

COA No. 78874-4-I

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

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STATE OF WASHINGTON,

Respondent,

v.

DAVID CLAYTON, JR.,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT  
OF KING COUNTY

The Honorable Monica J. Benton

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APPELLANT'S OPENING BRIEF

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**A. ASSIGNMENT OF ERROR**

The court acted contrary to RCW 10.82.090(1) in ordering Mr. David Clayton’s legal financial obligations to bear interest.

**B. ISSUE PERTAINING TO ASSIGNMENT OF ERROR**

Excluding restitution, interest does not accrue on legal financial obligations. Must the provision in Mr. Clayton’s judgment providing for accrual of interest on legal financial obligations be stricken?

**C. STATEMENT OF THE CASE**

Mr. Clayton entered a plea of guilty to one charge of third-degree assault. CP 6, 7-31; 8/9/17RP at 3-16. As part of his sentence, the court ordered that Mr. Clayton pay the \$500 victim assessment and the \$100 DNA fee, each being mandatory under RCW 7.68.035, and under RCW 43.43.7541 where Mr. Clayton had no prior convictions resulting in DNA collection. CP 34.

**D. ARGUMENT**

**THE SENTENCING COURT ACTED CONTRARY TO RCW 10.82.090(1) BY ORDERING INTEREST TO ACCRUE ON MR. CLAYTON’S LEGAL FINANCIAL OBLIGATIONS.**

Regarding interest accrual, the judgment document stated, “The financial obligations imposed in this judgment shall bear interest from the date of the judgment[.]” CP 212 (Judgment, ¶ 4.3).

However, since 2018, RCW 10.82.090 has prohibited interest accrual on nonrestitution legal financial obligations. The statute now provides, “As of June 7, 2018, no interest shall accrue on nonrestitution legal financial obligations.” RCW 10.82.090(1).

Although Mr. Clayton was sentenced on September 8, 2017, before the legislative change, these subsequent amendments apply to him on his direct appeal. State v. Ramirez, 191 Wn.2d 732, 747, 426 P.3d 714 (2018).

In Mr. Clayton’s case, although restitution was contemplated, the King County Prosecutor’s Office ultimately filed a document indicating that no restitution determination could be made and that the 180 day period for restitution hearing following sentencing had passed, the office would not be seeking restitution. CP 27, Supp. CP \_\_\_, Sub # 28.

RCW 10.82.090(1) requires that this provision of Mr. Clayton’s judgment be stricken.

#### **E. CONCLUSION**

Based on the foregoing, Mr. Clayton asks that this Court remand the case to the Superior Court for correction of the judgment document to strike the language , “Financial Obligations shall bear interest

pursuant to RCW 10.82.090” in ¶ 4.3.

Respectfully submitted this 26<sup>th</sup> day of May, 2020.

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