

FILED
SUPREME COURT
STATE OF WASHINGTON
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Supreme Court No. 1026633

No. 57060-2-II

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
Respondent,)	
)	
v.)	
)	STATEMENT OF
MELVIN XAVIER,)	ADDITIONAL
Petitioner.)	AUTHORITIES (RAP 10.8)
)	

Pursuant to RAP 10.8, petitioner submits the following statement of additional authorities for the Court’s consideration. State v. Vasquez, No. 102045-7, which is set for argument in this Court on February 15, 2024.

In Vasquez, Division Three of this Court remanded for another resentencing hearing, holding any resentencing should be de novo. 26

Wn. App. 2d 1032 (May 2, 2023).¹ Vasquez, like this case, involved resentencing under State v. Blake, and a defendant’s ability to present mitigation at resentencing.

In Mr. Xavier’s case, as in Vasquez, “unless the reviewing court restricts resentencing hearing to narrow issues, any resentencing should be de novo.” Id. at *5. “On remand, the sentencing court should be free to consider any matters relevant to sentencing, even those that may not have been raised at the first sentencing hearing, as if it were sentencing de novo.” Id. at *6 (internal citation omitted).

If this Court finds Mr. Xavier’s case is bound the outcome in Vasquez, this Court should stay Mr. Xavier’s appeal pending its decision in Vasquez.

This document is in 14-point font and contains 242 words, excluding the exemptions from the word count per RAP 18.17.

¹ Cited pursuant to GR 14.1(a) as persuasive authority.

DATED this 21st day of December, 2023.

s/ Jan Trasen

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- petitioner
- Attorney for other party



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Date: December 21, 2023

WASHINGTON APPELLATE PROJECT

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Appellate Court Case Number: 102,663-3
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Superior Court Case Number: 20-1-00507-8

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