



## II. STATEMENT OF RELIEF SOUGHT

The State respectfully requests that Crump's motion for release be denied.<sup>1</sup>

## III. FACTS RELEVANT TO MOTION

Christopher Crump was charged in Count I with possession of a stolen motor vehicle, and in Counts II and III, with malicious mischief. CP 38. A jury found Crump guilty on Counts I and II and acquitted him of Count III. CP 69; 5RP 422. The court imposed a standard range sentence.

On appeal, Crump argued for the first time that the information omitted the element of knowledge. *State v. Crump*, No. No. 38963-4-III, Opinion, at 3. Citing its prior decision in *State v. Level*, 19 Wn. App. 2d 56, 60, 493 P.3d 1230 (2021), the court concluded that knowledge was a nonstatutory element of the crime of possessing a stolen motor vehicle.

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<sup>1</sup> Technically, his motion is an objection to the denial of release by the trial court. *See* RAP 7.2(f); RAP 8.2(b).



Opinion, at 4. The court therefore reversed Crump’s conviction and remanded for dismissal without prejudice. Opinion, at 4. It affirmed his malicious mischief conviction. Opinion, at 10.

Since 2008, but before the current case, Crump committed six felonies. CP 71. He was sentenced for theft in 2008. *Id.* In 2010, he committed a residential burglary and was sentenced in 2011. *Id.* In 2015 he was sentenced on two additional theft charges committed in 2014.<sup>2</sup> *Id.* In 2019 he was sentenced for unlawful possession of a firearm in federal court, following an offense in 2018. *Id.* Then in 2021, he committed the offenses giving rise to the current proceedings. *Id.*

#### IV. GROUNDS FOR RELIEF AND ARGUMENT

Washington Constitution, Art. I, section 20, provides that “persons charged with crime” have a right to release pending trial. *State v. Smith*, 84 Wn.2d 498, 499, 527 P.2d 674, 676

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<sup>2</sup> The judgment indicates an offense date in 2004, but Odessey shows the offenses were actually in 2014. *See* Appendix.



(1974). However, the “crystal clear, literal meaning of the quoted provision of our State Constitution makes it applicable *solely to all persons charged with crime.*” *Id.* (emphasis the Court’s). The constitution therefore confers no right to bail pending appeal. *Id.* (citing *In re Berry*, 198 Wash. 317, 88 P.2d 427 (1939)). By the same token, the constitution places no limits on granting bail pending appeal either. *Id.* Finally, bail and release are within the exclusive power of the courts and as such, CrR 3.2(h) is the sole source of authority for appellate release. *Smith*, 84 Wn.2d at 502. The criminal rules and statutes govern release in appellate courts. RAP 8.2(a).

Release after a plea or finding of guilt is governed by CrR 3.2(h), which provides:

Release After Finding or Plea of Guilty. After a person has been found or pleaded guilty, and subject to RCW 9.95.062, 9.95.064, 10.64.025, and 10.64.027, the court may revoke, modify, or suspend the terms of release and/or bail previously ordered.

RCW 9.95.062 provides:

STATE’S RESPONSE TO MOTION  
FOR RELEASE;  
PAGE 4 OF 9



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(1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in a criminal action shall not stay the execution of the judgment of conviction, if the court determines by a preponderance of the evidence that:

(a) The defendant is likely to flee or to pose a danger to the safety of any other person or the community if the judgment is stayed; or

(b) The delay resulting from the stay will unduly diminish the deterrent effect of the punishment; ...

The determination of whether the defendant is likely to pose a substantial danger to the community is a factual determination involving the exercise of sound discretion of the court. *Smith*, 84 Wn.2d at 505; *see also State v. Swiger*, 159 Wn.2d 224, 227, 149 P.3d 372 (2006) (The trial court's decision whether to stay a sentence and release a defendant pending appeal under RCW 9.95.062 is discretionary).

Here, given Crump's lengthy history of rapid recidivism, the trial court would have been well within its discretion to deny release based both on his danger to the community and because it would diminish the deterrent effect of the



punishment. It appears that every time Crump is released he commits further crimes. That his crimes have been non-violent does not lessen the importance of this consideration. The statute requires a defendant to be held if he poses a danger to any other person *or* to the community. To limit this danger to violent crimes would render the phrase regarding the community redundant.

Crump essentially argues he is currently entitled to the benefit of the Court of Appeals ruling. But a Court of Appeals decision is not binding until the mandate issues. RAP 12.2. Crump implies that the State's petition for review was not taken in good faith. But the State presents a substantial argument that the decision below is in direct conflict with this Court's holding in *State v. Porter*, 186 Wn.2d 85, 375 P.3d 664 (2016). *See* Petition for Review, at 4-9. He further appears to argue he should be entitled to release because of the effect a reversal would have on another case not currently before the Court. He



cites no authority for that position.

Finally, it should also be noted that the Court of Appeals reversed for dismissal without prejudice to refile. *State v. Vangerpen*, 125 Wn.2d 782, 791, 888 P.2d 1177 (1995) (“When a conviction is reversed due to an insufficient charging document, the result is a dismissal of charges without prejudice to the right of the State to recharge and retry the offense for which the defendant was convicted”). In the event of a new conviction, Crump would be entitled to credit for time served on the current offense. RCW 9.95.063.

