

No. 86885-9

**SUPREME COURT
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON

Respondent

vs.

STEPHEN CHRISS JOHNSON,

Petitioner,

PETITIONER'S ANSWER TO BRIEF OF AMICUS DOL

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF ARGUMENT	2
III.	ARGUMENT	3
	A. Washington’s License Suspension Scheme for Failure to Pay Traffic Fines Creates a Wealth-based Classification That Invidiously Discriminates Against the Poor Who Are Unable to Pay Their Traffic Fines	3
	1. Suspension disparately impacts the poor	4
	2. Coercive suspension becomes punishment for poverty when the suspended driver has no ability to pay	7
	3. Constitutional principles set forth in <i>Bearden</i> and <i>Blank</i> are implicated when a driver’s license is suspended for failure to pay	10
	B. Even if Rational Basis Review Is Proper, Coercive Suspension of Poor Drivers for Inability to Pay Is Not Rationally Related to Any Legitimate State Interest	14
	1. Suspension prevents, rather than promotes, compliance with financial responsibility laws ...	14
	2. Suspension prevents, rather than promotes, compliance with traffic fines	16
	3. The Nonresident Violator Compact does not require suspension for failure to pay	17
	C. The Legislature’s Rejection of the Original Text of HB 1854 Demonstrates that DWLS 3 rd Does Not Include Failure to Pay	18
VI.	CONCLUSION	20

TABLE OF AUTHORITIES

Washington Cases

<u>Amunrud v. Bd. of Appeals</u> , 158 Wn.2d 208, 143 P.3d 571 (2006)	7
<u>State v. Blank</u> , 131 Wn.2d 230, 930 P.2d 1213 (1997)	1, 2, 4, 7, 10, 11, 12, 13, 20
<u>Britannia Holdings Ltd. v. Greer</u> , 127 Wn.App. 926, 113 P.3d 1041 (2005)	9, 10
<u>State v. Curry</u> , 118 Wn.2d 911, 829 P.2d 166 (1992)	11, 12
<u>King v. Dept. of Social and Health Servs.</u> , 110 Wn.2d 793, 756 P.2d 1303 (1988)	9
<u>In re M.B.</u> , 101 Wn.App.425, 3 P.3d 780 (2000)	10
<u>State v. Nason</u> , 168 Wn.2d 936, 233 P.3d 848 (2010)	13
<u>City of Redmond v. Moore</u> , 151 Wn.2d 664, 91 P.3d 875 (2004)	9, 18
<u>Riggins v. Rhay</u> , 75 Wn.2d 271, 450 P.d 806 (1969)	3
<u>State v. Scheffel</u> , 82 Wn.2d 872, 514 P.2d 1052 (1973)	8, 9
<u>Smith v. Whatcom County Dist. Court</u> , 147 Wn.2d 98, 52 P.3d 485 (2002)	13

Other Jurisdictions

<u>City of Milwaukee v. Kilgore</u> , 193 Wis.2d 168, 532 N.W.2d 690 (1995)	9
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U.S. Supreme Court Cases

<u>Bearden v. Georgia</u> , 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983)	1, 2, 4, 7, 10, 11, 12, 13, 20
<u>Tate v. Short</u> , 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130 (1971)	7, 11, 17
<u>Williams v. Illinois</u> , 399 U.S. 235, 26 L.Ed.2d 586 (1970)	3, 4, 7, 12

Statutes

RCW 10.01.180	10
RCW 46.20.289	16, 18, 19
RCW 46.20.291	19, 20
RCW 46.20.311	16
RCW 46.20.342	19, 20
RCW 46.23.010	18
RCW 46.29	15, 16
RCW 46.29.460	15
RCW 46.30	15
RCW 46.64.025	19, 20

I. INTRODUCTION

This State's irrational policy of suspending the driver's licenses of poor drivers to coerce payment of fines they are unable to pay must end. The statutory scheme of suspension for failure to pay creates an invidious discrimination against the poor who have no ability to pay, imposing on them an odious sanction, which they have no power to remove, for the sole reason that they are poor. This disparate impact on the poor has no rational basis in any legitimate state interest.

Washington's Department of Licencing ("DOL") has raised issues in its Amicus Brief in support of this scheme that were not addressed in the briefs of the parties. DOL argues that the suspension scheme does not create a wealth-based classification; that suspension is not a punishment to which the constitutional principles of *Blank* and *Bearden* apply; and that suspension is rationally related to the state's interests in protecting the public from financially irresponsible drivers, ensuring compliance with traffic fines, and upholding the Nonresident Violators Compact.¹ This Answer will address these new issues.

¹ DOL also argues that the crime of DWLS furthers the state's interest in ensuring compliance with suspensions. However, the constitutionality of DWLS is not at issue, only its interpretation. The plain language of DWLS 3rd does not include suspensions for failure to pay. (See Opening Brief at 11-26; Reply Brief at 3-16; Statement of Additional Grounds at 13-17; Brief of Amici ACLU, et al., at 2.)

