No. 103627-2

NO. 57675-9-II

THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION TWO

STATE OF WASHINGTON
Respondent,

v.

SABRA DANIELSON,
Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR CLALLAM COUNTY

BRIEF OF APPELLANT

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A. INTRODUCTION

When the Supreme Court issued its decision in *State v. Blake*, 197 Wn.2d 170, 183, 481 P.3d 521 (2021), Sabra Danielson instantly became eligible to have her drug possession conviction vacated and her legal financial obligations (LFOs) refunded. However, Ms. Danielson—due to her poverty—had paid off a portion of her LFOs in community service. Although the trial court below reimbursed Ms. Danielson for the money she paid toward her LFOs, it refused to refund her for the labor she performed to pay off her debt.

The trial court's ruling treats poor people worse than people with means, violating due process and equal

protection. Similarly situated people who had money to pay off their LFOs were entitled to full reimbursement. But people without money who performed labor instead were not. A new reimbursement hearing is required.

B. ASSIGNMENTS OF ERROR

1. The trial court violated Ms. Danielson's due process rights by refusing to refund her the full amount of her LFO payment. U.S. Const. amend. XIV; Const. art. I, § 3.

2. The trial court violated Ms. Danielson's right to equal protection by denying her a refund on account of her indigence but reimbursing similarly situated people who had money. U.S. Const. amend. XIV; Const. art. I, § 12.

3. The trial court unjustly enriched the State at Ms.

Danielson's expense.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Due process requires states to return the full amount of LFOs exacted from a person who has their criminal conviction vacated. Here, Ms. Danielson—because of poverty—paid off a portion of her LFOs in labor. The trial court's refusal to refund Ms. Danielson for the LFOs she paid in labor violates due process.

2. State action which classifies people based on income level and doles out benefits or burdens based on that classification is subject to equal protection review. The State does not have a substantial interest in denying Ms. Danielson a refund for the portion of her LFOs she paid in

compulsory service. The court's disparate treatment of poor people like Ms. Danielson violates equal protection.

3. The equitable doctrine of restitution requires a party who has been unjustly enriched to compensate the party who conferred the benefit. Ms. Danielson conferred a benefit on the State by performing court-ordered community service. Because service can form the basis of a benefit in an unjust enrichment claim, the State must remunerate Ms. Danielson.

D. STATEMENT OF THE CASE

Sabra Danielson—an unemployed single mother—pled guilty to unlawful possession of a controlled substance in 2003. RP 11:15; CP 41; Supp. CP __ (Sub. No. 69). The court

sentenced her to 58 days in jail. CP 35.

The court credited Ms. Danielson for 28 days she already served and converted the remaining 30 days of jail time to 240 hours of community service. *Id.* Anticipating "significant financial difficulties in her future," *see* RP 11:14, the court found Ms. Danielson to be indigent, eliminated some of her court fees, RP 13:22–23, but still imposed $1,060.00 of LFOs. CP 8.

Initially, Ms. Danielson made great progress toward her community service obligations. *See* CP 20. But then her father got sick. Supp. CP __ (Sub. No. 69). To take care of him, she packed up her family and moved in with him. *Id.* On top of caring for her father—and two toddlers—Ms.

Danielson fought to keep a roof over their heads. *Id.* She struggled to put food on the table. She scraped out a living while planning her life around court-ordered community service. *Id.*

It took Ms. Danielson two years to complete her community service. CP 20. But tracking her hours proved imprecise. RP 26:6–9. At some point in 2004, Ms. Danielson surpassed the 240 hours of community service she was required to perform by 3.5 hours. CP 23.

