

CHIEF PROBATION OFFICERS

OF CALIFORNIA

Date: January 28, 2019

To: All Chief Probation Officers

From: Chief Lee Seale, Legal Committee Chair

RE: People v. Dueñas Summary

On January 8, 2019, the California Court of Appeal issued its published opinion in People v. Dueñas (B285645), a case out of Los Angeles County. At trial, Dueñas, an indigent and homeless mother of young children, pleaded no contest to driving with a suspended license and was placed on summary probation. The court imposed what it believed was a mandatory \$30 court facilities assessment under Government Code section 70373 and a \$40 court operations assessment under Penal Code section 1465.8, both over her objection that she was unable to pay. The court also imposed a \$150 restitution fine under Penal Code section 1202.4, finding that Dueñas had not demonstrated the “compelling and extraordinary reasons” necessary to excuse her from an order to pay.

On appeal, Dueñas argued that the Court should have waived these fees and fines due to her inability to pay them and its failure to do so violated state and federal constitutional due process and equal protection clauses. The appellate court agreed with her, finding that the imposition of fees and fines she could not pay was unconstitutional.

Importantly for our purposes, the appellate court explained that the restitution fine, in particular, imposes an unconstitutional burden in its application to the function of probation:

... the criminal justice system punishes indigent defendants in a way that it does not punish wealthy defendants. In most cases, a defendant who has successfully fulfilled the conditions of probation for the entire period of probation has an absolute statutory right to have the charges against him or her dismissed. ... But if a probationer cannot afford the mandatory restitution fine, through no fault of his or her own he or she is



categorically barred from earning the right to have his or her charges dropped and to relief from the penalties and disabilities of the offense for which he or she has been on probation, no matter how completely he or she complies with every other condition of his or her probation. [citations omitted]

The Court concluded that the restitution fine therefore “punishes indigent defendants in a way that it does not punish wealthy defendants.”

Notably, a number of advocacy groups joined the litigation in support of Dueñas, including the ACLU, the East Bay Community Law Center, A New Way of Life Reentry Project, Californians for Safety and Justice, the Ella Baker Center, Homeboy Industries, Legal Services of Northern California, Legal Services for Prisoners with Children, and Root & Rebound. We should anticipate continued attention to these issues.

Appellate decisions are typically final thirty days after issuance unless a litigant petitions the California Supreme Court for review. Once final, published decisions are binding law throughout California. The case can be found at: <https://www.courts.ca.gov/opinions/documents/B285645.PDF>