

**FILED
SUPREME COURT
STATE OF WASHINGTON
3/7/2025 10:00 AM
BY SARAH R. PENDLETON
CLERK**

**Supreme Court No: 103710-4
Court of Appeals No. 39046-2-III**

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Petitioner,

v.

D.G.A.,

Respondent.

ANSWER TO PETITION FOR REVIEW

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A. IDENTITY OF RESPONDING PARTY

The State of Washington is the plaintiff below and respondent in this petition.

B. COURT OF APPEALS DECISION

As designated in the Petitioner's brief.

C. ISSUE PRESENTED FOR REVIEW

The legislature has made payment of restitution to individuals a requirement for sealing juvenile cases to encourage those payments. By the plain language of the statute and a decade old precedent this includes after those payments are no longer enforceable as a judgement. Three times in the past five years the legislature has addressed issues surrounding this requirement, and has not changed it. Should this court now rewrite the statute when the legislature has declined to do so?

D. STATEMENT OF THE CASE

D.G.A., who is currently serving an adult conviction for murder, moved the trial court to seal his juvenile convictions. The trial court denied the motion, ruling that D.G.A. had not

paid the restitution to the individual victims in his cases. There is no dispute that D.G.A. has not paid the restitution.

E. ARGUMENT WHY REVIEW SHOULD BE DENIED

1. Legislative action and history.

RCW 13.50.260(d) requires sealing if “the respondent is no longer on supervision for the case being considered for sealing **and has paid the full amount of restitution owing to the individual victim** named in the restitution order,…” (emphasis added). The plain language requires the respondent pay the restitution in order to have the case sealed. Just because the restitution owing is no longer enforceable as a judgement does not mean the victim has been recompensed for the crime, or that the defendant has paid.

This is the interpretation that has been held for ten years. *State v. Hamedian*, 188 Wn. App. 560, 354 P.3d 937 (2015). The legislature has repeatedly addressed the statute, including the specific portion of the statute in question, after *Hamedian*. Laws of 2020, Ch 184 § 1, Laws of 2023, Ch 180 § 1. They did

not change the relevant language. “The legislature ‘is presumed to be aware of judicial interpretation of its enactments,’ and where statutory language remains unchanged after a court decision the court will not overrule clear precedent interpreting the same statutory language.” *State v. Blake*, 197 Wn.2d 170, 190, 481 P.3d 521, 532 (2021).

In 2023, the legislature declared that juvenile legal financial obligations, except for restitution, were unenforceable, and the clerk could not collect them. Laws of 2023, Ch 449 § 20. In 2024, the legislature addressed the very issue D.G.A. is claiming the Court of Appeals misinterpreted in this case and *State v. Hamedian*, 188 Wn. App. 560, 354 P.3d 937 (2015). They addressed the issue for all other LFO’s, but explicitly excluded restitution. Laws of 2024, Ch 38, is entitled *Disposition of Unenforceable Juvenile Financial Obligations*. This is “AN ACT Relating to the disposition of unenforceable legal obligations other than restitution...” The first section of the act relates to how a clerk enforces a restitution order against

a respondent. The second section directs the clerk to not accept payments for any legal obligations, other than restitution, and that all such debts shall be rendered null and void and considered paid in full. “A judgment against a juvenile for any legal financial obligation other than restitution...” If the legislature wanted restitution treated as D.G.A. alleges, they would have included it in this act, directing the clerk not to accept restitution payments and consider those payments fulfilled after the time period that they are enforceable judgements. They did not. Instead the legislature proved that they knew how to make legal financial obligations go completely away, and chose not to do that by explicitly excluding restitution in the act.

2. This case does not meet the requirements for review.

D.G.A. cites to RAP 13.4(b)(1) and (4) for reasons to accept review. However, the only case he cites to under RAP 13.4(b)(1) as conflicting is *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008). But as the Court of Appeals noted,

Gossage addressed a different statute, with different language. In *Gossage* a certificate of discharge issued upon completion of all sentencing conditions, including legal financial obligations. The Court held that the expiration of the enforceability of the judgement for legal financial obligations meant that sentencing condition was met. But that is different language than the language in the juvenile sealing statute, which requires that restitution actually be paid to the individuals to whom it is owed. *Gossage* is easily distinguishable, and thus does not conflict with *Hamedian* and *D.G.A.*

Nor is this an issue of substantial public interest that should be determined by the Supreme Court. It may be debatable how substantial this issue is. However, what is clear is the Supreme Court is not the correct entity to determine the issue. As *Gossage* noted, there is a tension between two public policy issues, the need to provide an offender with a fresh start, and the need to encourage payment of restitution to make the victim as whole as possible. It is the legislature that is the

correct entity to determine this balance. And they have. The legislature has addressed this issue and this statute several times over the last few years. They had *Hamedian* they could have overruled at any time. They told the clerks to consider all other legal financial obligations closed and to be considered paid in full, yet explicitly left out restitution. They also allowed respondents to seal their records if the only restitution owed was to insurance companies or public entities, again striking a balance as to whom it is more important to encourage recompense through restitution. The legislature clearly felt that LFO's remained on the books, even after they were no longer enforceable, and came up with a procedure to remove them, except for restitution. If D.G.A.'s position was correct then Laws of 2024, Ch 38 would have been completely unnecessary.

3. There is no equal protection issue.

The statute does not create any sort of equal protection issue. The legislature wants to encourage payment of all restitution. D.G.A. has made no showing that he is incapable of

working or paying LFO's. The reason he cannot pay LFO's at the current time is that he murdered an old man while robbing him and so is incarcerated. Committing murder is hardly a valid reason to forgive restitution owed for another crime. D.G.A. may or may not be unable to pay in the future. If he pays the restitution, he is free to refile his motion. There simply is no equal protection issue in this case.


F. CONCLUSION

The plain language of RCW 13.50.260(d) clearly states that sealing is not permitted if restitution has not been paid to individuals. This plain language was interpreted and upheld by the Court of Appeals in *Hamedian*. The legislature has addressed the issue repeatedly since that case was decided, yet did not overrule it. There is no case in conflict with the Court of Appeals decision, and the legislature is the proper entity to decide the policy issue in question here. The petition for review should be denied.

This document contains 1178 words, excluding the parts
of the document exempted from the word count by RAP 18.17.

Dated this 7th day of March 2024.

Respectfully submitted,

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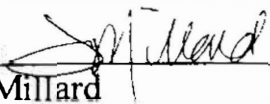
CERTIFICATE OF SERVICE

On this day I served a copy of the Respondent's Answer to Petition for Review this matter by e-mail on the following parties, receipt confirmed, pursuant to the parties' agreement:

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Dated: March 7, 2025.



Janet Millard

GRANT COUNTY PROSECUTOR'S OFFICE

March 07, 2025 - 10:00 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 103,710-4
Appellate Court Case Title: State of Washington v. D.G.A.
Superior Court Case Number: 99-8-00033-0

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