Even with her community service obligation fulfilled, Ms. Danielson still had to worry about the LFOs hanging over her. Supporting four people, she did not have any money left over at the end of the month. She stopped making

LFO payments. But rather than charge Ms. Danielson with contempt, *see* RP 29:7–11, the court permitted her to pay off her LFOs in additional community service time. RP 26:21–27:8. The court converted the excess hours Ms. Danielson had already performed and arranged to credit her $7.16, the then-current minimum wage, for each additional hour of labor. *Id.* To stay out of jail for unpaid LFOs, Ms. Danielson continued to do community service. RP 27:17–23, 29:7–9. In total, she worked off $110.98 of her LFOs—the price of 15.5 hours of labor. CP 20.

Ms. Danielson tried to put her criminal conviction behind her. She went back to school and raised her two children. Supp. CP __ (Sub. No. 69); RP 20:6–7. She never

reoffended.

Following *Blake*, Ms. Danielson moved to vacate her conviction. CP 21. She requested a refund for the portion of her LFOs she paid in cash *and* the portion she paid in excess community service. CP 15.

Although the trial court found that Ms. Danielson should be reimbursed for any cash payments made toward her LFOs, it refused to pay back the 15.5 hours of credited time that Ms. Danielson had worked. CP 9. The trial court's decision centered on the civil, equitable doctrine of restitution. CP 13–14. Specifically, the court held that "restitution concerns only the property transferred between the parties." CP 13 (quoting *State v. Hecht*, 2 Wn. App. 2d

359, 367, 409 P.3d 1146 (2018)). "Work" could not form the basis of a restitution claim. CP 14. Ms. Danielson now appeals the trial court's ruling and requests a new *Blake* refund hearing.

E. ARGUMENT

1. **The Due Process Clause recognizes that innocent people possess a fundamental right to be restored after an unconstitutional conviction is vacated.**

Absent a compelling interest, states cannot trample on fundamental rights without running afoul of the Fourteenth Amendment's Due Process Clause. Law and history reflect an elementary principle of our justice system: Innocent people like Ms. Danielson have a fundamental right to be restored when their convictions are reversed. This interest in

restoration, although it covers financial restoration, also applies to compulsory labor to satisfy the monetary debt of an unconstitutional conviction. In this case, the State lacks a compelling interest to exact labor without paying for it. And fairness—which flows from Ms. Danielson's fundamental right of restoration—demands she be reimbursed for her labor.

The Fourteenth Amendment's Due Process Clause "forbids the government to infringe certain 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993) (original emphasis).

Fundamental rights are drawn from "careful respect for the teachings of history and solid recognition of the basic values that underlie our society." *Moore v. City of East Cleveland*, 431 U.S. 494, 503, 97 S. Ct. 1932, 52 L. Ed. 2d 531 (1977) (internal quotation omitted). They are "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702, 721, 117 S. Ct. 2258, 138 L. Ed. 2d 772 (1997) (internal quotation omitted).

Innocent people have a fundamental right to be restored when their criminal conviction is reversed or vacated. "The principle that there is a presumption of innocence . . . is the undoubted law, *axiomatic and*

elementary, and its enforcement lies at the foundation of the administration of our criminal law." *Coffin v. United States*, 156 U.S. 432, 453–54, 15 S. Ct. 394, 39 L. Ed. 481 (1895) (emphasis added). That presumption of innocence attaches when a court erases a conviction. *See Johnson v. Mississippi*, 486 U.S. 578, 585, 108 S. Ct. 1981, 100 L. Ed. 2d 575 (1988); *Nelson v. Colorado*, 581 U.S. 128, 135, 137 S. Ct. 1249, 197 L. Ed. 2d 611 (2017). As a result, the State relinquishes all right to payments exacted from the innocent. *Nelson*, 581 U.S. at 136.

