



State Of Washington, Respondent V. Isaiah White, Appellant

2017 | Cited 0 times | Court of Appeals of Washington | February 14, 2017

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, No. 48178-2-II

Respondent,

v.

ISAIAH CEE WHITE, UNPUBLISHED OPINION

Appellant.

MELNICK, J. Isaiah Cee White appeals his sentence for possession of a controlled substance, heroin, with intent to deliver within 1,000 feet of a school bus route stop, arguing the sentencing court erred in not conducting a proper individualized inquiry into his ability to pay legal financial obligations (LFOs). We hold that the sentencing court conducted the required inquiry and we refer the matter of appellate costs to a commissioner of this court. We affirm.

FACTS

White pleaded guilty to possession of heroin with intent to deliver within 1,000 feet of a to legal financial obligations, my client . . . owes his mother a thousand dollars; his last job he held was in Marc at 11- He has a stomach hernia, which we believe the future cost would be something like 5- to \$6,000. He has a rotator cuff tear, which about \$5,000 surgery. . . . Filed Washington State Court of Appeals Division Two



State Of Washington, Respondent V. Isaiah White, Appellant

2017 | Cited 0 times | Court of Appeals of Washington | February 14, 2017

February 14, 2017

his GED at 17 years old. White was 28 years old at sentencing. The court then engaged in the following colloquy with White:

THE COURT: . . . In terms of the legal and financial obligations, you know, your attorney talked about what, a stomach hernia

MR. WHITE: Yeah.

THE COURT: or some is shoulder issues, rotator cuff, or something like that?

MR. WHITE: Yeah.

THE COURT: All right. When was the last time you had gainful employment? When was the last time you had a paying job?

MR. WHITE: March this year.

THE COURT: How many hours a week?

MR. WHITE: Probably like 30.

THE COURT: Doing what kind of work?

MR. WHITE: Telemarketing.

THE COURT: Okay.

MR. WHITE: Like hearing aids.

do something like that. Obviously, a criminal conviction is going to make it hard, but

MR. WHITE: Yeah.

THE COURT: obligations and will not do so.

RP at 15. The sentencing court checked the box on the judgment and sentence that it considered



State Of Washington, Respondent V. Isaiah White, Appellant

2017 | Cited 0 times | Court of Appeals of Washington | February 14, 2017

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of

confinement and ordered him to pay LFOs as follows: \$500 victim assessment, \$200 criminal filing fee, \$1,000 attorney fee, \$2,000 drug enforcement fund, \$100 deoxyribonucleic acid (DNA) collection fee, and \$100 crime lab fee. White appealed.

ANALYSIS

A. INDIVIDUALIZED INQUIRY INTO ABILITY TO PAY

White argues that the trial court erred in not conducting an individualized inquiry into his ability to pay LFOs as required by RCW 10.01.160(3) and *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015).¹ We disagree.

Defense counsel asked the court to

objection on the record is sufficient to preserve this issue for review. See RAP 2.5(a); *Blazina*, 182 Wn.2d at 830.

State v. Johnson,

96 Wn. App. 813, 816, 981 P.2d 25 (1999). If there is compliance with a statute, appellate courts

¹ White does not distinguish between mandatory LFOs, for which the sentencing court need not

requirements of RCW 10.01.160(3). See *State v. Mathers*, 193 Wn. App. 913, 918, 376 P.3d 1163, review denied *State v. Lundy*, 176 Wn. App. 96, 102, 308 P.3d

755 (2013). review a decision on whether to impose LFOs for abuse of discretion. *State v. Baldwin*, 63 Wn.

App. 303, 312, 818 P.2d 1116 (1991).

the court shall take account of the financial resources of the defendant and the nature of the burden



State Of Washington, Respondent V. Isaiah White, Appellant

2017 | Cited 0 times | Court of Appeals of Washington | February 14, 2017

Blazina, 182 Wn.2d at 837-38. This inquiry also

Blazina, 182 Wn.2d at 838-39.

Notably, here, the record shows discussion between the sentencing court, counsel, and

GED. The court also noted that White had prior debts and would incur future debt for medical

expenses for hi history. White admitted he had been working earlier that year as a telemarketer, working

approximately 30 hours per week. White admitted there was no physical reason why he could not

do similar work when he was released from confinement. The court then noted that a criminal

Although this discussion may not be as thorough as White requests, he incorrectly argues

that the trial court imposed LFOs without consideration of his ability to pay. Moreover, given that

White received a relatively short sentence of 54 months and he has the ability to earn income as a

telemarketer which is not hindered by his physical ailments, the sentencing court did not abuse its discretion when it imposed LFOs. Given all, we hold that White does not establish a basis to

osition of LFOs.

B. APPELLATE COSTS

Next, White opposes appellate costs in light of State v. Sinclair, 192 Wn. App. 380, 389-

90, 367 P.3d 612, review denied, 185 Wn.2d 1034 (2016), asserting that he does not have the

ability to pay. Under State v. Grant, ___ Wn. App. ___, 385 P.3d 184, 187 (2016), a defendant is

not required to address appellate costs in his or her briefing to preserve the ability to object to the

imposition of costs after the State files a cost bill. A commissioner of this court will consider

whether to award appellate costs in due course under the newly revised provisions of RAP 14.2 if

the State decides to file a cost bill and if White objects to that cost bill.



State Of Washington, Respondent V. Isaiah White, Appellant

2017 | Cited 0 times | Court of Appeals of Washington | February 14, 2017

We affirm.

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.

Melnick, J.

We concur:

Maxa, A.C.J.

Lee, J.

