No. 32221-1-III

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,
Plaintiff/Respondent,

vs.

DAVID RANDALL PRIEST,
Defendant/Appellant.

APPEAL FROM THE OKANOGAN COUNTY SUPERIOR COURT
Honorable Christopher E. Culp, Judge

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The trial court erred when it ordered Mr. Priest to pay a $100 DNA-collection fee.

2. The trial court erred when it ordered appellant to submit to another DNA collection under RCW 43.43.754.

3. The record does not support the finding Mr. Priest has the current or future ability to pay the imposed legal financial obligations.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Does the mandatory $100 DNA-collection fee authorized under RCW 43.43.7541 violate substantive due process when applied to defendants who do not have the ability or likely future ability to pay the fine?

2. Does the mandatory $100 DNA-collection fee authorized under RCW 43.43.7541 violate equal protection when applied to defendants who have previously provided a sample and paid the $100 DNA-collection fee?

3. If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, does the trial court abuse its discretion when it orders a defendant to submit to yet another DNA collection?

4. Since the directive to pay LFOs was based on an unsupported finding of ability to pay, should the matter be remanded for the sentencing court to make individualized inquiry into the defendant's current and future ability to pay before imposing LFOs?

C. STATEMENT OF THE CASE

David Randall Priest was charged and convicted by a jury of possession of a stolen motor vehicle and third degree possession of stolen property. CP 32, 56–57. At sentencing the court ordered Mr. Priest to provide a DNA sample. CP 28. It imposed discretionary costs of $310.50[1] and mandatory costs of $800, for a total Legal Financial Obligation (LFO) of $1110.50. CP 27–28. The Judgment and Sentence contained the following boilerplate language:

> **2.5 LEGAL FINANCIAL OBLIGATIONS/RESTITUTION.** The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160).

[1] $20.50 Sheriff service, $40 booking and $250 court-appointed attorney fees. CP 27; RP 250.

CP 25.

The court did not inquire into Mr. Priest's financial resources or consider the burden payment of LFOs would impose on him. RP 241–52. The court ordered LFO payments of $50 per month to begin 60 days after his release from custody. CP 28. The court stated, "[F]or the record, the court finds there's no – no basis for any indigency finding, no showing of long-term disability or other inability to make payments once [Mr. Priest]'s released from custody. I'm going to authorize a payroll deduction … . No interest will accrue while [Mr. Priest] is in custody." RP 250.

This appeal followed. CP 9. The court signed and entered the Order of Indigency for this appeal. CP 2–3.

D. ARGUMENT

1. RCW 43.43.7541 violates substantive due process and is unconstitutional as applied to defendants who do not have the ability or likely future ability to pay the mandatory $100 DNA collection fee.[2]

Both the Washington and United States Constitutions mandate that no person may be deprived of life, liberty, or property without due process of law. U.S. Const. amends. V, XIV; Wash. Const. art. I, § 3. "The due process clause of the Fourteenth Amendment confers both procedural and

[2] Assignment of Error 1.

substantive protections." *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 216, 143 P.3d 571 (2006) (citation omitted).

"Substantive due process protects against arbitrary and capricious government action even when the decision to take action is pursuant to constitutionally adequate procedures." *Id.* at 218–19. It requires that "deprivations of life, liberty, or property be substantively reasonable;" in other words, such deprivations are constitutionally infirm if not "supported by some legitimate justification." *Nielsen v. Washington State Dep't of Licensing*, 177 Wn. App. 45, 52–53, 309 P.3d 1221 (2013) (citing Russell W. Galloway, Jr., *Basic Substantive Due Process Analysis*, 26 U.S.F. L.Rev. 625, 625–26 (1992)).

Where a fundamental right is not at issue, as is the case here, the rational basis standard applies. *Nielsen*, 177 Wn. App. at 53–54.