In *Nelson*, the Court considered whether a State could refuse to refund fees, court costs, and restitution exacted from people who had their convictions invalidated. *Id.* at

130. The petitioners in that case had each been convicted in unrelated, separate jury trials and sentenced to prison terms, court costs, and monetary restitution. *Id.* at 131. After both petitioners had their convictions overturned, each moved to be reimbursed for the money they paid toward their LFOs. *Id.* at 132. They were denied. *Id.*

The Supreme Court reversed. Absent a criminal conviction, the Court reasoned, a person should be presumed innocent. *Id.* at 137. Colorado could not saddle defendants with a burden of proof or anything more than "minimal procedures" because it had "no interest in withholding from [the petitioners] money to which the State currently has zero claim of right." *Id.* at 137, 139. Innocence required total

reimbursement. *See id.*

Here, Ms. Danielson has a fundamental right to restoration. Although *Nelson* primarily concerns procedural obstacles interfering with an exoneree's right to reimbursement, the opinion rests on a foundational principle: Due process obligates States "to refund fees, court costs, and restitution exacted from a defendant" when their conviction is invalidated. *Id.* at 130.

But just because *Nelson* concerned money exacted from defendants does not mean its reasoning is limited only to cash payments. The *Nelson* Court had no opportunity to address labor exacted from a defendant: Neither petitioner in that case had been sentenced to community service or

ordered to pay off an LFO in labor. *Id.* at 131. However, the reasoning of *Nelson* applies equally to exacted labor.

In this case, the court ordered Ms. Danielson to pay off her LFOs in community service under the threat of jail time. *See* 29:7–9. The court even placed a value, $7.16, on each hour of her labor. CP 8. Fifteen-and-a-half hours of toil—time she will never get back—could have been spent working her actual job. It could have been spent with her kids. With her dad. Instead, she was paying off a debt, a debt which was only imposed because the State unconstitutionally criminalized "innocent, passive nonconduct." *Blake*, 197 Wn.2d at 183. The State exacted compulsory service from Ms. Danielson. The reasoning of *Nelson* compels the State to

pay it back.

Because the State exacted labor from Ms. Danielson to satisfy her debt, it must provide a compelling reason for pocketing the benefit of her labor. It cannot.

The principle of fundamental fairness articulated in *Nelson* requires the State to return everything it exacted from Ms. Danielson—including the cost of labor performed to pay off LFOs. Anything short of full compensation falls short of due process.

2. The Equal Protection Clause bars the State from treating people who have money more favorably than people who do not.

The Fourteenth Amendment guarantees that "[n]o State shall . . . deny to any person within its jurisdiction the

equal protection of the law." U.S. Const. amend. XIV. Thus, any state action which categorizes people into groups and doles out benefits or burdens based on those classifications necessitates equal protection review. *See e.g. Strauder v. West Virginia*, 100 U.S. 303, 307, 25 L. Ed. 664 (1879) (finding that the Equal Protection Clause "is to be construed liberally").

To prove an equal protection claim, a proponent must demonstrate: (1) state action, *see Shelley v. Kraemer*, 334 U.S. 1, 13–14, 68 S. Ct. 836, 92 L. Ed. 1161 (1948); (2) membership in an identifiable class, *State v. Osman*, 157 Wn.2d. 474, 484, 139 P.3d 334 (2006); and (3) lack of tailoring to a State interest. *See id.*

The tailoring requirement for state actions involving a "semisuspect" class or an "important" right is intermediate scrutiny. *Id.* Intermediate scrutiny requires the state to demonstrate that the challenged classification "serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 724, 102 S. Ct. 3331, 73 L. Ed. 1090 (1982) (internal quotation omitted); *see also State v. Shawn P.*, 122 Wn.2d 553, 560 n. 23, 859 P.2d 1220 (1993) (relying on *Hogan*).

If the classification does not merit intermediate scrutiny, courts apply rational basis review. *Osman*, 157

Wn.2d at 484. Although rational basis review is more deferential to the State, actions that lack a "legitimate state interest" will not survive. *Id.* at 486.

Here, Ms. Danielson's equal protection challenge succeeds because the trial court used her indigence—a "semi-suspect" classification—as the basis for denying an "important" right—LFO reimbursement—without substantial relation to an important governmental interest. *Hogan*, 458 U.S. at 724. But even if this Court applies rational basis review, Ms. Danielson still wins because the State lacks even a *legitimate* interest in withholding reimbursement from poor people who paid off their *Blake* LFOs in community service.

a. The trial court was a "state actor" under the Equal Protection Clause.

