

FILED
Court of Appeals
Division III
State of Washington
10/15/2018 8:00 AM

NO. 35530-6-III

COURT OF APPEALS
STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Plaintiff/Respondent,

V.

JULIA ELIZABETH TUCKER,

Defendant/Appellant.

SUPPLEMENTAL BRIEF OF APPELLANT

Dennis W. Morgan WSBA #5286
Attorney for Appellant
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ARGUMENT

On July 26, 2018 the Supreme Court entered its decision in *State v. Blair*, 191 Wn.2d 155 (2018).

The *Blair* decision does not address whether or not a snowmobile is a motor vehicle. The Supreme Court failed to reach that issue based upon the fact that the primary concern in the Blair case was whether or not a trial court could consider, at sentencing, whether or not prior convictions for taking a motor vehicle were constitutionally valid based upon a claim that a snowmobile is not a motor vehicle.

The Supreme Court also re-affirmed the holding in *State v. Ammons*, 105 Wn.2d 175, 188, 713 P.2d 719, 718 P.2d 796 (1986) (declaring that the proper method of challenging the constitutional validity of a prior conviction is through post-conviction relief opposed to a later sentencing proceeding).

As previously argued Ms. Tucker contends that *State v. Barnes*, 189 Wn.2d 492, 403 P.3d 72 (2017) is the controlling authority. The *Barnes* court ruled that a lawn mower was not a motor vehicle.

In contrast to a lawn mower, a snowmobile is an off-road vehicle used generally in winter.

The issue of whether or not a snowmobile is a motor vehicle has not yet been decided in the State of Washington. This is an issue of first impression.

Since Ms. Tucker is challenging her conviction on appeal, as opposed to challenging prior convictions, the issue is properly before the court for consideration. Ms. Tucker respectfully requests that the Court find that the snowmobile is not a motor vehicle and ask that her conviction be reversed.

DATED this 12th day of October, 2018.

Respectfully submitted,

s/ Dennis W. Morgan

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NO. 35530-6-III

COURT OF APPEALS

DIVISION III

STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	KITTITAS COUNTY
Plaintiff,)	NO. 16 1 00082 6
Respondent,)	
)	
v.)	CERTIFICATE OF SERVICE
)	
JULIA ELIZABETH TUCKER,)	
)	
Defendant,)	
Appellant.)	
_____)	

I certify under penalty of perjury under the laws of the State of Washington that on this 12th day of October, 2018, I caused a true and correct copy of the *SUPPLEMENTAL BRIEF OF APPELLANT* to be served on:

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October 12, 2018 - 6:12 PM

Transmittal Information

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Appellate Court Case Title: State of Washington v. Julia Elizabeth Tucker
Superior Court Case Number: 16-1-00082-6

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