The State believes the record would have supported a denial of release based on the reasons cited herein. An appellate court may affirm a trial court’s decision on any theory supported by the record and the law. *State v. Gutierrez*, 92 Wn. App. 343, 347, 961 P.2d 974 (1998). The appellate court may therefore affirm on other grounds even after rejecting a trial court’s reasoning. *State v. Michielli*, 132 Wn.2d 229, 242, 937



P.2d 587 (1997); *Hoflin v. Ocean Shores*, 121 Wn.2d 113, 134, 847 P.2d 428 (1993). This Court should therefore deny Crump's RAP 8.2(b) objection to the trial court's denial of his motion below.

The decision to grant or deny release is a discretionary and factual issue. This factual finding is obviously one that can be made only upon consideration of the entire record and the opportunity to observe the defendant. *State v. Cole*, 90 Wn. App. 445, 448, 949 P.2d 841 (1998). Thus, if the Court cannot overrule the objection on the grounds cited above by the State, the Court should direct the trial court to reconsider Crump's motion on the proper grounds rather than consider the merits of his motion itself.

## V. CONCLUSION

Based on the foregoing, the State respectfully requests that Crump's motion be denied, or in the alternative, be referred to the trial court for a decision on the merits.





## VI. CERTIFICATION

This document contains 1190 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this [server date day of].

GABRIEL E. ACOSTA  
PROSECUTING ATTORNEY



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**KITSAP CO PROSECUTOR'S OFFICE**

**April 02, 2024 - 3:47 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
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**Appellate Court Case Title:** State of Washington v. Christopher Michael Crump  
**Superior Court Case Number:** 21-1-00238-6

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Response to Motion for Release

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DATED this April 2, 2024.

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APPENDIX TO STATE'S RESPONSE  
TO MOTION FOR RELEASE  
PAGE 2 OF 2



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# **APPENDIX**

## Case Information

15-1-00071-1 | STATE OF WASHINGTON VS CRUMP, CHRISTOPHER MICHAEL

Case Number	Court	Case Status
15-1-00071-1	Walla Walla	Completed/Re-Completed
File Date	Case Type	
03/09/2015	ADL Criminal Adult	

## Party

Restitution Recipient (Participant)  
U S BANK CORPORATE SECURITY

Race  
Unavailable

Address  
PO BOX 650  
MILWAUKEE, WI 53278-0650

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Restitution Recipient (Participant)  
BEELINE AUTO CENTER

Race  
Unavailable

Address  
1205 S COLLEGE AVE  
COLLEGE PLACE, WA 99324

---

Plaintiff (Criminal)  
STATE OF WASHINGTON, NFN

Active Attorneys ▼  
Lead Attorney  
Nagle, James Lyle  
Court Appointed

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Defendant (WIP)  
CRUMP, CHRISTOPHER MICHAEL

Active Attorneys ▼  
Lead Attorney  
Hartzell, John Leonard, III

DOB  
02/05/1993

Court Appointed

---

Gender  
Male

Race  
White

Drivers License  
WA WDL1SS21823B

State ID  
WA 24430794

Address  
175 BOYER AVE  
WALLA WALLA WA 99362

## Charge

Charges  
CRUMP, CHRISTOPHER MICHAEL

	Description	Statute	Level	Date
1	IDENTITY THEFT-2	9.35.020(3)	Felony C	10/29/2014
2	RETAIL THEFT-SPECIAL CIRCU-3	9A.56.360(4)	Felony C	10/28/2014
3	POSS STOLEN PROP-2 ACCESS DEVICE	9A.56.160(1)(c)	Felony C	10/29/2014

## Disposition Events

05/04/2015 Disposition ▼

1	IDENTITY THEFT-2	Guilty
2	RETAIL THEFT-SPECIAL CIRCU-3	Guilty

05/04/2015 Disposition ▼

3	POSS STOLEN PROP-2 ACCESS DEVICE	Charge Dropped
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1	IDENTITY THEFT-2	SCOMIS Judgment and Sentence
2	RETAIL THEFT-SPECIAL CIRCU-3	SCOMIS Judgment and Sentence

Comment

Comment (Sentenced By: JUDGE M SCOTT WOLFRAM; Jail Serve: Y; Prob/Comm. Supervision: Y; Restitution: \$1047.01; Court Costs: \$200.00; Sentence Description: CT 1 24MOS COMM CUSTODY, CT 2 JAIL 2DS TO RUN CONCURRENT TO COUNT 1, 6MOS COMM; CUSTODY. 44.00 SHERIFF FEES, 500.00 VICTIM ASSESSMENT 100.00 DNA; ; 08/22/2016-ORDER REVOKING DOSA; PRISON-14 MOS, CREDIT FOR TIME SERVED TO BE CALCULATED BY DEPT OF CORRECTIONS.; )

Restitution and Other Fees

Restitution In Favor Of:

CRUMP, CHRISTOPHER MICHAEL  
Debtor: CRUMP, CHRISTOPHER MICHAEL

Current Sentence Status:

Status: Active

Status Date: 06/03/2015

Signed Date: 06/03/2015

Effective Date: 06/03/2015

Comment: Signed By: JUDGE M SCOTT WOLFRAM; SCOMIS JUDGMENT EVENTS: 2015-06-03 JDSWC JDGMT & SENT & WARRANT OF COMMITMT RESTITUTION 1,047.01 COURT COSTS 200.00 SHERIFF FEES 44.00 VICTIM ASSESSMENT 500.00 DNA 100.00 ; 2015-06-04 ARCR ACCOUNT(S) RECEIVABLE CREATED ; 2016-08-22 ORRV ORDER REVOKING/RESCINDING DOSA ;



**KITSAP CO PROSECUTOR'S OFFICE**

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