The Equal Protection Clause protects individuals against incursions by state actors. U.S. Const. amend. XIV. But state actors come in all shapes and sizes.

The Supreme Court has long recognized that "the action of state courts and judicial officers in their official capacities" falls within the [Fourteenth] Amendment's scope. *Shelley*, 334 U.S. at 14 (ruling that state court enforcement of private, racially restrictive covenants qualified as state action under the Fourteenth Amendment); *see also Bell v. Maryland*, 378 U.S. 226, 255–56, 84 S. Ct. 1814, 12 L. Ed. 2d 822 (1964) (Douglas, J., concurring) ("State judicial action is

as clearly 'state' action as state administrative action."). Thus, judicial pronouncements which treat people differently based on underlying classifications are subject to equal protection review.

Here, the court below was the "state actor" that violated Ms. Danielson's right to equal protection. By limiting LFO refunds to only those people who had money to pay, the court unlawfully discriminated against Ms. Danielson. The long history of case law establishing that "the action of state courts and of judicial officers in their official capacities is to be regarded as action of the State," confirms that the court below meets the "state actor" requirement of Ms. Danielson's equal protection claim.

Shelley, 334 U.S. at 14.

b. Refusing to refund poor people for the labor they spent paying off an unconstitutional conviction implicates a semi-suspect class and an important right.

Washington considers classifications based on indigence to be "semi-suspect." *Matter of Mota*, 114 Wn.2d 465, 474, 788 P.2d 538 (1990). In *Mota*, the Court established that "[a] higher level of scrutiny is applied to cases involving a deprivation of a liberty interest due to indigency." *Id.* And even though a superseding statute rendered *Mota*'s specific holding obsolete, the Court has noted that *Mota*'s reasoning remains undisturbed and that wealth-based classifications merit "semi-suspect" status. *See*

Petition of Fogle, 128 Wn.2d 56, 62–63, 904 P.2d 722 (1995).

Importantly, "indigence" does not require "absolute destitution." *See State v. Johnson*, 179 Wn.2d 534, 553, 315 P.3d 1090 (2014). Courts determine constitutional indigence based on the totality of the defendant's financial circumstances in light of a particular fine. *Id.* at 554 (relying on *Bearden v. Georgia*, 416 U.S. 660, 666 n. 8, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983)).

Moreover, the right of a person to seek reimbursement for payments made toward an LFO after their conviction has been vacated is not just "important"—it is fundamental. *See Coffin*, 156 U.S. at 454 (recognizing an "axiomatic and elementary" presumption of innocence, which "lies at the

foundation of the administration of our criminal law"); *Nelson*, 581 U.S. at 135–36 (relying on *Coffin* when articulating that people who have their convictions overturned have an "obvious interest" in being refunded).

Here, Ms. Danielson was, without question, constitutionally indigent at the time of sentencing. *See* RP 11:13–19, 12:21–23. And the sentencing court used Ms. Danielson's indigence as the basis for compelling labor. RP 28:23–29:11. But *Blake* voided any interest the State had to Ms. Danielson's LFOs. *See Nelson*, 581 U.S. at 135–36. Thus, she has a fundamental right in full restoration. But she is not alone.

Ms. Danielson is similarly situated to others who

incurred *Blake* LFOs. She is one of over 200,000 people who incurred LFOs as a result of the State's unconstitutional simple possession law.[1] Rather than treat all *Blake* LFOs the same for the purposes of restoration, the trial court refused to make Ms. Danielson, and indigent people similarly situated to her, whole. Their LFO payments—time, toil, the only things they had to give—were not enough for a refund.

c. The State does not have an important interest in withholding remuneration from poor people.

Intermediate scrutiny requires the State—not Ms.