To survive rational basis scrutiny, the State must show its regulation is rationally related to a legitimate state interest. *Id.* Although the burden on the State is lighter under this standard, the standard is not meaningless. The United States Supreme Court has cautioned the rational basis test "is not a toothless one." *Mathews v. DeCastro*, 429 U.S. 181, 185, 97 S.Ct. 431, 50 L.Ed.2d 389 (1976). As the Washington Supreme Court has explained, "the court's role is to assure that even under this

deferential standard of review the challenged legislation is constitutional." *DeYounq v. Providence Med. Ctr.*, 136 Wn.2d 136, 144, 960 P.2d 919 (1998) (determining that statute at issue did not survive rational basis scrutiny); *Nielsen*, 177 Wn. App. at 61 (same). Statutes that do not rationally relate to a legitimate State interest must be struck down as unconstitutional under the substantive due process clause. *Id.*

Here, the statute mandates all felony offenders pay the DNA-collection fee. RCW 43.43.7541[3]. This ostensibly serves the State's interest to fund the collection, analysis, and retention of a convicted offender's DNA profile in order to help facilitate future criminal identifications. RCW 43.43.752–.7541. This is a legitimate interest. But the imposition of this mandatory fee upon defendants who cannot pay the fee does not rationally serve that interest.

It is unreasonable to require sentencing courts to impose the DNA-

[3] RCW 43.43.7541 provides:

> Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754.

collection fee upon all felony defendants regardless of whether they have the ability or likely future ability to pay. The blanket requirement does not further the State's interest in funding DNA collection and preservation. As the Washington Supreme Court frankly recognized, "the state cannot collect money from defendants who cannot pay." *State v. Blazina*, ___ Wn.2d ___, 344 P.3d 680, 684 (March 12, 2015). When applied to indigent defendants, the mandatory fee orders are pointless. It is irrational for the State to mandate trial courts impose this debt upon defendants who cannot pay.

In response, the State may argue the $100 DNA collection fee is of such a small amount that most defendants would likely be able to pay. The problem with this argument, however, is this fee does not stand alone.

The Legislature expressly directs that the fee is "payable by the offender after payment of all other legal financial obligations included in the sentence." RCW 43.43.7541. Thus the fee is paid only after restitution, the victim's compensation assessment, and all other LFOs have been satisfied. As such, the statute makes this the least likely fee to be paid by an indigent defendant.

Additionally, the defendant will be saddled with a 12% rate on his

unpaid DNA-collection fee, making the actual debt incurred even more onerous in ways that reach far beyond his financial situation. The imposition of mounting debt upon people who cannot pay actually works against another important State interest – reducing recidivism. See, *Blazina*, 344 P.3d at 683–84 (discussing the cascading effect of LFOs with an accompanying 12% interest rate and examining the detrimental impact to rehabilitation that comes with ordering fees that cannot be paid).

When applied to defendants who do not have the ability or likely ability to pay, the mandatory imposition of the DNA-collection fee does not rationally relate to the State's interest in funding the collection, testing, and retention of an individual defendant's DNA. Thus RCW 43.43.7541 violates substantive due process as applied. Based on Mr. Priest's indigent status, the order to pay the $100 DNA collection fee should be vacated.

2. RCW 43.43.7541 violates equal protection because it irrationally requires some defendants to pay a DNA-collection fee multiple times, while others need pay only once.[4]

The equal protection clauses of the state and federal constitutions require that persons similarly situated with respect to the legitimate purpose of the law receive like treatment. U.S. Const. amend. XIV; Wash.

[4] Assignment of Error 1.

Const., art. I, § 12; *Bush v. Gore*, 531 U.S. 98, 104–05, 121 S. Ct. 525, 148 L. Ed. 2d 388 (2000); *State v. Thorne*, 129 Wn.2d 736, 770–71, 921 P.2d 514 (1994). A valid law administered in a manner that unjustly discriminates between similarly situated persons, violates equal protection. *State v. Gaines*, 121 Wn. App. 687, 704, 90 P.3d 1095 (2004) (citations omitted).

Before an equal protection analysis may be applied, a defendant must establish he is similarly situated with other affected persons. *Gaines*, 121 Wn. App. at 704. In this case, the relevant group is all defendants subject to the mandatory DNA-collection fee under RCW 43.43.7541. Having been convicted of a felony, Mr. Priest is similarly situated to other affected persons within this affected group. See, RCW 43.43.754, .7541.

On review, where neither a suspect/semi-suspect class nor a fundamental right is at issue, a rational basis analysis is used to evaluate the validity of the differential treatment. *State v. Bryan*, 145 Wn. App. 353, 358, 185 P .3d 1230 (2008). That standard applies here.

Under rational basis scrutiny, a legislative enactment that, in effect, creates different classes will survive an equal protection challenge only if: (1) there are reasonable grounds to distinguish between different classes of affected individuals; and (2) the classification has a rational relationship to

the proper purpose of the legislation. *DeYoung*, 136 Wn.2d at 144. Where a statute fails to meet these standards, it must be struck down as unconstitutional. *Id*.

The Legislature has declared that collection of DNA samples and their retention in a DNA database are important tools in "assist[ing] federal, state, and local criminal justice and law enforcement agencies in both the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons." Laws of 2008 c 97, Preamble. The DNA profile from a convicted offender's biological sample is entered into the Washington State Patrol's DNA identification system (database) and retained until expunged or no longer qualified to be retained. WAC 446-75-010; WAC 446-75-060. Every sentence imposed for a felony crime must include a mandatory fee of $100. RCW 43.43.754, .7541.

The purpose of RCW 43.43.754 is to fund the collection, analysis, and retention of an individual felony offender's identifying DNA profile for inclusion in a database of DNA records. Once a defendant's DNA is collected, tested, and entered into the database, subsequent collections are unnecessary. This is because DNA – for identification purposes – does not change. The statute itself recognizes this, expressly stating it is

unnecessary to collect more than one sample. RCW 43.43.754(2). There is no further biological sample to collect with respect to defendants who have already had their DNA profiles entered into the database.

Here, RCW 43.43.7541 does not apply equally to all felony defendants because those who are sentenced more than once have to pay the fee multiple times. This classification is unreasonable because multiple payments are not rationally related to the legitimate purpose of the law, which is to fund the collection, analysis, and retention of an individual felony offender's identifying DNA profile.

RCW 43.43.7541 discriminates against felony defendants who have previously been sentenced by requiring them to pay multiple DNA-collection fees, while other felony defendants need only pay one DNA-collection fee. The mandatory requirement that the fee be collected from such defendants upon each sentencing is not rationally related to the purpose of the statute. As such, RCW 43.43.7541 violates equal protection. The DNA-collection fee order must be vacated.

3. The trial court abused its discretion when it ordered Mr. Priest to submit to another collection of his DNA.[5]

A trial court abuses its discretion if its decision is "manifestly

[5] Assignment of Error 2.

unreasonable," based on "untenable grounds," or made for "untenable reasons." *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). "A decision is based on untenable grounds or made for untenable reasons if it rests on facts unsupported in the record or was reached by applying the wrong legal standard." *State v. Rohrich*, 149 Wn.2d 647, 654, 71 P.3d 638 (2003).

RCW 43.43.754(1) requires a biological example "must be collected" when an individual is convicted of a felony offense. RCW 43.43.754(2) provides: "If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted." Thus, the trial court has discretion as to whether to order the collection of an offender's DNA under such circumstances.

It is manifestly unreasonable for a sentencing court to order a defendant's DNA to be collected pursuant to RCW 43.43.754(1) where the record discloses that the defendant's DNA has already been collected. The Legislature recognizes that collecting more than one DNA sample from an individual is unnecessary. It is also a waste of judicial, state, and local law enforcement resources when sentencing courts issue duplicative DNA collection orders.

Here, Mr. Priest's DNA was previously collected pursuant to the statute. For example, he was convicted of a prior felony offense (second degree possession of stolen property) for which he was sentenced on September 3, 2003. CP 24. This prior conviction required collection of a biological sample for purposes of DNA identification analysis pursuant to the current statute. RCW 43.43.754(6)(a); Laws of 2008 c 97 § 2, eff. June 12, 2008; Laws of 2002 c 289 § 2, eff. July 1, 2002. Mr. Priest was assessed the $100 DNA collection fee at the time of the 2003 sentencing. Appendix A.[6] There is no evidence suggesting his DNA had not been collected and placed in the DNA database. Mr. Priest fell within the parameters of RCW 43.43.754(2) and a subsequent DNA sample was not required. Under these circumstances, it was manifestly unreasonable for the sentencing court to order him to submit to another collection of his DNA. The collection order must be reversed.

4. Since the directive to pay LFOs was based on an unsupported finding of ability to pay, the matter should be remanded for the sentencing court to make individualized inquiry into the defendant's current and future ability to pay before imposing LFOs.[7]

a. *This court should exercise its discretion and accept review*.

[6] Sentencing screen from SCOMIS, regarding Okanogan County Superior Court No. 03-1-00157-9.

Mr. Priest did not object below. However, the Washington Supreme Court has held the ability to pay legal financial LFOs may be raised for the first time on appeal by discretionary review. *Blazina*, ___Wn.2d___, 344 P.3d at 683. In *Blazina* the Court felt compelled to accept review under RAP 2.5(a) because "[n]ational and local cries for reform of broken LFO systems demand … reach[ing] the merits … ." *Blazina*, 344 P.3d at 683. The Court reviewed the pervasive nature of trial courts' failures to consider each defendant's ability to pay in conjunction with the unfair disparities and penalties that indigent defendants experience based upon this failure.

Public policy favors direct review by this Court. Indigent defendants who are saddled with wrongly imposed LFOs have many "reentry difficulties" that ultimately work against the State's interest in accomplishing rehabilitation and reducing recidivism. *Blazina*, 344 P.3d at 684. Availability of a statutory remission process down the road does little to alleviate the harsh realities incurred by virtue of LFOs that are improperly imposed at the outset. As the *Blazina* Court bluntly recognized, one societal reality is "the state cannot collect money from defendants who cannot pay." *Blazina*, 344 P.3d at 684. Requiring

[7] Assignment of Error 3.

defendants who never had the ability to pay LFOs to go through collections and a remission process to correct a sentencing error that could have been corrected on direct appeal is a financially wasteful use of administrative and judicial process. A more efficient use of state resources would result from this court's remand back to the sentencing judge who is already familiar with the case to make the ability to pay inquiry.

As a final matter of public policy, this Court has the immediate opportunity to expedite reform of the broken LFO system. This Court should embrace its obligation to uphold and enforce the Washington Supreme Court's decision that RCW 10.01.160(3) requires the sentencing judge to make an individualized inquiry on the record into the defendant's current and future ability to pay before the court imposes LFOs. *Blazina*, 344 P.3d at 685.[8] This requirement applies to the sentencing court in Mr. Priest's case regardless of his failure to object.[9] The sentencing court's signature on a judgment and sentence with boilerplate language stating that it engaged in the required inquiry is wholly inadequate to meet the

[8] *Bellevue John Does 1-11 v. Bellevue Sch. Dist. #405*, 129 Wn. App. 832, 867-68, 120 P.3d 616, 634 (2005) rev'd in part sub nom. *Bellevue John Does 1-11 v. Bellevue Sch. Dist. #405*, 164 Wn.2d 199, 189 P.3d 139 (2008)(The principle of stare decisis—"to stand by the thing decided"—binds the appellate court as well as the trial court to follow Supreme Court decisions).

[9] See, *Kitsap Alliance of Prop. Owners v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 160 Wn. App. 250, 259-60, 255 P.3d 696, 701 (2011) ("Once the Washington Supreme Court has authoritatively construed a statute, the legislation is considered to have always meant that interpretation.") (citations omitted).

requirement. *Blazina*, 344 P.3d at 685. Post-*Blazina*, one would expect future trial courts to make the appropriate ability to pay inquiry on the record or defense attorneys to object in order to preserve the error for direct review. Mr. Priest respectfully submits that in order to ensure he and all indigent defendants are treated as the LFO statute requires, this Court should reach the unpreserved error and accept review. *Blazina*, 344 P.3d at 687 (FAIRHURST, J. (concurring in the result)).

