

December 14, 2021

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Personal Restraint of:

TRACEY KIMBERLY BAILEY,

Petitioner

No. 55413-5-II
consolidated with
No. 55416-0-II


UNPUBLISHED OPINION

VELJACIC, J.¹ — Tracey Bailey seeks relief from personal restraint imposed following her 2018 convictions for unlawful possession of controlled substances (Thurston County Cause No. 14-1-01004-8) and for criminal impersonation in the first degree (Thurston County Cause No. 16-1-02274-3). She does not identify any grounds for relief, merely stating “fact already in record” and “fact in record.” While her petitions were pending, the Washington State Supreme Court issued its decision in *State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021), which held RCW 69.50.4013(1), the statute making possession of controlled substances illegal, to be unconstitutional. The State concedes that under *Blake*, Bailey is entitled to have her conviction for unlawful possession vacated. The State argues that because criminal impersonation in the first degree is an unranked offense, there was no offender score in which the unlawful possession conviction was included, and because Bailey has served her sentence and is not under supervision, her petition as to the criminal impersonation in the first degree conviction is moot. *State v. Gentry*,

¹ The court, on its own initiative, consolidates *In re Pers. Restraint of Bailey*, No. 54413-5-II, to Petitioner’s other petition, No. 55416-0-II. It is so ordered.

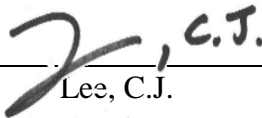
125 Wn.2d 570, 616, 888 P.2d 1105 (1995). We agree. Accordingly, we remand Bailey's 2018 conviction for unlawful possession to the trial court for vacation, deny the remainder of her petition as moot, and deny her request for appointment of counsel.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

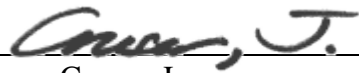


Veljacic, J.

We concur:



Lee, C.J.



Cruiser, J.