

Superior Court of Washington, County of _____

State of Washington,
Plaintiff

vs.

Defendant DOB _____

No. _____

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

[] Granted (ORV CDC)

[] Denied

Clerk's Action Required: 4, 10, 11, 12, 15, 16

**Order on Blake Motion to Vacate Specific Drug Possession
Conviction(s) on Judgment and Sentence and Refund Paid
LFO Amounts—Counts Remain**

1. Basis

This matter comes before the court on: ☐ Defendant's motion ☐ State's motion, 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 the completed or inchoate offense/s listed in Section 4 of this order under RCW 69.50.4013, RCW 69.50.4014, or their predecessor statutes. The prior judgment and sentence includes both offenses rendered void by *Blake* and other offenses not subject to *Blake*.

The court orders:

4. **CLERK'S ACTION: Vacate and Update Criminal Record.** The motion to vacate is granted as to the following counts/crimes under this case number:

Count	Crime	RCW (include subsection)	Date of Crime

The Clerk shall update the charge result/charge disposition code to VU (Vacated Unconstitutional) for the vacated count/s.

5. **Other Counts Remain.** The following counts/crimes under this case number are not vacated.

Count	Crime	RCW (include subsection)	Date of Crime

6. **Dismiss.** The charge/s in the information, as originally filed or amended, are dismissed with prejudice as to the counts/crimes listed in Section 4.
7. **Release and Criminal History.** The defendant shall be released from all penalties and disabilities resulting from any vacated count/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. Other than as modified herein, all other terms and conditions under this cause number shall remain in full force and effect.
8. **Community Custody.** Any term of community custody, community supervision, or community placement with the Department of Corrections (hereinafter referred to as "community custody") previously ordered for the charges listed in paragraph 4 shall no longer remain in place. (*Check one*).

☐ No community custody remains in place in this cause.

☐ Community custody is in place on the remaining charges as follows:

_____ months remains in place on Count/s _____

_____ months remains in place on Count/s _____

_____ months remains in place on Count/s _____

☐ The court has insufficient information about the applicability of community custody on the remaining convictions and reserves on whether community custody applies to those charges.

9. **Firearm and Voting Rights.** The defendant's right to vote and right to possess a firearm are no longer restricted or revoked by the counts/crimes listed in paragraph 4 of this order.
10. **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 the vacated counts/crimes in paragraph 4. RCW 69.50.420(2).

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

11. **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.

12. **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.
13. **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).
14. **Legal Financial Obligations Applied Solely to Counts/Crimes Vacated in Section 4.** All legal financial obligations, fees, fines, costs, charges, or assessments (LFO) resulting solely from the counts/crimes vacated herein, except any separate civil judgment/s not predicated on the vacated counts/crimes, are waived. If the LFO has been assigned to a private collection agency, that assignment is revoked, and the account is removed from that agency for collection. All collection costs resulting solely from the counts/crimes vacated herein are waived, including fees, interest or other monies related to collection. All collection actions resulting solely from the counts/crimes vacated herein are

stopped. All non-restitution interest for this case is waived. If the restitution and restitution interest were assessed on the counts/crimes vacated herein, the balances shall be waived. Any other legal financial obligations assessed on this case number arising from the remaining unvacated counts/crimes in Section 5 shall remain imposed, to include misdemeanor offenses in separate judgment.

- 15. CLERK'S ACTION: Waive Balances, and Stop Collection and Collection Actions, Applied Solely to Counts/Crimes Vacated in Section 4.** The Clerk shall delete, strike, cancel, or waive any unpaid balance on any LFO ordered solely due to the vacated counts/crimes described in Section 4, including any interest. If the Clerk has assigned any LFO ordered solely due to the counts/crimes vacated in Section 4 to a private collection agency, the Clerk shall remove the LFO from collection and waive collection costs, including fees, interest, and other monies related to collection. The Clerk shall stop any associated collection actions resulting solely from the counts/crimes vacated in Section 4. The Clerk shall waive all non-restitution interest for vacated and remaining charges. The Clerk shall waive any restitution and restitution interest assessed on the vacated drug possession offense/s described in Section 4 of this order.
- 16. CLERK'S ACTION: Refund.** To the extent payment was received on an LFO described in Sections 14 and 15, 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 resulting solely from the conviction/s vacated in Section 4, and may include, but are not limited to: court costs, fees, fines, victim restitution, and interest if paid on a vacated offense, as well as additional fees, interest, or any other monies associated with the conviction/s vacated in Section 4 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 the vacated counts/crimes.
- ☐ As determined by the Clerk, the following LFOs were paid on the vacated counts/crimes in the following amounts (check all that apply)
 - ☐ Crime Lab Fee: \$_____

- ☐ DNA Collection Fee: \$_____
- ☐ Drug Fund: \$_____
- ☐ Interest on non-restitution LFOs: \$_____
- ☐ Restitution
- ☐ Restitution interest: \$_____
- ☐ Other: \$_____
- ☐ The amounts paid toward non-restitution LFOs on the vacated counts/crimes, and restitution paid on the vacated counts/crimes, 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 seek assistance of counsel for a 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.

- 17. Resentencing.** Entry of this order is only specifically with respect to vacating the Blake-affected conviction/s. The defendant may subsequently pursue re-sentencing for the remaining count/s under this cause number if eligible.

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:
