

FILED
MAY 30, 2019
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

STATE OF WASHINGTON,)	
)	No. 36076-8-III
Respondent,)	
)	
v.)	
)	UNPUBLISHED OPINION
KENNETH CLYDE SHOPTAW,)	
)	
Appellant.)	

FEARING, J. — Kenneth Shoptaw appeals from the judgment and sentence imposed for his Kittitas County convictions of possession of a controlled substance, methamphetamine, and two counts each of residential burglary, second degree burglary, and first degree theft. On appeal, he solely assigns error to the imposition of a \$200 criminal filing fee and a \$100 DNA collection fee as legal financial obligations at sentencing. We remand for the sentencing court to strike those fees.

After a jury found Kenneth Shoptaw guilty of the crimes, the trial court imposed an 84-month sentence followed by twelve months of community custody. The court found Shoptaw indigent and imposed financial obligations of a \$500 victim assessment, a \$200 criminal filing fee and a \$100 DNA collection fee.

Kenneth Shoptaw ask that we direct the striking of the \$200 criminal filing fee and

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the \$100 DNA fee from his judgment and sentence based on *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018). The State concedes that the fees should be struck.

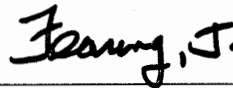
House Bill 1783, effective June 7, 2018, prohibits trial courts from imposing the certain financial obligations on defendants who are indigent at the time of sentencing. LAWS OF 2018, ch. 269, § 6(3); *State v. Ramirez*, 191 Wn.2d at 746. *Ramirez* held that the amendment applies prospectively to cases pending on direct review and not final when the amendment was enacted. *State v. Ramirez*, 191 Wn.2d at 747. The changes included an amendment to former RCW 36.18.020(2)(h) to prohibit the imposition of the \$200 criminal filing fee on indigent defendants and an amendment to former RCW 43.43.7541 to make the DNA database fee no longer mandatory if the State has previously collected the offender's DNA as a result of a prior conviction. LAWS OF 2018, ch. 269, §§ 17(2)(h), 18.

Kenneth Shoptaw's case is controlled by *Ramirez*. He was indigent at the time of sentencing and remains indigent on appeal. The State acknowledges that his DNA has previously been collected pursuant to a felony conviction. Accordingly, the \$200 criminal filing fee and \$100 DNA collection fee should be struck pursuant to *Ramirez*.

We accept the State's concessions and remand for the trial court to strike the \$200 filing fee and \$100 DNA collection fee from the judgment and sentence.

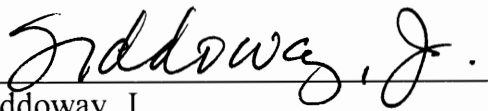
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A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.



Fearing, J.

WE CONCUR:



Siddoway, J.



Pennell, J.