

CLERK IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

STEPHEN HARRIS JR,

Appellant.

NO. 99394-7

COA 36951-0-III, Consol w/36952-8

MOTION TO AUTHORIZE SPOKANE  
COUNTY SUPERIOR COURT TO  
VACATE PCS CHARGES AND  
REMAND FOR RESENTENCING  
CONTINGENT ON DISPOSITION OF  
MOTION TO RECONSIDER

I. IDENTITY OF MOVING PARTY

The Respondent, State of Washington, represented by Spokane County Prosecuting Attorney, Lawrence Haskell, through his deputy prosecuting attorney, Gretchen Verhoef, seeks the relief designated below.

II. RELIEF SOUGHT

Respondent requests this Court authorize the Spokane County Superior Court to enter an order vacating Count I of the Judgment and Sentence pursuant to RAP 7.2(e), under case number 17-1-04055-1; and to enter an order vacating the Judgment and Sentence pursuant to RAP 7.2(e), under case number 18-1-01866-9, upon either the deadline for filing a motion for reconsideration in the case of *State v. Blake*, No. 96873-0, if no such motion is filed, or upon the date the Washington State Supreme Court disposes of the motion for reconsideration in that matter. The defendant may also be entitled to resentencing for the remaining counts unless his or her offender score is unaffected by the order vacating the possession of controlled substances convictions.

**Motion to Authorize Spokane County Superior Court to Vacate PCS  
Charges and Remand for Resentencing Contingent on Disposition of Motion  
to Reconsider - 1**

### III. ARGUMENT

Pursuant to RAP 7.2, the trial court is unable to enter any order affecting the subject matter on appeal without an order by this Court expanding its authority to act in the case.

#### 1. Superior Court No. 17-1-04055-1

The defendant was found guilty of Count I - possession of a controlled substance - methamphetamine; Count II - resisting arrest. The Judgment and Sentence was entered on August 1, 2018.

The Washington State Supreme Court's decision in *Blake* finding the possession of a controlled substance unconstitutional was issued on February 25, 2021. The deadline for filing a motion for reconsideration is March 17, 2021. Should the Supreme Court deny any motion for reconsideration, if one is filed, count Count I, must be vacated and dismissed. The defendant may be entitled to resentencing on the remaining count(s).

#### 2. Superior Court No. 18-1-01866-9

The defendant was found guilty of Count I - possession of a controlled substance - methamphetamine. The Judgment and Sentence was entered on August 1, 2018.

The Washington State Supreme Court's decision in *Blake* finding the possession of a controlled substance unconstitutional was issued on February 25, 2021. The deadline for filing a motion for reconsideration is March 17, 2021.

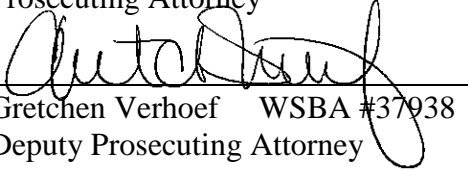
Should the Supreme Court deny any motion for reconsideration, if one is filed, the judgment and sentence must be vacated and the information dismissed.

IV. CONCLUSION

The Respondent respectfully requests this Court issue an order allowing the Spokane County Superior Court to enter an order vacating Count I of the Judgment and Sentence pursuant to RAP 7.2(e), under case number 17-1-04055-1; and to enter an order vacating the Judgment and Sentence pursuant to RAP 7.2(e), under case number 18-1-01866-9, for possession of a controlled substance contingent upon a decision by the Washington State Supreme Court affirming its should the decision in *Blake* as issued on February 25, 2021. Upon mandate of any remaining appellate issues, case number 17-1-04055-1 should be remanded for resentencing on the count unaffected by *Blake*.

RESPECTFULLY SUBMITTED this 8 day of March 2021.

LAWRENCE H. HASKELL  
Prosecuting Attorney

  
Gretchen Verhoef WSBA #37938  
Deputy Prosecuting Attorney  
Attorney for Respondent

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington, that on March 8, 2021, I e-mailed a copy of Motion to Authorize Spokane County Superior Court to Vacate PCS Charges and Remand for Resentencing Contingent on Disposition of Motion to Reconsider pursuant to agreement in this matter to:

Jessica Wolfe  
wapofficemail@washapp.org

3/8/2021  
(Date)

Spokane, WA  
(Place)

  
\_\_\_\_\_  
(Signature)

# SPOKANE COUNTY PROSECUTOR

March 08, 2021 - 4:02 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 99394-7  
**Appellate Court Case Title:** State of Washington v. Stephen Benton Harris Jr.  
**Superior Court Case Number:** 17-1-04055-1

### The following documents have been uploaded:

- 993947\_Motion\_20210308160208SC743558\_5519.pdf  
This File Contains:  
Motion 1 - Other  
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- jessica@washapp.org
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### Comments:

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Sender Name: Kim Cornelius - Email: kcornelius@spokanecounty.org

**Filing on Behalf of:** Gretchen Eileen Verhoef - Email: gverhoef@spokanecounty.org (Alternate Email: scpaappeals@spokanecounty.org)

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