

# Court rules indigent convict can't be billed for incarceration costs

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May 2, 2018 Updated 8 hrs ago

YAKIMA, Wash. -- Authorities cannot require a convicted sex offender to pay for part of his incarceration, especially when his chances for gainful employment are not promising, a state appellate court ruled.

A unanimous three-judge panel of the Spokane-based Division III Court of Appeals ordered that Aristeo Garcia-Rubio's sentence be amended to remove the charge, as well as allow him up to three business days to register as a sex offender when he is released.

Garcia-Rubio, 36, was convicted of second-degree child rape in November 2016. Prosecutors allege he raped a then-12-year-old girl attending Franklin Middle School, where he worked as a paraeducator assigned as a Spanish interpreter.

Yakima County Superior Court Judge Gayle Harthcock sentenced Garcia-Rubio in December 2016 to 10 years to life, based on the finding that Garcia-Rubio abused a position of trust with the girl.

In the sentencing order, Garcia-Rubio was ordered to report to the Department of Corrections for his parole and register as a sex offender with the Yakima County Sheriff's Office within 24 hours of his release from prison. Harthcock also ordered Garcia-Rubio to pay up to \$300 to reimburse the state for part of his incarceration costs.

But appellate court Judge George Fearing, in his opinion, said state law bars the courts from seeking incarceration costs from defendants who are unable to pay them.

Fearing also found that state law allows a registered sex offender up to three business days to register with the sheriff's office after their release.

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