[1] *Blake Refund Bureau Will Launch in July*, Washington Courts: News and Information (June 12, 2023), https://www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=50125.

Danielson—to prove the law furthers a "substantial interest." *Mota*, 114 Wn.2d at 474; *see also United States v. Virginia*, 518 U.S 515, 533, 116 S. Ct. 2264, 135 L. Ed. 2d 735 (1996) (noting that for intermediate scrutiny "[t]he burden of justification is demanding and it rests entirely on the State"). And unlike rational basis review, where courts may "hypothesize facts to justify a . . . distinction," *see Schroeder v. Weighall*, 179 Wn.2d 566, 574, 316 P.3d 482 (2014), intermediate scrutiny requires the proffered justification to be "genuine, not hypothesized or invented *post hoc* in response to litigation." *Virginia*, 518 U.S. at 533.

In cases where a Washington court has applied intermediate scrutiny and upheld the state action, the

substantial interest identified almost always involved some element of public safety. *See e.g. State v. Jorgenson*, 179 Wn.2d 145, 162, 312 P.3d 960 (2013) (finding an "important interest in restricting potentially dangerous persons from using firearms"); *Petition of Fogle*, 128 Wn.2d at 63 (finding a substantial interest in "maintaining prisoner discipline, particularly by preventing flight from prosecution and preserving local control over jails"); *State v. Miles*, 66 Wn. App. 365, 368, 832 P.2d 500 (1992) (finding a substantial interest in "protecting society" and "deterring offenders on community placement from committing subsequent crimes").

Here, the State's refusal to grant Ms. Danielson

reimbursement for the work she performed in payment of her LFOs fails intermediate scrutiny. The State lacks any basis in public safety—the reversal of Ms. Danielson's conviction attests to that fact.

And it is not Ms. Danielson's—or, for that matter, this Court's—job to justify the State's decision to withhold remuneration from her. That burden falls solely and "demanding[ly]" on the State. *Virginia*, 518 U.S. at 533.

Simply put: The trial court's ruling treated poor people worse than people with means. Similarly situated people who had money to pay off their LFOs were entitled to full reimbursement. But people without money were not. Because the State lacks *any* interest in withholding the

money Ms. Danielson worked for, *see Nelson*, 581 U.S at 139, it fails intermediate scrutiny.

d. The State's policy of denying Ms. Danielson's remuneration fails even the less exacting scrutiny of rational basis review.

Not only does the State lack a substantial interest in withholding Ms. Danielson's remuneration, but even under the more relaxed standard of rational basis review—which requires only a "legitimate" government interest—the State would *still* fail. *Osman*, 157 Wash.2d at 486.

In *Reanier v. Smith*, the Supreme Court applied equal protection review to a State practice of denying time-served credit for pre-trial detention. 83 Wn.2d 342, 343, 517 P.2d 949 (1974). Two of the petitioners in that case did not have

money to post bail. *Id.* at 343–44. As a result, they spent months in pre-trial confinement. *Id.* However, at sentencing, neither received credit for time served. *Id.* The Court compared the petitioners to similarly situated defendants who had money to post bail. *Id.* at 346–47. "[W]ealthy defendants" the Court noted, could pay for their freedom pre-trial, but "the poor stay[ed] behind bars." *Id.* at 349. Because the lower courts did not have a "rational reason" to treat the two groups differently, the State had "clear[ly] . . . breached" equal protection principles. *Id.* at 347, 349.[2]

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[2] The Court decided *Reanier* in 1974—before the development of intermediate scrutiny. This explains why it applied rational basis review to a classification on the basis of wealth.

