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NO. 99310-6

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**SUPREME COURT OF THE  
STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

RONALD HARRISON SNIDER,

Appellant.

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Appeal from the Superior Court of Pierce County  
The Honorable Garold E. Johnson

No. 17-1-03643-1

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**ANSWER TO PETITION FOR REVIEW**

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## I. INTRODUCTION

This Court should deny review because Snider's claim neither presents a significant question of constitutional law nor involves an issue of substantial public interest. It does not present a significant question of constitutional law because both parties and the court agreed with the long standing principal that a plea must be knowingly, intelligently and voluntarily made, and the validity of a guilty plea is called into question if the court fails to inform the defendant of an essential element of the crime. Here, the Court did not misstate the law so there is no claim of constitutional magnitude.

Rather, Snider seeks to have this Court create a new element in the failure to register as a sex offender statute without any constitutional or statutory basis to support it. This is not an issue of substantial public interest because there is no division among the Court of Appeals. Every case interpreting *State v. Drake* has found that it created a narrow rule for the rare scenario where a defendant's failure to register is based on an eviction. This scenario was not present here. Due to the rarity of this scenario and the consistency of the appellate courts' interpretation of *Drake*, Snider's claim does not create an issue of substantial public interest that warrants Supreme Court review.

## II. RESTATEMENT OF THE ISSUES

- A. Should this Court accept review where the issue presented is neither a significant question of constitutional law nor of substantial public interest because the Court of Appeals ruling is consistent with long-standing precedent?

### III. STATEMENT OF THE CASE

On October 2, 2018, Ronald Snider entered into a knowing, intelligent, and voluntary plea to one count of failure to register as a sex offender – third offense. 10/02/18 RP 63. Before the plea, the Court provided Snider an opportunity to talk to his standby counsel. 10/02/18 RP 54. Snider reviewed the plea with his standby counsel, and she answered all of his questions to his satisfaction. 10/02/18 RP 62. During the court’s lengthy plea colloquy, Snider told the court that he carefully considered the elements of the crime and that he didn’t have any questions. 10/02/18 RP 57. Snider’s plea statement read: “Between July 6, 2017, and April 1<sup>st</sup>, 2018, in Pierce County, Washington, I knowingly failed to comply with the sex offender registration law having previously been convicted of a felony sex offense, and it was my third offense or subsequent offense.” CP 62. Before accepting the plea, the court provided Snider a final opportunity to consult with his attorney and ask her any questions. 10/02/18 RP 62. He rejected this opportunity and plead guilty without hesitation. 10/02/18 RP 62-63.

Earlier that morning, Snider, who appeared pro se, moved for a continuance of the trial date in order to obtain medical records in support of a diminished capacity defense. 10/02/18 RP 2-3. The court repeatedly informed Snider that he needed to be able to make a showing to the court that his specific mental health condition would interfere with his ability to form the requisite mental state. 10/02/18 RP 9, 13, 20-21, 28-29. Snider failed to provide a sufficient offer of proof linking his mental health condition to a diminished

capacity defense so the court rejected Snider's motion for a continuance. 10/02/18 RP 14.

The State then moved to exclude Snider's diminished capacity defense at trial. 10/02/18 RP 23. Snider admitted to the Court: "I completely understood the registration factors." 10/02/18 RP 22. This was consistent with Snider's criminal history that showed he had two prior convictions for attempted failure to register as a sex offender and five prior convictions for failure to register as a sex offender. CP 66-67. Snider never indicated that he was unaware of his registration requirements, rather, he argued that his mental health issues made it more difficult for him to comply with the regulations. 10/02/18 RP 22. He told the court:

[I]t wasn't the knowledge of registration. It was the change of address and the disruption in the stability that caused that to happen.

So it wasn't while I was -- I completely understood the registration factors. But the problem with it was it was the ability to not have stability in the address changes, and the disruption that was taking place by the medications as well as the responsibilities to report to DOC.

10/02/18 RP 21-22. Since Snider admitted that he was able to form the appropriate mens rea, the court granted the State's motion to exclude Snider's diminished capacity defense. 10/02/18 RP 25. In its ruling, however, it reminded Snider that the State still had the burden to prove he knew he had the responsibility to register, and he knowingly failed to comply. 10/02/18 RP 24-25.

