

Superior Court of Washington, County of _____

State of Washington,
Plaintiff

vs.

Defendant DOB _____

No. _____

Order on Blake Motion to Vacate Drug
Possession Conviction(s) and Refund Paid
LFO Amounts

☐ Granted (ORVCD)

☐ Denied

Clerk's Action Required: 4, 8, 9, 10, 11, 14, 15

**Order on Blake Motion to Vacate Drug Possession
Conviction(s) and Refund Paid LFO Amounts**

1. Basis

This matter comes before the court on: ☐ Defendant's motion ☐ State's motion
☐ motion on behalf of the State by the Blake Administrative Vacate Team, based on
State v. Blake, 197 Wn.2d 170 (2021) and *State v. A.L.R.H.*, 20 Wn. App. 2d 384 (2021)
to vacate simple drug possession conviction/s under RCW 69.50.4013 and RCW
69.50.4014 or their predecessor statutes or convictions for inchoate offenses under
RCW 69.50.4013 and RCW 69.50.4014 or their predecessor statutes, and to refund
legal financial obligations (LFOs). Nothing in this order precludes the defendant from
bringing a motion to seek additional or different relief including but not limited to a refund
for third-party costs.

The court considered the case record and the pleadings submitted on the matter.

☐ **No hearing.** The court decided this motion on the pleadings.

☐ **Hearing.** The court heard argument at a hearing.

2. Notice

- ☐ The defendant had actual notice of the motion for entry of this order.
- ☐ This order was entered with no actual notice to the defendant. Entry of this order shall not be taken as an indication that the defendant has received any affirmative, actual notice of the relief provided by this order.

3. Findings & Conclusions

In *State v. Blake*, 197 Wn.2d 170 (2021), the Supreme Court of Washington held that RCW 69.50.4013 is unconstitutionally void. *State v. A.L.R.H.*, 20 Wn. App. 2d 384 (2021), extended that holding to convictions based under RCW 69.50.4014. As a result, convictions based on RCW 69.50.4013 or RCW 69.50.4014 or their predecessor statutes, or convictions for inchoate offenses under RCW 69.50.4013 and RCW 69.50.4014 or their predecessor statutes, are unconstitutionally void and must be vacated. LFOs and accrued interest paid pursuant to such convictions must be refunded, including fees and interest that private collections agencies imposed. *Nelson v. Colorado*, 581 U.S. 128, 137 S. Ct. 1249, 197 L.Ed. 2d 611 (2017).

The defendant was convicted of such a completed or inchoate offense/s on this cause number under RCW 69.50.4013, RCW 69.50.4014, or their predecessor statutes.

The court orders:

4. **CLERK'S ACTION: Vacate and Update Criminal Record.** The motion to vacate is granted as to any and all convictions under this cause number. The Clerk shall update the charge result/charge disposition code to VU (Vacated Unconstitutional).
5. **Dismiss.** The information is dismissed with prejudice as to the refiling of any charges alleged in the original or amended information or indictment in this case.
6. **Release and Criminal History.** The defendant shall be released from all penalties and disabilities resulting from any conviction under this case and those offense/s shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction.
7. **Firearm and Voting Rights.** The defendant's right to vote and right to possess a firearm are no longer restricted or revoked by this matter.

8. **CLERK'S ACTION: Warrants Quashed.** Any outstanding arrest warrant in this matter is quashed.
9. **CLERK'S ACTION: Driving Privilege Reinstated.** If the defendant was under 21 years old at the time of conviction, the Clerk shall notify the Department of Licensing to reinstate the defendant's privilege to drive, if suspended due to this judgment. RCW 69.50.420(2).

Defendant ☐ was ☐ was not under 21 years of age at the time of the conviction.

10. **CLERK'S ACTION: Forward to WSP.** The Clerk shall immediately transmit notice of this order to the Washington State Patrol and to (local law enforcement agency)

which agencies shall immediately update their records to reflect the vacation of the record of the conviction/s.

11. **CLERK'S ACTION: Forward to DOC.** The Clerk shall immediately send a copy of this order to the Washington State Department of Corrections at docamendedorders@doc1.wa.gov.
12. **Disclosure.** The Washington State Patrol shall transmit notice of this order to the Federal Bureau of Investigation. The Washington State Patrol or local law enforcement agency may not disseminate or disclose a conviction that has been vacated to any person, except to other criminal justice agencies per RCW 9.94A.640(4)(a).
13. **Legal Financial Obligations.** All legal financial obligations, fees, fines, costs, charges, or assessments (LFOs), except any separate civil judgment/s not predicated on conviction, are waived. If the LFOs have been assigned to a private collection agency, that assignment is revoked and the account is removed from that agency for collection. All associated collection costs are waived, including fees, interest or other monies related to collection. Any associated collection actions are stopped. All non-restitution interest is waived. If the restitution and restitution interest were assessed, the balances shall be waived.
14. **CLERK'S ACTION: Waive Balances, and Stop Collection and Collection Actions.** The Clerk shall delete, strike, cancel or waive any unpaid balance on the LFOs ordered under this cause, including any interest. If the Clerk has assigned these LFOs to a private collection agency, the Clerk shall remove those LFOs from collection and waive collection costs, including fees, interest, and other monies related to collection. The

Clerk shall stop any associated collection actions. The Clerk shall waive all non-restitution interest. The Clerk shall waive any restitution and restitution interest assessed.

- 15. CLERK'S ACTION: Refund.** To the extent payment was received on these LFOs, the payment shall be refunded to the defendant and no portion of the refund will be reallocated to other cause numbers. This shall not apply to garnishment orders for child support. The Clerk shall calculate the refundable LFO amount. Refundable LFO amounts shall include any amounts listed in the judgment and sentence or subsequent restitution orders, and include but are not limited to: court costs, fees, fines, victim restitution, and interest, as well as additional fees, interest, or any other monies associated with this case number that the defendant paid to a private collection agency which were not remitted to the Court. (*Check one*)

- ☐ As determined by the Clerk, no LFO amounts were paid on this case.
- ☐ As determined by the Clerk, non-restitution LFOs and interest were paid in this case in the amount of \$_____. As determined by the Clerk, restitution and restitution interest was paid in this case in the amount of \$_____.
- ☐ The amounts paid toward non-restitution LFOs in this case, and restitution paid in this case, will be determined by the Clerk and any refund owing to the defendant will be calculated by the Clerk following entry of this order.
- ☐ As determined by the Clerk, no records are available to use in calculating a refundable LFO amount. The defendant may see assistance of counsel of determination of refund.

CLERK'S ACTION: The Clerk shall provide notice of this order and certified refund amount to the agency that processes Blake LFO refunds. The Clerk will make every effort to certify a refund amount to the agency that processes Blake LFO refund amounts no later than 60 days from entry of this order.

The defendant shall be refunded as ordered above. The defendant may dispute the refund amount by filing a motion for appointment of counsel and determination of refund.

The above is hereby ordered.

Date

Judge/Print Name:

Dep. Prosecuting Attorney, WSBA No.

Defendant or Defense Attorney signature

Print Name

Print Name

Defendant's Mailing Address, if known:

Phone: _____

Email: _____