b. *Substantive argument.*

There is insufficient evidence to support the trial court's finding that Mr. Priest has the present and future ability to pay legal financial obligations. Courts may require an indigent defendant to reimburse the state for the costs only if the defendant has the financial ability to do so. *Fuller v. Oregon*, 417 U.S. 40, 47–48, 94 S.Ct. 2116, 40 L.Ed.2d 642 (1974); *State v. Curry*, 118 Wn.2d 911, 915–16, 829 P.2d 166 (1992); RCW 10.01.160(3); RCW 9.94A.760(2). The imposition of costs under a scheme that does not meet with these requirements, or the imposition of a penalty for a failure to pay absent proof that the defendant had the ability to pay, violates the defendant's right to equal protection under Washington Constitutuion, Article 1, § 12 and United States Constitutuion, Fourteenth Amendment. *Fuller v. Oregon*, supra. It further violates equal protection

by imposing extra punishment on a defendant due to his or her poverty. *Bearden v. Georgia*, 461 U.S. 660, 665, 103 S.Ct. 2064, 2071, 76 L.Ed.2d 221 (1983).

RCW 9.94A.760(1) provides that upon a criminal conviction, a superior court "may order the payment of a legal financial obligation." RCW 10.01.160(1) authorizes a superior court to "require a defendant to pay costs." These costs "shall be limited to expenses specially incurred by the state in prosecuting the defendant." RCW 10.01.160(2). In addition, "[t]he court shall not order a defendant to pay costs unless the defendant is or will be able to pay them." RCW 10.01.160(3). RCW 10.01.160(3) requires the record to reflect that the sentencing judge made an individualized inquiry into the defendant's current and future ability to pay before the court imposes LFOs. *Blazina*, 344 P.3d at 685. "This inquiry also requires the court to consider important factors, such as incarceration and a defendant's other debts, including restitution, when determining a defendant's ability to pay." *Id*. The remedy for a trial court's failure to make this inquiry is remand for a new sentencing hearing. *Id*.

Blazina further held trial courts should look to the comment in court rule GR 34 for guidance. *Id*. This rule allows a person to obtain a waiver of filing fees and surcharges on the basis of indigent status, and the

comment to the rule lists ways that a person may prove indigent status. *Id.* (citing GR 34). For example, under the rule, courts must find a person indigent if the person establishes that he or she receives assistance from a needs-based, means-tested assistance program, such as Social Security or food stamps. *Id.* (citing comment to GR 34 listing facts that prove indigent status). In addition, courts must find a person indigent if his or her household income falls below 125 percent of the federal poverty guideline. *Id.* Although the ways to establish indigent status remain non-exhaustive, if someone does meet the GR 34 standard for indigency, courts should seriously question that person's ability to pay LFOs. *Id.*

While the ability to pay is a necessary threshold to the imposition of costs, a court need not make formal specific findings of ability to pay: "[n]either the statute nor the constitution requires a trial court to enter formal, specific findings regarding a defendant's ability to pay court costs." *Curry*, 118 Wn.2d at 916. However, *Curry* recognized that both RCW 10.01.160 and the federal constitution "direct [a court] to consider ability to pay." *Id.* at 915–16. The individualized inquiry must be made on the record. *Blazina*, 344 P.3d at 685.

Here, the judgment and sentence contains a biolerplate statement the the trial court has “considered” Mr. Priest’s present or future ability to

pay legal financial obligations. A finding must have support in the record. A trial court's findings of fact must be supported by substantial evidence. *State v. Brockob*, 159 Wn.2d 311, 343, 150 P.3d 59 (2006) (citing *Nordstrom Credit, Inc. v. Dep't of Revenue*, 120 Wn.2d 935, 939, 845 P.2d 1331 (1993)). The trial court's determination "as to the defendant's resources and ability to pay is essentially factual and should be reviewed under the clearly erroneous standard." *State v. Bertrand*, 165 Wn. App. 393, 267 P.3d 511, 517 fn.13 (2011), citing *State v. Baldwin*, 63 Wn. App. 303, 312, 818 P.2d 1116, 837 P.2d 646 (1991).

