATED THIS - MAY 20, 2014

RESPECTFULLY SUBMITTED

MARTIN PANG, PRO SE

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