

FILED
SUPREME COURT
STATE OF WASHINGTON
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IN THE SUPREME COURT OF THE STATE OF
WASHINGTON

STATE OF WASHINGTON,)	No. 102125-9
)	
Respondent,)	STATEMENT OF
)	ADDITIONAL
v.)	AUTHORITIES
)	
JAMES GRANTHAM,)	
)	
Petitioner.)	

Under RAP 10.8, Mr. Grantham submits the following additional authorities to support his petition for review on whether he was entitled to meaningful consideration of all arguments at resentencing after a void drug possession conviction was removed from his offender score: *State v. Dunbar*, No. 39125-6-III, slip op., 2023 WL 4567835, at *3 (Wash. Ct. App. July 18, 2023).

In *Dunbar*, Mr. Dunbar was resentenced following *State v. Blake*, 197 Wash.2d 170, 195, 481 P.3d 521 (2021). He had two prior possession convictions voided under *Blake* that should not count in his offender scores. His standard range on

the convictions did not change because his offender scores remained above a 9. The resentencing court deferred to the original sentencing judge and imposed the same sentences.

The Court of Appeals held Mr. Dunbar was entitled to de novo resentencing, meaning “[r]esentencing must proceed as an entirely new proceeding when *all issues bearing on the proper sentence* must be considered de novo. . .” *Dunbar*, slip op. at 8 (emphasis added). A 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.” *Id.* at 12. Thus, notwithstanding Mr. Dunbar’s high offender score, the Court remanded for a new resentencing hearing. *Id.* at 14.

Here, Mr. Grantham was in a similar position to Mr. Dunbar, but the court refused to meaningfully consider arguments that his youthfulness mitigated his culpability, which the Court of Appeals erroneously found was not an abuse of discretion.

In reaching this result, the Court of Appeals summarily held *State v. O'Dell*¹ and *In re Pers. Restraint of Monschke*² did not apply to Mr. Grantham because he is not serving a life without parole sentence and did not request an exceptional sentence below the standard range, which Mr. Grantham is also petitioning for review. The decision in Mr. Grantham's case conflicts with *Dunbar*. The split in decisions of the Court of Appeals merits review. RAP 13.4(b)(2).

This document contains 345 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 4th day of August, 2023.



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¹ 183 Wn.2d 680, 358 P.3d 359 (2015).

² 197 Wn.2d 305, 482 P.3d 276 (2021).

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The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 102125-9**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

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