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6 **IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON**
7 **IN AND FOR THE COUNTY OF WHITMAN**
8

9 STATE OF WASHINGTON,

10
11 Plaintiff,

12 v.
13

14
15
16 Defendant.
17

No. _____

ORDER AFFORDING RELIEF
FROM JUDGMENT PURSUANT TO
STATE V. BLAKE

(ORDSM)

CLERK'S ACTION REQUIRED as to
2.1, 2.3, 2.4, 2.4(j), 2.5(a), 2.8, and 3

18 This matter having come before the Court on the State's the Defendant's both
19 parties' motion under CrR 7.8(b)(4)-(5), and the Court having reviewed the file and contents therein,
20 it is hereby
21

22 ORDERED, based upon the ruling of the Washington State Supreme Court in *State v. Blake*,
23 No. 96873-0 (decided February 25, 2021), as follows:

24 **1. Some, but not all convictions in the Judgment and Sentence were affected by *Blake*.**

25
26 2.1. Vacation and Dismissal.

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1 2.1(a). In this case, the defendant was convicted and sentenced for:

2 Count 1: _____;

3 Count 2: _____;

4 Count 3: _____;

5
6 **The conviction and sentence on the charge(s) in Count(s) _____**
7 **is/are hereby set aside, vacated, and those charges is/are dismissed with prejudice.**
8

9
10 2.1(b). Any conviction not vacated above remains. See Sections 2.5 and 2.6 below for relief
11 from judgment or resentencing, if any.

12 2.2. Custody.

13 The defendant is not held on this cause; no custody order is necessary.
14

15 2.3. Community Custody. Any period of community custody arising from any conviction(s)
16 vacated herein is stricken. If community custody obligations were adopted as conditions of sentence
17 on any unvacated remaining conviction(s), the obligations remain as conditions of sentence unless
18 otherwise specified in Sections 2.5 or 2.6, below. The defendant shall serve the terms of community
19 custody imposed (if any) for any un-vacated remaining conviction(s). **The Clerk shall transmit a**
20 **copy of this order to DOC.**
21

22 2.4. Legal Financial Obligations; Reimbursement / Refund. All legal financial obligations,
23 fees, fines, costs, charges, assessments, restitution, or interest (LFOs) resulting solely from the
24 conviction(s) vacated herein are vacated and stricken. The Clerk shall delete or cancel any unpaid
25 balance thereon, including any interest. To the extent payment was received and is not Re-Allocated
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1 to pay other past-due LFO's on other cases, it shall be reimbursed / refunded. The potentially
2 refundable payments were allocated to the following fee categories [check all that apply]:

3 2.4(a) The only un-vacated remaining conviction(s) is/are misdemeanors; this portion of
4 the CVPA paid under RCW 7.68.035 is refundable [check one]:

- 5 2.4(a)(i). After 6-6-1996: Amount paid above \$250: \$ _____.
- 6 2.4(a)(ii). 6-21-1989 to 6-5-1996: Amount paid above \$75: \$ _____.
- 7 2.4(a)(iii). 7-26-1985 to 6-20-1989: Amount paid above \$45: \$ _____.
- 8 2.4(a)(iv). 6-9-1982 to 7-25-1985: Amount paid above \$25: \$ _____.
- 9 2.4(a)(v). 9-20-77 to 6-8-1982: Amount paid above \$0: \$ _____.

10 2.4(b). The VUCSA under RCW 69.50.430 is at least partially refundable:

11 2.4(b)(i). No un-vacated remaining conviction is a felony violation listed in RCW
12 69.50.430. The full VUCSA fine is refundable.

13 This much was paid: \$ _____.

14 2.4(b)(i). At least one un-vacated remaining conviction is a felony violation listed in
15 RCW69.50.430, but it is not a second or subsequent violation. This amount
16 paid toward the VUCSA fine in excess of \$1000 is refundable: \$ _____.

17 2.4(c). No un-vacated remaining conviction is for a crime listed in RCW 43.43.754.

18 This DNA fee paid under RCW 43.43.7541 is refundable: \$ _____.

19 2.4(d). No un-vacated remaining conviction relates to the state crime lab analysis
20 performed. This fee paid under RCW 43.43.690 is refundable: \$ _____.