Snider expressed concern of moving forward with trial once his diminished capacity defense was excluded. 10/02/18. RP 16. The Court offered Snider a recess so that he could talk to stand-by counsel and reconsider whether he wanted to negotiate a plea-deal with the State. 10/02/18 RP 54. Snider responded: “I would certainly like to do that, Your honor.” *Id.* During the break, the parties reached a negotiated plea settlement. 10/02/18 RP 54.

Snider appealed his conviction arguing that his guilty plea was not knowing, voluntary, and intelligent. Br. of App. at 4. Snider argued the trial court misinformed him about the knowledge requirement claiming that pursuant to *State v. Drake*, the State had to prove both (1) that Snider knew he had changed his residence, and (2) that he knew he had not reregistered after doing so. Br. of App. at 10.

The Court of Appeals agreed with Snider that a plea must be knowingly, intelligently, and voluntarily made, but rejected his overly broad reading of *Drake*. *State v. Snider*, No. 53114-3-II, 2020 WL 6581315, at \*4 (Wash. Ct. App. Nov. 10, 2020) (unpublished). The Court of Appeals held that the trial court had no reason to address the limited application of *Drake* with Snider because “there was no indication that Snider had been evicted or otherwise had lost his residence because of a third party’s action.” *Id.* The Court of Appeals noted that the trial court engaged in a lengthy discussion with Snider who never contested the fact that he knew he had left and needed to register. *Id.* The Court held that the trial court did not misstate the mens rea

requirement because the issue of whether Snider knew he had changed his address was not material to their discussion. *Id.* at 5.

#### IV. ARGUMENT

**A. Snider fails to raise a significant question of constitutional law or an issue of substantial public interest that warrants Supreme Court review.**

Snider does not claim that the Court of Appeals decision conflicts with a decision of the Supreme Court or a published decision of the Court of Appeals. Therefore, under RAP 13.4(b), review should only be granted if it raises a significant question of constitutional law or if it involves an issue of substantial public interest. Snider's claim does neither. There is no significant question of constitutional law because both parties and the court agreed that due process requires a guilty plea to be knowingly, voluntarily, and intelligently made. Therefore, there is no dispute of constitutional law, but rather one of statutory interpretation regarding the mens rea requirements of the failure to register statute. The Court of Appeals correctly rejected Snider's broad interpretation of *State v. Drake* and held that the trial court did not misinform Snider regarding the elements of the offense. The record clearly establishes that Snider entered into a knowing, intelligent and voluntary plea. All three divisions of our court of appeals agree with the lower court's narrow interpretation of *State v. Drake*. Therefore, there is no lingering question that raises an issue of substantial public interest that warrants Supreme Court review. The Court of Appeals correctly upheld Snider's plea, and this Court should deny review.



Snider’s claim does not raise a significant question of constitutional law because both parties and the court agreed on the due process requirements of accepting a guilty plea. The Court of Appeals agreed with Snider’s analysis that “[d]ue process requires that a guilty plea be entered knowingly, voluntarily, and intelligently.” *Snider*, 2020 WL 6581315, at \*3. Both parties and the Court agreed that the validity of a guilty plea is undermined if the court misinforms the defendant of an essential element of the charged crime. *Id.* at 4. Instead, Snider’s claim is one of statutory construction of the failure to register as a sex offender statute where he errantly attempts to turn one mens rea requirement—knowingly fail to comply with the registration requirements—into three: (1) knowledge he needed to register, (2) knowledge he changed his address, and (3) knowledge he had not reregistered, as required. Br. of App. at 10. This statutory argument is both unsupported by the law and fails to raise a significant question of constitutional law that warrants Supreme Court review.

The Court of Appeals correctly held that *Drake* established a “narrow rule that (1) when a failure to register charge is based on the defendant failing to re-register after a change of residence address and (2) the defendant loses his or her residence because of eviction or otherwise, (3) the State must prove that the defendant had knowledge that he or she had lost that residence.” *Snider*, 2020 WL 6581315, at \*4 (citing *State v. Drake*, 149 Wn. App. 88, 201 P.3d 1093 (2009)). In *Drake*, the Court found that the State failed to present sufficient evidence that the defendant knowingly failed to register because

there was no evidence he knew he had been evicted to trigger the re-registration requirement. *Drake*, 149 Wn. App. at 94-96. Contrary to Snider's argument, *Drake* never called for the adoption of additional mens rea requirements to prove failure to register as a sex offender, but simply found that the State did not present sufficient evidence that the defendant knew of his duty to register. *Id.* Therefore, the mens rea requirement remains the same—the State must prove the defendant knowingly failed to register as required by law.

