

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 99356-4
Respondent,)	
)	REPLY IN SUPPORT OF
vs.)	<u>BLAKE</u> REMAND
)	
RONELLE ASHTON WILLIAMS,)	
Appellant.)	
_____)	

I. IDENTITY OF REPLYING PARTY

Petitioner, by and through counsel of record, Nielsen Koch, PLLC, replies to the state’s March 29, 2021 opposition to his motion to amend his petition, which requested remand for resentencing in light of State v. Blake, ___ Wn.2d ___, 481 P.3d 521 (2021).

II. ARGUMENT IN REPLY

The state agrees that resentencing must occur but claims that Mr. Williams’s motion to amend the petition for review to include a request for a Blake remand is counterproductive given the “expedited” and more “efficient” process Mr. Williams would receive in the superior court. Ans. to Mot. to Amend at 1, 4. The state is incorrect as the surest and most efficient way to obtain a resentencing in the superior court at this stage is for the Washington Supreme Court to order one.

Mr. Williams agrees with the state that the trial court is in the best position to recalculate his offender score based on what remains of his criminal history post-Blake.

See Ans. to Mot. to Amend at 3; accord Mot. to Amend Pet. at 6 (acknowledging that trial court should determine what effect Blake has on Mr. Williams's offender score). However, Mr. Williams is not currently represented in the trial court, so to obtain resentencing there would require him to file a pro se Blake motion from prison. Mr. Williams is currently represented in the appellate courts, which is why his appellate counsel requested Blake resentencing. It will be much more efficient, faster, and more expedited for the Washington Supreme Court to order that the trial court conduct a Blake resentencing either in its merits decision after granting review of some or all of the other issues Mr. Williams raises in his petition for review (assuming he loses on the merits) or in an order that denies review of these other issues but explicitly remands for Blake resentencing. In short, granting Blake relief in the appellate courts is not counterproductive but the most productive and efficient use of judicial resources currently available given where we find ourselves procedurally in this prosecution.

Also, it is odd that the state agrees that resentencing must occur but opposes Mr. Williams's motion where the same office, King County Prosecuting Attorney, has supported the appellate courts granting Blake relief in every other case undersigned counsel is aware of. For example, in another of counsel's cases, the Court of Appeals granted Blake relief yesterday *after* the Supreme Court denied review but before the mandate issued, and did so with the state's full approval. See Appendix A. In other cases in counsel's office, King County has likewise agreed that the Court of Appeals should remand for Blake resentencing. See, e.g., Appendix B. Thus, there appears to be no principled reason for treating Mr. Williams's request differently. Accordingly, Mr. Williams asks that his petition for review be amended to include the Blake issue and that,

in the event that review is not granted or Mr. Williams does not prevail on the merits of the other issues if review is granted, the Washington Supreme Court explicitly remand this matter to the trial court for resentencing under Blake.

III. CONCLUSION

Mr. Williams asks that the Supreme Court accept this motion in lieu of a supplemental brief or amended petition, and consider whether remand is warranted for the trial court to determine what effect Blake has on his offender score and standard sentence range.

DATED this 6th day of April, 2021.

Respectfully submitted,

NIELSEN KOCH, PLLC

A handwritten signature in black ink, appearing to read "Kevin A. March", written over a horizontal line.

KEVIN A. MARCH, WSBA No. 45397
Office ID No. 91051
Attorneys for Petitioner

APPENDIX A

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL BERNARD SMITH,

Appellant.

No. 79626-7-I

ORDER VACATING
SENTENCE AND
REMANDING FOR
RESENTENCING IN LIGHT
OF STATE V. BLAKE

On September 28, 2020, this Court affirmed the second degree assault conviction of Appellant Michael Bernard Smith in an unpublished opinion. See State v. Michael Bernard Smith, No. 79626-7-I, slip op. (Sept. 28, 2020). The Washington Supreme Court denied Smith's petition for review by amended order dated February 17, 2021.