"Although *Baldwin* does not require formal findings of fact about a defendant's present or future ability to pay LFOs, the record must be sufficient for [the appellate court] to review whether 'the trial court judge took into account the financial resources of the defendant and the nature of the burden imposed by LFOs under the clearly erroneous standard.' " *Bertrand*, 165 Wn. App. 393, 267 P.3d at 517, citing *Baldwin*, 63 Wn. App. at 312 (bracketed material added) (internal citation omitted).

Here, despite the boilerplate language in paragraph 2.5 of the judgment and sentence, the record does not show the trial court took into account Mr. Priest's financial resources and the potential burden of imposing LFOs on him. LFOs were imposed in at least some of his twelve

(12) prior adult felony convictions. CP 24; Appendix A, B[10] and C[11]. Mr. Priest was ordered to pay $15,000 in restitution in connection with his 2004 conviction. Appendix B. His other theft and burglary convictions may reasonably have also generated restitution obligations. CP 24. The court sentenced Mr. Priest to 50 months of confinement. CP 25. Yet the court did not inquire into Mr. Priest's financial resources or consider the burden payment of LFOs would impose on him in light of debt, incarceration or other relevant factors identified in *Blazina*. RP 248–51. Despite finding him indigent for trial and this appeal, the sentencing court found there was "no basis for any indigency finding" regarding payment of LFOs and ordered LFO payments of $50 per month to begin 60 days after his release from custody. SCOMIS #3 (filed 8/7/13); CP 2–3, 28; RP 250.

Since the boilerplate finding that Mr. Priest has the present or future ability to pay LFOs is simply not supported by the record, the matter should be remanded for the sentencing court to make an individualized inquiry into Mr. Priest 's current and future ability to pay before imposing LFOs. *Blazina*, 344 P.3d at 685.

[10] Sentencing screen from SCOMIS, regarding Okanogan County Superior Court No. 04-1-00100-3.

E. CONCLUSION

For the reasons stated, this Court should vacate the orders assessing the $100 DNA collection fee and authorizing collection of Mr. Priest's DNA, and remand for the trial court to make an individualized inquiry into Mr. Priest's current and future ability to pay before imposing LFOs.

Respectfully submitted April 25, 2015,

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[11] Sentencing screen from SCOMIS, regarding Okanogan County Superior Court No. 04-1-00360-0.

PROOF OF SERVICE

I, Susan Marie Gasch, do hereby certify under penalty of perjury that on April 25, 2015, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of brief of appellant:

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14:03:16 Tuesday, April 21, 2015

JSM059 DISPLAY SENTENCE **OKANOGAN** SUPERIOR 04-21-15 14:02 1 OF 2
CASE#: 03-1-00157-9 DEF01 PRIEST, DAVID RANDALL
NOTE1: **** AFF PREJ / JUDGE BURCHARD ****
JUDGMENT#: NO

---------- SENTENCE INFORMATION ----------

SENTENCE DATE: 09 03 2003 SENTENCED BY: COMM EDWARDS
SENTENCING DEFERRED: APPEALED TO: DATE:

PRISON SERVE	: X	FINE	:$ $600
PRISON SUSPENDED	:	RESTITUTION	:$
JAIL SERVE	:	COURT COSTS	:$ 130.50
JAIL SUSPENDED	:	ATTORNEY FEES	:$ 250
PROB/COMM. SUPERVISION	:	DATE DUE	: PAID:

---------- SENTENCE DESCRIPTION ----------

PRISON: 22 MONTHS, COUNT I; 12 MONTHS COUNT II; 3 MONTHS COUNT III. TOTAL CONFINEMENT 22 MONTHS.
FINES: $500 CRIME VICTIM; $100 DNA
01-30-2012 ORDER WAIVING INTEREST ON LFO $479.82

? F1=Help ENTER=Process F7=Bwd F8=Fwd PA1=Cancel

APPENDIX "A"

14:04:15 Tuesday, April 21, 2015

JSM059 DISPLAY SENTENCE **OKANOGAN** SUPERIOR 04-21-15 14:03 1 OF 2
CASE#: 04-1-00100-3 DEF01 PRIEST, DAVID RANDALL
NOTE1: **** AFF PREJ / JUDGE BURCHARD ****
JUDGMENT#: 04-9-00420-6

