

NO\_\_\_\_96336-3

### SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON Respondent

VS.

ANDREW FLORES

Petitioner

MOTION FOR DISCRETIONARY REVIEW SUPERIOR COURT NO. 96-1-01593-8 COURT OF APPEALS NO. 51888-1-II

Andrew Flores 974029

AHCC PO Box 2049

Spokane, Wash. 949001

### A. IDENTITY OF PETITIONER

Andrew Flores, Petitioner asks this Court to accept review of the decision designated in Part B of this Motion

B. Petitioner asks this Court for review of the Court of appeals Order Denying Motion to Modify Ruling. Court of Appeals No. 51888-1-II filed on August 15, 2018

### C. ISSUES PRESENTED FOR REVIEW

- Does the Superior Court lack Jurisdiction to collect Legal financial obligations
- 2. Does E2SHB 1783 Apply in respects to the accumlated Interest

### D. PROCEDURAL HISTORY

Flores first filed his Petition on June 15, 2016 arguing the Court Lacked Jurisdiction to collect legal financial obligations.

The Superior Court dismissed Mr. Flores petition. Mr. Flores sought Appeal, The Court of Appeals dismissed Flores petition.

Flores sought Personal Restraint Petition in the Supreme Court. Court Commissioner directed the State to Admit or Deny Jurisdiction SEE EXHIBIT A

The State conceded "the Superior Court retains No Jurisd iction by operation of Statute, and the Superior Court is Not Auhtorized to collect legal financial obligations from Mr. Flores" SEE EXHIBIT B

Supreme Court Commissionerdenied discretionary review reasoning "This Court cannot provide Mr. Flores relief from his expired legal financial obligations"

Mr. Flores filed on April 19, 2018 Motion and Order waiving legal financial obligations and Interest. SEE EXHIBIT C
Flores argued the SUperior lacked Jurisdiction.

Superior Court Commissioner accepted the States argument that they are not attempting to collect and denied Flores relief.

Flores Appealed and Court of Appeals Commissioner denied Flores petition.

Flores Appealed that decision and filed Motion to Modify Commissioner ruling.

Court of Appeals denied motion and this timely Motion for discretionary review follows:

### E. ARGUMENT

COURT OF APPEALS ORDER DENYING MOTION TO MODIFY COMMISSIONER RULING IS APPEALABLE PURSUANT TO RAP 13.3(e)

Citing RAP 13.3(e) "The decision of the Court of Appeals on a Motion to Modify a ruling by the Commissioner or Clerk may be subject to review"

Flores MOved the Appellate Court to Modify Commissioner's ruling however the Court denied motion. It is well settled that "the Court of Appeals decision on the Motion" is reviewable by the Supreme Court" See Fox v Sunmaster Prods. inc, 115 Wn.2d 498, 798 P.2d 808 (1990)

Additionally in support of this motion RAP 2.5 (a)(1) "A party may raise for the first time in the Appellate Court, (1) LACK OF JURISDCITION" A trial Courts Lack of Jurisdiction may be raised for the first time on Appeal SEE. In re Estate of Alsup, 181 Wn.App. 856, 868, 327 P.3d 1266 (2014)

It is a undisputed and Conceded fact that the Superior Court lacks Jurisdiction to Collect legal financial obligations and Interest from Petitioner.

COMMISSIONER'S RULING IS CONTRARY TO SUPREME COURT PRECEDENT

Flores argues the Trial court accepted the State's argument that it is not attempting to collect, However that was not what Flores brought before the Superior Court.

Flores argued the Lack of Jurisdiction and waiver of Interest and to simply Correct his judgment and sentence reflecting this fact.

The Superior Court and Court of Appeals Ignored the State's concession of this fact.

This Supreme Court in State v Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015) had already rejected the State's argument that a challenge to legal financial obligations cannot be made until the State initiates enforcement Id at 832 n.1

Division two recognized this fact, however in Flores case, the Court of Appeals division two ignored Supreme precedent in Blazina and for that matter it's own ruling in <u>State v Shirts</u>, 195 Wn. App. 849, 381 P.2d 1233 (2016)

In Support of Flores argument Division Three holding in State v Wilson, 198 Wn. App. 632 (2017) adopted division two holding and respected Supreme Court precedent and ruled that way.

A pertinent question of law here is Is Mr. Flores Judgment and Sentence correct? given the fact his LFO's have expired and Interest is still accuring contrary to law.

A simple solution of directing the Superior Court to reissue a corrected Judgment and sentence omitting costs and Interest

Court's direction, that the Superior Court does not retain jurisdiction to collect on Mr. Flores' legal financial obligations.

However, the State takes the position that at the time the Court of Appeals ruled on January 4, 2017 the superior court's jurisdiction to collect Mr. Flores's legal financial obligations had not expired. The order extending jurisdiction pursuant to RCW 9.94A.760(4) indicated that the court's original jurisdiction expired on January 13, 2007 and that it was extending jurisdiction for 10 additional years. That then would extend the court's jurisdiction until January 13, 2017. So at the time of the Court of Appeals' ruling on January 4, 2017, the Superior Court retained 9 days of jurisdiction. As of the writing of this response, however, the Superior Court retains no jurisdiction by operation of statute, and the Superior Court is not authorized to collect legal financial obligations from Mr. Flores under this cause number.

DATED this Tonday of December, 2017.

Respectfully submitted:

ANTHONY F. GOLIK
Prosecuting Attorney

Clark County, Washington

By:

RACHAEL A. ROGERS, WSBA #37878 Senior Deputy Prosecuting Attorney OID# 91127

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## IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

### **DIVISION II**

STATE OF WASHINGTON,

Respondent,

No. 51888-1-II

v.

**RULING RECALLING MANDATE** 

ANDREW MICHAEL FLORES,

Appellant.

THIS MATTER comes before the undersigned upon a motion by the Court to recall the mandate issued in the above-entitled matter on September 20, 2018, based on a timely motion for discretionary review being filed in the Supreme Court. Accordingly, it is

**ORDERED** that the mandate in the above-entitled matter is recalled.

DATED this 215

\_, 2018

DIVISION

URT OF APPEA

Rachael Rogers Clark County Prosecuting Attorney's Offi PO Box 5000 Vancouver, WA 98666-5000 Andrew Flores DOC #974029 Airway Heights Corrections Center PO Box 2049 Airway Heights, WA 99001

### IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

### **DIVISION II**

STATE OF WASHINGTON,

Respondent,

v.

ANDREW MICHAEL FLORES,

Appellant.

No. 51888-1-II

**RULING DISMISSING APPEAL** 

Because Appellant's legal financial obligations have now expired and the State cannot collect on them, his appeal from the order denying his motion to remit them is dismissed as moot. Accordingly, it is

SO ORDERED.

Clark County Prosecuting Attorney's Offi

DATED this

Vancouver, WA 98666-5000

Rachael Rogers

PO Box 5000

2018

COURT COMMISSIONER

Andrew Flores

DOC #974029

Airway Heights Corrections Center

PO Box 2049

Airway Heights, WA 99001

### DECLARATION OF SERVICE

I, Andrew Flores certify under penalty of perjury under the laws of the State of Washington that on the date below I did the following:

On the 11th day of the ninth month, 2018 I mailed by regular mail, U.S. Mail, postage perpaid a true copy of the Motion for Discretioanry review, mailed to

The Temple of Justice The Supreme Court of Washington PO BOX 40929 Olympia, Wash 98504-0929

DATED THIS 11th DAY OF September, 2018

Andrew Flores pro se