

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

OSIEL RIVERA VALLEJO,

Appellant.

No. 87212-5-I

DIVISION ONE

UNPUBLISHED OPINION

PER CURIAM — Osiel Rivera Vallejo filed an appeal challenging the imposition of a \$500 Victim Penalty Assessment (VPA) and a \$100 DNA collection fee as a provision of his judgment and sentence. When Vallejo was sentenced in June 2022, the VPA was a mandatory condition of sentence. Former RCW 7.68.035 (2018). Effective July 1, 2023, the legislature added a subsection to RCW 7.68.035 that prohibits trial courts from imposing the VPA on indigent defendants as defined in RCW 10.01.160(3). *State v. Ellis*, 27 Wn. App. 2d 1, 16, 530 P.3d 1048 (2023). Additionally, courts are statutorily required to waive any DNA collection fee imposed prior to July 1, 2023, on the defendant's motion. RCW 43.43.7541(2). The State does not dispute that Vallejo is indigent and concedes that this matter should be remanded to strike the VPA and DNA collection fee from Vallejo's judgment and sentence.

We accept the State's concession and remand to the superior court to strike the VPA and DNA collection fee provisions from the judgment and sentence entered in

No. 87212-5-I/2

Benton County Superior Court Cause No. 19-1-00486-03.

FOR THE COURT:

Cohen, J.

Chung, J.

Mann, J.