---------- SENTENCE INFORMATION ----------

SENTENCE DATE: 08 12 2004 SENTENCED BY: JUDGE BURCHARD
SENTENCING DEFERRED: APPEALED TO: DATE:

PRISON SERVE	:	FINE	:$ 500 CV
PRISON SUSPENDED	:	RESTITUTION	:$ 15,000
JAIL SERVE	:	COURT COSTS	:$ 130.50
JAIL SUSPENDED	: X	ATTORNEY FEES	:$ 250
PROB/COMM. SUPERVISION	:	DATE DUE	: PAID:

---------- SENTENCE DESCRIPTION ----------

JAIL: 365 DAYS EACH COUNT II,III & VI. 90 DAYS COUNT IV. CREDIT FOR 109 DAYS SERVED EACH COUNT II,III & VI. CREDIT TIME SERVED COUNT IV 90 DAYS. 256 DAYS EACH COUNT II,III * VI SUSPENDED FOR 2 YRS. 0 DAYS COUNT IV SUSPENDED FOR 1 YR. UNSUPERVISED PROBATION
PAYMENTS: $100 BEGINNING 10/04/04 AND THE 4TH OF EA MONTH
JUNE 14, 2005 OR MODIFYG SENTENCE 1) DEF SRV 75 DAYS IN OKCO JAIL/CREDIT FOR TIME SRVDAS OF THE ABV HRG DATE 75 DAYS TO RUN CONCURRENT W/SENTCG IN CASE 4-1-00360-0 2) DEF SHALL PAY $100.00 AS HIS PAYMNT TOWRDS LFO AS STATED IN ORGNL ORDE FOR SUSPENDED SENTENCE

? F1=Help ENTER=Process F7=Bwd F8=Fwd PA1=Cancel

APPENDIX "B"

14:04:58 Tuesday, April 21, 2015

JSM059 DISPLAY SENTENCE **OKANOGAN** SUPERIOR 04-21-15 14:04 1 OF 2
CASE#: 04-1-00360-0 DEF01 PRIEST, DAVID RANDALL
NOTE1: **** AFF PREJ / JUDGE BURCHARD**
JUDGMENT#: 05-9-00332-1 OSOS: 09/21/2007 Felony Conviction Notification
---------- SENTENCE INFORMATION ----------
SENTENCE DATE: 06 14 2005 SENTENCED BY: JUDGE JOHN BRIDGES
SENTENCING DEFERRED: APPEALED TO: DATE:

PRISON SERVE	: X	FINE	:$ 500.00
PRISON SUSPENDED	:	RESTITUTION	:$ TBD
JAIL SERVE	:	COURT COSTS	:$ 230.50
JAIL SUSPENDED	:	ATTORNEY FEES	:$ 250.00
PROB/COMM. SUPERVISION	:	DATE DUE	: PAID:

---------- SENTENCE DESCRIPTION ----------
SENTENCED TO 57 MONTHS ON COUNT 3 AND 29 MONTHS ON COUNT 2 TO RUN CONCURRENT WILL RUN CONCURRENTLY WITH CASE 03-1-157-9 AND WILL PAYMENTS TO BE SET BY DOC 08/31/2005 ORDER TO CORRECT JUDGMENT & SENTENCE SECTION 2.3: CT 3-OFFENDER SCORE 10.5, SERIOUSNESS LEVEL IS II, STANDARD RANGE 43-57 MOS/ CT 4: OFFENDER SCORE IS 10.5, SERIOUSNESS LEVEL IS I, STANDARD RANGE IS 22-29 MOS
******* 09-13-2007 RESENTENCING**********
CT 3: PRISON-57 MOS, CT 4: PRISON-29 MOS, TOTAL CONFINEMENT 57 MOS, CONSECUTIVE W/ CASE #03-1-00157-9
CT 1 & 2: NOT GUILTY
FEES: $500.00 PCV, $110.00 FRC, $20.50 SFR, $250.00 PUB, $100.00 CLF
? F1=Help ENTER=Process F7=Bwd F8=Fwd PA1=Cancel

APPENDIX "C"