Elsewhere in Washington, courts have consistently and repeatedly held that administrative reasons, by themselves, cannot survive rational basis review. For example, "[p]reservation of state funds is not in itself a sufficient basis to defeat an equal protection challenge." *Willoughby v. Dep't. of Lab. and Indus.*, 147 Wn.2d 725, 741, 57 P.3d 611 (2002), *partially abrogated on other grounds by Yim v. City of Seattle*, 194 Wash.2d 682, 451 P.3d 694 (2019). Similarly, the presence of an established administrative pattern or tradition is not legitimate either. *See e.g.*, *Wash. Pub. Emps. Ass'n v. State*, 127 Wn. App. 254, 268, 110 P.3d 1154 (2005). And neither is "administrative convenience." *See In re Salinas*, 130 Wn. App. 772, 778, 124 P.3d 665 (2005).

This Court—relying on *Salinas*—reiterated that state actions denying reimbursement because there was no "obvious, and maybe no easy, method to quantify" an entitlement were not legitimate and did not pass rational basis review. *In re Stevens*, 191 Wn. App. 125, 138–39, 361 P.3d 252 (2015) ("The [Department of Corrections's] justifications for its different treatment . . . amounts to administrative inconvenience and the *Salinas* court already rejected the same logic . . . We agree with *Salinas* that administrative inconvenience is not a rational basis.").

Understandably, the State wants to minimize the financial burden of *Blake*-related vacation proceedings. But the law is clear: No amount of money, by itself, is too much

to stand in the way of someone's innocence. No tradition is too established to deny a person their freedom. No inconvenience is too great to warrant disparate treatment.

Because the lower court violated Ms. Danielson's right to equal protection, this Court must reverse and remand for a new refund hearing.

3. Ms. Danielson is entitled to remuneration to prevent unjust enrichment.

This Court should reverse the trial court below because it unjustly enriched the State at Ms. Danielson's expense. Ms. Danielson performed "services" through her labor to satisfy the judgement of her unconstitutional conviction. Her work conferred a benefit on her community and the State—

the basis for a restitution claim. But the lower court denied Ms. Danielson a refund because, having performed *services*, she had not transferred a "property interest" to the State. However, by limiting restitution to property transfers, the trial court not only misapplied *State v. Hecht*, a Division One case, but it distorted the Restatement of Restitution and ignored Washington precedent.

In its order, the lower court relied on the civil, equitable theory of restitution. *See* CP 13–14. Equitable restitution is broader than the criminal law's concept of "restitution." *See* Restatement (Third) of Restitution § 1 cmt. e(2) (Am. L. Inst. 2011) (discussing the difference between the two). "The purpose of [equitable] restitution is to remedy

unjust enrichment." *Ehsani v. McCullough Family Partnership*, 160 Wn.2d 586, 594, 159 P.3d 407 (2007). Unjust enrichment arises when a party unfairly retains the benefit of another person's property—or service. Restatement (First) of Restitution § 1 cmt. b (Am. L. Inst. 1937).

Although trial courts have "broad discretion" to shape equitable remedies, *see Ehsani*, 160 Wn.2d at 589, their rulings are not unassailable. Courts that issue "manifestly unreasonable" or "untenable" rulings must be reversed. *State v. Robinson*, 193 Wn. App. 215, 217–18; 374 P.3d 175 (2016).

Here, the trial court departed not just from the

Restatement of Restitution, which it claimed to rely on, but also from court decisions across Washington. The court below cited to Restatement (First) § 74—titled, "Judgments Subsequently Reversed"—which provides in relevant part:

> A person who has conferred a benefit upon another in compliance with a judgment, *or* whose property has been taken thereunder, is entitled to restitution if the judgment is reversed or set aside, unless restitution would be inequitable . . . .

Restatement (First) of Restitution § 74 (Am. L. Inst. 1937) (emphasis added). A plain reading of this section must account for the "or" separating the words "conferred a benefit" and "property."

"Conferred a benefit" is a term of art, defined in the

first section of the Restatement. Comment *b*—titled, "What constitutes a benefit"—of that section explains:

> A person confers a benefit upon another if he gives to the other possession of or some other interest in money, land, chattels, or choses in action, *performs services beneficial to or at the request of the other*, satisfies a debt or a duty of the other, or in any way adds to the other's security or advantage.