The trial court did not misinform Snider of the elements of the offense because there was no indication that *Drake* would apply to the current case. The trial court repeatedly informed Snider that the only mens rea that the State was required to prove was that he knew he needed to register. 10/02/18 RP 9, 13, 20, 21. Snider never indicated that he didn't know he was required to register or that he didn't know he had changed addresses. 10/02/18 RP 29. Rather, Snider confessed that he was aware of his duty to register and told the court: "I completely understood the registration factors." 10/02/18 RP 22. The trial court properly found: "I've not heard anything to suggest that you didn't know your responsibility to report." 10/02/18 RP 29. Therefore, *Drake* did not apply, and the trial court had no reason to address its narrow application.

Snider entered into a knowing, intelligent, and voluntary plea. "Whether a plea is knowingly, intelligently, and voluntarily made is determined from a totality of the circumstances." *State v. Branch*, 129 Wn.2d 635, 642, 919 P.2d 1228 (1996). If a defendant has received the information

and pleads guilty pursuant to a plea agreement, there is a presumption that the plea is knowing, voluntary, and intelligent. *State v. Zhao*, 157 Wn.2d 188, 202, 137 P.3d 835 (2006). Snider reviewed the information and told the Court that he had no questions regarding the elements of the crime. 10/02/18 RP 57. Although he appeared pro se, the trial court provided him multiple opportunities to consult with stand-by counsel who answered all of Snider's questions to his satisfaction. 10/02/18 RP 62. There is nothing in the record to support Snider's argument that he did not enter into his plea knowingly, voluntarily, and intelligently. 10/02/18 RP 63. Therefore, this issue does not raise a significant question of constitutional law that warrants Supreme Court review.

This case also does not raise an issue of substantial public interest because the appellate courts have consistently interpreted *Drake* to only apply in certain rare circumstances. Snider does not contest that the Court of Appeals decision is in conflict with any published appellate decision, which includes *Drake*. Pet. of App. at 4. All three divisions of our appellate courts have either distinguished *Drake* or specifically held that it applies only in very limited circumstances. *State v. Sage*, No. 79782-4-I, 2020 WL 4459993 at \*4 (Wash. Ct. App. Aug. 3, 2020) (unpublished) (distinguishing *Drake* because there was no testimony that defendant was evicted or removed from his home); *State v. McDonald*, No. 79077-3-I, 2019 WL 1989620 at \*8 (Wash. Ct. App. May 6, 2019) (unpublished) (finding that *Drake* did not establish that the State had to prove the defendant knew he would be late to register); *State v. Pries*, No.

32958-5-III, 2016 WL 901101 at \*2 (Wash. Ct. App. Mar. 8, 2016) (unpublished) (finding that *Drake* did not apply because there was ample proof the defendant intended to abandon his residence); *State v. Fletcher*, No. 46825-5-II, 2015 WL 9303200 at \*3 (Wash. Ct. App. Dec. 22, 2015) (unpublished) (distinguishing *Drake* because the jury could infer that the defendant did not intend to return to his address). Since all three appellate courts agree, there is no lingering question of substantial public interest that requires Supreme Court review.

## V. CONCLUSION

Snider's claim neither presents a significant question of constitutional law nor involves an issue of substantial public interest. The Court of Appeals correctly held that the trial court had no reason to inform Snider of the limited application of *State v. Drake* because there was no indication that Snider was unaware of his change of address or of his duty to register. Therefore, the trial court did not misinform Snider of the elements of the plea and Snider entered into a knowing, intelligent, and voluntary plea. This Court should deny review.

RESPECTFULLY SUBMITTED this 19th day of April, 2021.

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The undersigned certifies that on this day she delivered by efile to the attorney of record true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington on the date below.

4/19/2021      *s/Jeanne Peter*  
Date                      Signature

**PIERCE COUNTY PROSECUTING ATTORNEY**

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