21 2.4(e). No un-vacated remaining conviction relates to drug enforcement. The Court
22 refunds this drug fund fee paid under RCW 9.94A.030 and .760, although permitted for
23 any crime, in the interests of justice: \$ _____.

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1 2.4(f). This punitive fine amount, attributed in the judgment and sentence specifically to
2 the conviction(s) vacated herein, was paid and is refundable: \$_____.

3 2.4(g). No un-vacated remaining conviction in this cause (or other causes, if the Clerk
4 charges a single collection fee for multiple causes) is one for which the Clerk imposed
5 collection fee(s) under RCW 9.94A.780(7) and RCW 36.18.016(29). This amount of such
6 fee(s) paid is refundable \$_____.

7 2.4(h). Other: _____
8 _____
9 _____

10 2.4(i). Total of reimbursable/refundable amounts above (if no Reallocation) is \$_____

11 2.4(j). (check if applicable) Reallocation: The defendant has unpaid, past-due
12 LFOs unaffected by *Blake* in other cause(s) under this Court's jurisdiction as follows:
13 In case number _____, the defendant's past-due amount: \$_____;
14 In case number _____, the defendant's past-due amount: \$_____.
15
16 The total past-due amount: \$_____

17 The Clerk shall reallocate _____ dollars of the total listed in 2.4(i)
18 above, to satisfy past-due LFOs in these other cases pursuant to RCW 9.94A.760(5)
19 and RCW 9.94A.7606 without further notice to the defendant. This Order shall serve
20 as a record of such in this case, and the Clerk shall make a notation in the other
21 cause(s) reflecting this action.

22 **2.4(k)** The total amount of all reimbursable / refundable payments, minus the amount
23 ordered to be re-allocated is \$_____
24 **The State of Washington shall reimburse / refund \$ _____**
25 **to the defendant with all deliberate speed.**
26

27
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1 2.5. Relief Not Amounting to Resentencing.

2 2.5(a). Nonfelony Sentence Relief. The unvacated remaining conviction(s) is/are
3 nonfelonies not requiring resentencing. However, in the interests of justice under CrR 7.8(b)(4)-(5),
4 the defendant is relieved of the following obligations of sentence [check all that apply]:

- 5 2.5(a)(i). Any confinement imposed.
6 2.5(a)(ii). Any supervised probation.
7 2.5(a)(iii). Any confinement suspended, including conditions thereon.
8 2.5(a)(iv). Any unsupervised probation.
9 2.5(a)(v). The requirement to pay LFOs beyond those stricken in Section 2.4.
10 2.5(a)(vi). Other: _____
11 2.5(a)(vii). For clarity, the remaining obligations of sentence are:

12 _____
13 _____
14 _____
15 _____

16 2.6. Felony Resentencing. Felony resentencing on any un-vacated remaining conviction(s)
17 is inapplicable due to mootness (unless otherwise provided here: is reserved occurs in a
18 concurrently filed Judgment and Sentence).

19 2.7. Other Terms Remain Unchanged. Except as modified herein, all other terms of the
20 judgment and sentence remain in effect.

21 2.8. Warrants Quashed. Any outstanding warrant in this matter is hereby quashed.
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1 **3. Criminal History Records.** Pursuant to RCW 10.97.045, the Clerk shall provide notice of the
2 vacation herein to the Washington State Patrol and to the agency initiating the criminal history record
3 for the charges affected herein. The Washington State Patrol and the initiating agency shall update
4 their records accordingly. Cf. RCW 9.96.060(7).

5 **4. Other.** _____
6 _____
7 _____
8 _____

9 DATED this _____ day of _____, 2021.

10 _____
11 JUDGE / COMMISSIONER

12 Presented by:

13 Notice of Presentation Waived:

14 _____
15 DPA _____,
16 WSBA # _____

17 _____
18 Defendant's Signature

19 _____
20 Defendant's Printed Name

21 Defendant appeared remotely (by Zoom)
22 and was informed of the contents of this Order.

23 _____
24 Defendant's Attorney
25 Name _____,
26 WSBA # _____

27 _____
28 Defendant's Email

29 _____
30 Defendant's Mailing Address

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