**SUPREME COURT OF WASHINGTON**

# In re the Personal Restraint of Pierce

173 Wash. 2d 372 (2011) · Decided December 29, 2011

## SUMMARY

The Washington Supreme Court held that the Department of Corrections has independent statutory authority to deduct costs of incarceration from an inmate’s trust account, even when the sentencing court waived such costs. The court also held that the Department may deduct legal financial obligations during confinement and need not issue a notice of payroll deduction before doing so. The court dismissed Pierce’s personal restraint petition.

## CASE DETAILS

| | |
|---|---|
| COURT | Supreme Court of Washington |
| WRITING FOR THE COURT | Stephens, J.; Madsen, C.J.; Chambers, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.; Wiggins, J. |
| JURISDICTION | Washington |
| DECIDED | December 29, 2011 |
| DISPOSITION | dismissed |
| PROCEDURAL POSTURE | Pierce filed a personal restraint petition challenging the Department of Corrections' deductions of costs of incarceration and legal financial obligations from his inmate trust account. The Court of Appeals dismissed the petition as frivolous, and the Washington Supreme Court granted discretionary review. |
| STANDARD OF REVIEW | For constitutional claims in a personal restraint petition, the petitioner generally must show actual and substantial prejudice; for nonconstitutional claims, the petitioner generally must show a fundamental defect resulting in a complete miscarriage of justice. When the issue received no prior opportunity for judicial review, the petitioner need only demonstrate unlawful restraint under RAP 16.4. Statutory interpretation is reviewed by examining the statute's plain meaning, including its language, context, related provisions, and statutory scheme as a whole. |
| PRECEDENTIAL VALUE | Published Washington Supreme Court opinion; precedential. |
| PARTIES | Chad Alan Pierce v. Washington State Department of Corrections |

## TOPICS

state post-conviction relief · post-conviction relief · statutory interpretation · legislative intent · administrative law

## PRACTICE AREAS

state post-conviction relief · corrections law · statutory interpretation · criminal procedure · administrative law

## QUESTIONS PRESENTED

1. Whether the Department of Corrections has independent statutory authority under RCW 72.09.111 and RCW 72.09.480 to deduct costs of incarceration despite the trial court's waiver of court-ordered costs of incarceration under former RCW 9.94A.760(2).
2. Whether the Department may deduct legal financial obligations from an inmate's account while the inmate is confined when the judgment and sentence provides for payment on a schedule established by a community corrections officer.
3. Whether confinement tolls an inmate's legal financial obligation payment duties under former RCW 9.94A.545 or former RCW 9.94A.625(3).
4. Whether the Department must issue a notice of payroll deduction before deducting legal financial obligations from a confined inmate's account.

## HOLDINGS

1. The Department of Corrections has independent statutory authority under RCW 72.09.111 and RCW 72.09.480 to deduct non-court-ordered costs of incarceration, regardless of whether the trial court waived court-ordered costs of incarceration under former RCW 9.94A.760(2).
2. The Department may deduct legal financial obligations from an inmate's account while the inmate is confined, notwithstanding judgment-and-sentence language providing for payment on a schedule established by a community corrections officer.
3. An inmate's legal financial obligation payment duties are not tolled during confinement under former RCW 9.94A.545 or former RCW 9.94A.625(3).
4. The Department is not required to issue a notice of payroll deduction before deducting LFOs from a confined inmate's account.

## KEY QUOTATIONS

> *"The fact that the statutes require separate deductions—one for court-ordered costs in the form of LFOs and another for costs of incarceration—indicates that the Department has authority to deduct costs of incarceration even when they are not ordered in the judgment and sentence."* (384)

> *"We therefore hold that the Department may deduct LFOs from Pierce's account while he is in confinement."* (389)

> *"We decline to endorse Pierce's strained reading of the statutes, and we hold that the Department need not issue a notice of payroll deduction prior to deducting LFOs from a confined inmate's account."* (390)

### FACTUAL BACKGROUND

Pierce, a Washington inmate serving an indeterminate life sentence, was ordered to pay restitution and a victim penalty assessment; the trial court waived other listed financial obligations, including court-ordered costs of incarceration. After Pierce entered prison, the Department of Corrections deducted approximately $30 in costs of incarceration and $30 in legal financial obligations from his inmate trust account. Pierce challenged the deductions, arguing that the judgment and sentence barred collection during confinement and that the Department was required to issue a payroll-deduction notice first.

### PROCEDURAL HISTORY

A jury convicted Pierce of two counts of first degree child molestation in 2006. The trial court imposed an indeterminate life sentence with a 108-month minimum term, restitution, and a victim penalty assessment, while waiving other financial obligations, including costs of incarceration under former RCW 9.94A.760(2). After the Department began deducting costs of incarceration and LFOs from Pierce's account, he pursued unsuccessful internal grievances and filed a personal restraint petition. The Court of Appeals dismissed the petition as frivolous; the Supreme Court granted review and dismissed the petition.

### DISPOSITION

dismissed

### CASES CITED

- In re Pers. Restraint of Gentry, 170 Wn.2d 711, 714-15, 245 P.3d 766 (2010)
- In re Pers. Restraint of Lord, 123 Wn.2d 296, 303, 868 P.2d 835 (1994)
- In re Pers. Restraint of Grantham, 168 Wn.2d 204, 214, 227 P.3d 285 (2010)
- In re Pers. Restraint of Sappenfield, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999)
- Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 9-12, 43 P.3d 4 (2002)
- Christensen v. Ellsworth, 162 Wn.2d 365, 373, 173 P.3d 228 (2007)
- State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003)
- Davis v. Dep't of Licensing, 137 Wn.2d 957, 963, 977 P.2d 554 (1999)
- In re Personal Restraint of Martin, 129 Wn. App. 135, 118 P.3d 387 (2005)

---