

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

STATE OF WASHINGTON,)	
)	No. 67938-4-I
Respondent,)	
)	
v.)	
)	
NELSON LEE SELLERS,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: October 29, 2012
)	

Per Curiam — Nelson Sellers appeals the sentence imposed following his convictions for first degree unlawful possession of a firearm and possession of cocaine. He contends the court’s boilerplate finding that he “has the present or likely future ability to pay the financial obligations imposed” is not supported by the record and must be stricken. He does not challenge the mandatory financial obligations imposed by the court, *i.e.*, the victim’s penalty assessment and DNA collection fee. Rather, he seeks only to strike the finding regarding his ability to pay. We affirm.



The trial court is not required to enter findings regarding a defendant's ability to pay before it orders the defendant to pay financial obligations. State v. Blank, 131 Wn.2d 230, 241-42, 930 P.2d 1213 (1997); State v. Curry, 118 Wn.2d 911, 916, 829 P.2d 166 (1992). The proper time for findings “is the point of collection and when sanctions are sought for nonpayment.” Blank, 131 Wn.2d at 241-42; State v. Crook, 146 Wn. App. 24, 189 P.3d 811 (2008). While sentencing courts must consider the

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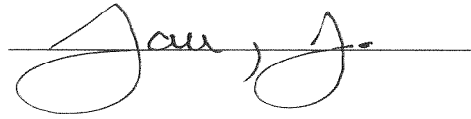
defendant's financial situation before imposing non-mandatory costs, see RCW 10.01.160(3) ("The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose."), State v. Baldwin, 63 Wn. App. 303, 308-12, 818 P.2d 1116 (1991), State v. Bertrand, 165 Wn. App. 393, 404, 267 P.3d 511 (2011), such consideration is not necessary at sentencing when, as here, the financial obligations imposed are mandatory DNA fees or victim penalty assessments. State v. Thompson, 153 Wn. App. 325, 336-38, 223 P.3d 1165 (2009) (DNA fee is mandatory and imposed regardless of hardship); State v. Williams, 65 Wn. App. 456, 460-61, 828 P.2d 1158 (1992) (victim penalty assessment "is mandatory and requires no consideration of a defendant's ability to pay" at sentencing); Curry, 62 Wn. App. at 682-83. In these circumstances, the challenged finding is immaterial and does not warrant relief. State v. Caldera, 66 Wn. App. 548, 551, 832 P.2d 139 (1992).

Affirmed.

FOR THE COURT:

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A handwritten signature in black ink, appearing to read "Jau, J.", is written over a solid horizontal line. The signature is cursive and stylized, with the first letter of each name being a large, looped capital letter.