Restatement (First) of Restitution § 1 cmt. b (Am. L. Inst 1937) (emphasis added). The Restatement thus unambiguously lists "services" among those things which may form the basis of a restitution action.

And yet, the trial court concluded that Section 74's "use of 'conferred a benefit' and reference to taken property"

somehow *limited* restitution to property transfers between the parties. CP 13–14. But that reading of Section 74 renders the Restatement internally inconsistent.

The trial court cited to *Hecht* to support its decision. CP 13–14. But that case is inapplicable. In *Hecht*, Division One considered "restitution" in the context of RAP 12.8. *See* 2 Wn. App. 2d at 365–69. Its textual analysis of RAP 12.8 does not apply here because Ms. Danielson brought her request for restitution under CrR 7.8, not RAP 12.8. CP 21.

Even if RAP 12.8 did apply, the facts in *Hecht* are distinguishable. Although the defendant in *Hecht* was statutorily indigent because he received food stamps, there is no indication that he was *constitutionally* indigent like Ms.

Danielson. *See State v. Hecht*, 173 Wn.2d 92, 94–95, 264 P.3d 801 (2011); *Johnson*, 179 Wn.2d at 555 (distinguishing statutory and constitutional indigence). Plus, in *Hecht*, the defendant was never coerced into community service to pay off an LFO. *Hecht*, 2 Wn. App. 2d at 362. But Ms. Danielson was. *Hecht*'s defendant sought to be refunded for 240 hours of community service performed in lieu of custody. *Id.* Ms. Danielson does not seek remuneration for the 240 hours she served in lieu of custody. She only seeks a refund for 15.5 hours of labor she spent paying off her LFOs. In *Hecht*, the defendant wanted the State to pay $1,600,747.25 in damages for his labor and lost income. *Id.* Ms. Danielson does not want damages. She wants to be refunded only for the benefit

she conferred, at the rate set by the sentencing court—$7.16 an hour. She wants $110.98. *Hecht* does not apply here. But other cases in Washington do.

The trial court's decision to limit restitution to property transfers does not square with cases across Washington where services have formed the basis of restitution actions. *See e.g. Young v. Young*, 164 Wn.2d 477, 490; 191 P.3d 1258 (2008) (finding in an unjust enrichment countersuit that the party who benefitted from home remodeling *services* was required to "disgorge the entire value of the benefit she received as determined by either the fair market value of the *services* rendered or the amount the improvements enhanced the value of the property") (emphasis added); *Chandler v.*

Wash. Toll Bridge Auth., 17 Wn.2d 591, 602–03, 137 P.2d 97 (1943) (recognizing that *services* performed during the planning stages of the first Tacoma Narrows Bridge—authoring and submitting a revised grant application—formed the basis of a benefit conferred, but not granting relief because there was no indication that the enrichment was "unjust"); *Found. for the Handicapped v. Dep't. of Soc. & Health Svcs.*, 97 Wn.2d 691, 699–700, 648 P.2d 884 (1982) (allowing the State to keep $83 million collected from the families of students who attended state-run schools for the intellectually disabled because "[c]learly the residents received a benefit from the *services* provided by the State") (emphasis added).

The trial court misunderstood the law of restitution, erroneously denying relief on the basis that Ms. Danielson did not transfer a property interest. CP 13–14. Because those reasons are "untenable" and "manifestly unreasonable," *Robinson*, 193 Wn. App. at 217, this Court must reverse the court below.

F. CONCLUSION

This Court should reverse the trial court and remand for a new hearing.

This brief contains 4,748 words and complies with RAP 18.17.

DATED this 2nd day of August, 2023.

Timothy Severance,
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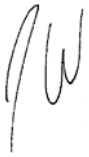

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The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Court of Appeals – Division Two** under **Case No. 57675-9-II**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered by other court-approved means to the following attorney(s) or party/parties of record at their regular office / residence / e-mail address as listed on ACORDS / WSBA website:

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