

IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

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STATE OF WASHINGTON,	)	No. 102045-7
Petitioner,	)	
	)	RESPONDENT’S
v.	)	RESPONSE TO
	)	STATE’S STATEMENT
ANTHONY VASQUEZ,	)	OF ADDITIONAL
Respondent.	)	AUTHORITIES
	)	(RAP 10.8(c))

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The State argues the Court of Appeals’ published opinion in *State v. Dunbar*, 2023 WL 4567835, \_\_ P.3d \_\_ (2023) supports granting review of Mr. Vasquez’s unpublished, nonbinding opinion. The State’s complaints about *Dunbar* are irrelevant to Mr. Vasquez’s case. Contrary to the State’s claim, *Dunbar*’s single passing reference to Mr. Vasquez’s case does not justify review of Mr. Vasquez’s opinion, nor does it meet any RAP 13.4(b) requirements for review. *Id.* at \*3 (explaining the unpublished opinion in *Vasquez* follows the Court of Appeals’ published decision of *State v. Edwards*, 23 Wn. App. 2d 118, 122, 514 P.3d 692 (2022)).

Moreover, *Dunbar* merely relies on decisions of this Court and the Court of Appeals to hold what has long been true: trial courts must exercise their independent discretion at resentencing proceedings to consider any relevant evidence unless acting pursuant to a mandate of a reviewing court that “restricts resentencing to narrow issues.” *Id.* Conversely, courts acting pursuant to limited mandates remain bound by them. *Id.* Neither *Vasquez* nor *Dunbar* holds to the contrary.

Finally, the State inaccurately asserts that *Dunbar* did not “distinguish *Kilgore* and *Barberio*” and explain when a resentencing is de novo. *Dunbar* recognizes that when an appellate court has not “limit[ed] the questions for resolution by the resentencing court,” the resentencing court is “free to consider any matters relevant to resentencing.” *Id.* at \*4-\*5. However, where “the Court of Appeals mandate limits the questions for resolution by the resentencing court, the resentencing court must limit its review.” *Id.* at \*4 (citing *State v. Kilgore*, 167 Wn.2d 28, 42, 216 P.3d 393 (2009)).

The State's disagreement with *Dunbar* offers no meaningful ground to review the unpublished opinion finding Mr. Vasquez is entitled to a resentencing hearing, to which the State agreed. Mr. Vasquez appeared before the trial court for resentencing with the State's agreement, and the trial court has authority to consider Mr. Vasquez's arguments and evidence and impose a new sentence in its discretion at this hearing, unbound by the previous court's sentencing decision.

This document contains 338 words. RAP 18.17(b).

DATED this 25th day of July, 2023.

Respectfully submitted,



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- respondent
- Attorneys for other party



MARIA ANA ARRANZA RILEY, Paralegal  
Washington Appellate Project

Date: July 25, 2023

# WASHINGTON APPELLATE PROJECT

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## Transmittal Information

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