

June 18, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

GARRETT ALEXANDER CARR,

Appellant.

No. 58103-5-II

UNPUBLISHED OPINION

PRICE, J. — Garrett A. Carr appeals from his judgment and sentence, which imposed a \$500 crime victim penalty assessment (VPA). Carr asks us to remand for the trial court to strike the VPA, and the State has no objection. We agree and remand for the trial court to strike the VPA.

FACTS

In October 2022, Carr was charged with one count of attempting to elude a pursuing police vehicle and one count of possession of a stolen motor vehicle.

Carr waived his right to a jury trial. Following a bench trial, the trial court convicted Carr of the attempting to elude charge but acquitted Carr for the charge of possession of a stolen vehicle.

At sentencing, the trial court found that Carr was indigent. But the judgment and sentence imposed a \$500 VPA under RCW 7.68.035.

Carr appeals.

ANALYSIS

Carr argues that the VPA should be stricken because the VPA is no longer authorized by statute. The State has no objection to remanding for the superior court to strike the VPA. We agree the VPA should be stricken.

Effective July 1, 2023, the VPA is no longer authorized for indigent defendants. LAWS OF 2023, ch. 449 § 1; RCW 7.68.035(4). This legislative change governing the VPA applies to cases that were still on direct appeal when the change was enacted. *State v. Ellis*, 27 Wn. App. 2d 1, 16, 530 P.3d 1048 (2023). Here, because the trial court found Carr to be indigent and his direct appeal is still pending, the VPA is no longer authorized for him.

CONCLUSION


We remand for the trial court to strike the VPA from Carr's judgment and sentence.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.


PRICE, J.

We concur:


VELJACIC, A.C.J.


PRICE, J.