

FILED
OCT. 4, 2012
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. 29930-9-III
Respondent,)	
)	
v.)	
)	
MICHAEL ANTHONY WILLETT,)	UNPUBLISHED OPINION
)	
Appellant.)	
)	

Brown, J. • Michael A. Willett appeals the trial court’s imposition of legal financial obligations (LFOs) ordered after a colloquy with the court. He contends the trial court erred in finding he had the ability or likely future ability to pay his LFOs. We disagree, reasoning the court’s colloquy was adequate. Accordingly, we affirm.

FACTS

In May 2011, a jury found Mr. Willett guilty of residential burglary. Before sentencing, he pleaded guilty to escape in another case. At sentencing for both cases, the court asked, “Is Mr. Willett going to be prepared to pay LFOs?” Report of Proceedings

(RP) (May 17, 2011) at 25. Mr. Willett’s attorney responded, “He will, your Honor, when he gets out, certainly initially at a reduced rate, and then thereafter, depending upon his job prospects.” *Id.* They then discussed the specific amounts Mr. Willett would be required to pay. Mr. Willett made no objection to any of the financial obligations. On the boilerplate judgment and sentence form, the court checked the following finding:

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant’s past, present, and future ability to pay legal financial obligations, including the defendant’s financial resources and the likelihood that the defendant’s status will change. The court finds: That the defendant has the ability or likely future ability to pay the financial obligations imposed herein. RCW 9.94A.753.

Clerk’s Papers at 55. Mr. Willett appealed.

ANALYSIS

The issue is whether, considering the court’s colloquy, the trial court erred in finding Mr. Willett had the current or future ability to pay his LFOs. Mr. Willett contends the record does not support the finding because the trial court did not take into account his other financial obligations, debt, or prospects of earning money.

We review a trial court’s determination regarding a defendant’s resources and ability to pay under the clearly erroneous standard. *State v. Bertrand*, 165 Wn. App. 393, 403-04 n.13, 267 P.3d 511 (2011) (citing *State v. Baldwin*, 63 Wn. App. 303, 312, 818 P.2d 1116, 837 P.2d 646 (1991)). “A finding of fact is clearly erroneous when, although there is some evidence to support it, review of all of the evidence leads to a ‘definite and

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firm conviction that a mistake has been committed.” *Schryvers v. Coulee Cmty. Hosp.*, 138 Wn. App. 648, 654, 158 P.3d 113 (2007) (quoting *Wenatchee Sportsmen Ass’n v. Chelan County*, 141 Wn.2d 169, 176, 4 P.3d 123 (2000)).

The trial court is not required to enter formal findings of fact about a defendant’s present or future ability to pay LFOs. *Bertrand*, 165 Wn. App. at 404 (citing *Baldwin*, 63 Wn. App. at 311 n.14.). However, “the record must be sufficient for us to review whether ‘the trial court judge took into account the financial resources of the defendant and the nature of the burden’ imposed by LFOs.” *Id.* (citing *Baldwin*, 63 Wn. App. at 312.).

Here, the court specifically asked if Mr. Willett was going to be able to pay his LFOs. Once it received an affirmative answer, no more inquiry was required. Mr. Willett argues the court should have made a more detailed inquiry about his work history, resources, and debts. Such a detailed inquiry was not required. Moreover, his counsel’s answer did provide details. Mr. Willett did not object when the court listed the specific amounts he would be obligated to pay. The trial court’s question, in combination with its itemized relation of the particular obligations, satisfied the *Baldwin* requirement.

The record shows that the trial court took into account Mr. Willett’s financial situation and the nature of the burden the LFOs would impose upon him. Accordingly, our review shows the trial court’s finding that Mr. Willett had the current or future ability

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to pay his LFOs is not clearly erroneous.

Affirmed.

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.

WE CONCUR:

Brown, J.

Sweeney, J.

Kulik, J.