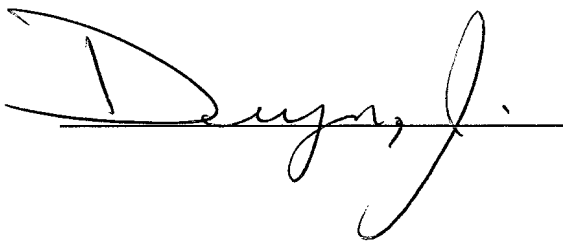
On March 11, 2021, before the clerk of this court issued the mandate, Smith filed a motion to remand for resentencing in light of in light of State v. Blake, No. 96873-0, slip op. (Wash. Feb. 25, 2021).¹ Respondent State of Washington has filed a response indicating that Smith has a criminal history containing one conviction for VUCSA possession and agrees that Smith is entitled to resentencing pursuant to State v. Blake. We have considered the motion and have determined that it should be granted to allow

¹ <https://www.courts.wa.gov/opinions/pdf/968730.pdf>.

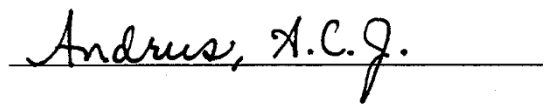
the trial court to determine what effect Blake has on Smith's offender score and his sentence in this case.

Now, therefore, it is hereby

ORDERED that Smith's sentence is vacated and the matter is remanded for resentencing in light of Blake.



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A handwritten signature in cursive script, appearing to read "Andrus, A.C.J.", written over a horizontal line.



A handwritten signature in cursive script, appearing to read "Appelwick, J.", written over a horizontal line.

APPENDIX B

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON,)	
)	
Respondent,)	NO. 80873-7-I
)	
vs.)	STATE'S RESPONSE TO
)	APPELLANT'S MOTION FOR
TARAILLE CHESNEY,)	RE-SENTENCING AND
)	ACCELERATED REVIEW.
Appellant.)	
_____)	

1. IDENTITY OF MOVING PARTY

The State of Washington, respondent, asks for the relief designated in Part 2.

2. STATEMENT OF RELIEF SOUGHT

The State agrees that Chesney is entitled to re-sentencing pursuant to State v. Blake, No. 96873-0. The State takes no position on Chesney's motion for accelerated review.

3. FACTS RELEVANT TO MOTION

Chesney was sentenced to 41 months in prison for various

felony and misdemeanor offenses. CP 110. Chesney's Appendix B contains four convictions for VUCSA – Possession that, for purposes of the present motion, the State assumes are now invalid under Blake. CP 113. It appears that invalidating these convictions may also implicate the “wash out” period for past crimes, and thus potentially change Chesney's standard range dramatically.

4. GROUNDS FOR RELIEF AND ARGUMENT

The State is currently designing an integrated tiered system to manage the anticipated volume of post-Blake motions. The State intends to prioritize defendants currently in DOC custody who may have their sentences dramatically reduced. Chesney appears to fall within this definition.

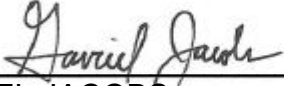
The State agrees that re-sentencing is appropriate in this case. The State respectfully requests that any questions regarding Chesney's updated offender score be reserved for the trial court. Given the possibility that Chesney may have already served much, if not at all, of a revised sentence, the State does not object to accelerated review.

5. CONCLUSION

The State agrees that Chesney should be re-sentenced in light of Blake, *supra*. The State does not object to accelerated review of Chesney's appeal.

DATED this 22 day of March, 2021.

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
GAVRIEL JACOBS
WSBA# 46394
Deputy Prosecuting Attorney
Attorney for Respondent

W554 King County Courthouse
Seattle, WA 98104
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KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT

March 22, 2021 - 3:55 PM

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Appellate Court Case Number: 80873-7
Appellate Court Case Title: State of Washington, Respondent v. Taraille Dejuan Chesney, Appellant

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NIELSEN KOCH P.L.L.C.

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