

FILED  
Court of Appeals  
Division III  
State of Washington  
12/14/2018 4:37 PM

No. 97283-4

IN THE COURT OF APPEALS OF THE  
STATE OF WASHINGTON  
DIVISION III NO. 35530-6

STATE OF WASHINGTON,  
Respondent,

v.

JULIA ELIZABETH TUCKER,  
Defendant.

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Respondent's Response to Appellant's Supplemental Brief

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Carole L. Highland  
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**TABLE OF AUTHORITIES**

**Cases**

**Page No.**

*State v. Barnes*, 189 Wn.2d 492, 403 P.3d 72 (2017).....1

*State v. Blair*, 191 Wn.2d 155 (2018).....1

**Statutes**

RCW 9A.56.065.....1, 2

## I. IDENTITY OF RESPONDENT

The State of Washington appears through the Kittitas County Prosecuting Attorney's Office.

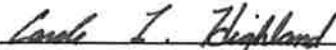
## II. ARGUMENT

This court granted a motion to stay in this matter on March 23, 2018, pending the Supreme Court decision in *State v. Blair*, 191 Wn.2d 155 (2018). In *Blair*, appellant challenged his offender score when his prior taking a motor vehicle without permission convictions involving snowmobiles acted as multipliers for his then current offense of theft of a motor vehicle. Respondent requested the stay in the hopes that the Washington Supreme Court would decide the issue of whether or not a snowmobile is a motor vehicle, as well as whether snowmobiles could and would be distinguished from riding lawnmowers which were held not to be motor vehicles in *State v. Barnes*, 189 Wn.2d 492, 403 P.3d 72 (2017). Unfortunately, the Washington Supreme Court did not reach the question specific to Ms. Tucker's case, *i.e.*, whether or not snowmobiles constitute motor vehicles for the purpose of a theft of a motor vehicle conviction under RCW 9A.56.065.

### III. CONCLUSION

The State addressed this issue in its briefing of March 9, 2018, and would rely upon that briefing, asking this court to find that a snowmobile is a motor vehicle for the purposes of RCW 9A.56.065, and upholding Ms. Tucker's conviction for theft of a motor vehicle.

Respectfully submitted this 14<sup>th</sup> day of December, 2018.

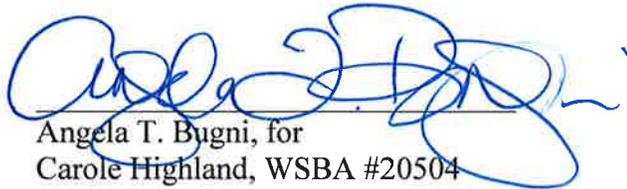
  
\_\_\_\_\_  
Carole L. Highland, WSBA #20504  
(Deputy) Prosecuting Attorney

PROOF OF SERVICE

I, Angela T. Bugni, do hereby certify under penalty of perjury that on December 14, 2018, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided email service by prior agreement (as indicated), a true and correct copy of the Respondent's Response to Appellant's Supplemental Brief:

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# KITTITAS COUNTY PROSECUTOR'S OFFICE

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## Transmittal Information

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 35530-6  
**Appellate Court Case Title:** State of Washington v. Julia Elizabeth Tucker  
**Superior Court Case Number:** 16-1-00082-6

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### Comments:

Respondent's Response to Appellant's Supplemental Brief with Attached Proof of Service.

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