This Answer will also discuss the original text of HB 1854 (2005 Reg. Session), raised in the Brief of Amicus Northwest Justice Project and reproduced in Appendix B to that Brief.

II. SUMMARY OF ARGUMENT

Part A addresses DOL's contention that the suspension scheme does not create a wealth-based classification. Suspension for failure to pay works an invidious discrimination against the poor because only the poor are actually suspended. This nominally "coercive" sanction becomes an unjust punishment because the poor have no power to purge the sanction by paying the fine. The principles of *Bearden* and *Blank* apply to this sanction for failure to pay, requiring inquiry and a finding of willfulness prior to suspension of an indigent driver's license.

Part B addresses DOL's rational basis arguments. Even if that is the correct test here, there is no rational relationship between suspending indigent drivers' licenses and DOL's proposed state interests.

Part C discusses the legislature's rejection in 2005 of the original text of HB 1854, which would have added failure to pay to the definition of DWLS 3rd. Rejection of that change is strong evidence that the legislature did not intend DWLS 3rd to include failure to pay.

III. ARGUMENT

A. Washington’s Licence Suspension Scheme for Failure to Pay Traffic Fines Creates a Wealth-based Classification That Invidiously Discriminates Against the Poor Who Are Unable to Pay Their Traffic Fines.

DOL argues that the license suspension scheme does not implicate equal protection because it is applied equally to rich and poor. However, in *Riggins v. Rhay*, 75 Wn.2d 271, 283, 450 P.2d 806 (1969), cited by DOL to support this argument, this Court noted that, while equal protection does not require the state to eliminate all inequalities between rich and poor, it *does* prohibit the state “from engaging in invidious discrimination.” In that case, denying appointed counsel in parole revocation hearings did not rise to the level of invidious discrimination. *Id.* at 285. This case is different.

Williams v. Illinois, 399 U.S. 235, 90 S.Ct. 2018, 26 L.Ed.2d 586 (1970), illustrates the kind of invidious discrimination created by imposing additional sanctions solely for inability to pay:

[T]he Illinois statutory scheme does not distinguish [on its face] between defendants on the basis of ability to pay fines. But, as we said in *Griffin v. Illinois, supra*, ‘a law nondiscriminatory on its face may be grossly discriminatory in its operation.’ Here the Illinois statutes as applied to Williams works an invidious discrimination solely because he is unable to pay the fine. On its face the statute extends to all defendants an apparently equal opportunity for limiting confinement to the statutory maximum simply by satisfying a money judgment. In fact, this is an illusory

choice for Williams or any indigent who, by definition, is without funds. Since only a convicted person with access to funds can avoid the increased imprisonment, the Illinois statute in operative effect exposes only indigents to the risk of imprisonment beyond the statutory maximum. By making the maximum confinement contingent upon one's ability to pay, the State has visited different consequences on two categories of persons...

Id. at 242 (citations omitted).

DOL argues that *Williams* and similar cases are inapposite because they involve imprisonment rather than license suspension, but the constitutional principles are the same. Since only a person with access to funds can avoid the suspension, the State has visited different consequences on two categories of persons. Suspension for failure to pay disparately impacts the poor. While those with funds hold the key to escaping suspension, the suspension becomes a never-ending punishment for those who have no ability to pay. This additional punishment, imposed solely because of inability to pay, implicates constitutional fairness principles set forth in *Bearden v. Georgia*, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983), and *State v. Blank*, 131 Wn.2d 230, 930 P.2d 1213 (1997).

1. Suspension disparately impacts the poor.

Coercive license suspension disproportionately affects and burdens

the poor. Numerous studies and statistics cited in the other Amicus Briefs filed in this case provide convincing evidence of this disparate impact. For example, most suspended drivers participating in the Center for Justice's relicensing program in Spokane have monthly incomes below \$1,296. (Brief of Amici Got Green, et al., at 7.) The average monthly income of suspended drivers in Seattle Municipal Court in 1999 was only \$810. (Brief of Amicus Northwest Justice Project at 17.) It is only poor drivers who actually end up suspended.²

Nearly half of the population is considered poor. (*See* Statement of Additional Grounds, App. at 27.) These people cannot pay a fine without manifest hardship. (Brief of Amici Got Green, et al., at 4-5.) If they cannot pay today, they will not be able to pay tomorrow or next year. Payment plans are unreasonable and still create manifest hardship. (*E.g., Id.* at 5.) Even if 50% of people in relicensing programs are reinstating their licenses (Brief of Amici ACLU, et al., at 18), they are only doing so with manifest hardship. What about the other half?

² It would seem that the only factors determining how many drivers are suspended at any given time are the state of the economy and the amount of the fines. If fines were increased, more people would be unable to pay and end up suspended. This scheme is very effective at creating a pool of people for the State to prosecute for DWLS under its incorrect interpretation of that law. But suspension of the poor does nothing to protect public safety or to collect traffic fines.

Monetary fines already impose an immense burden on indigent persons, requiring them to forego basic necessities if they are to pay their fines. (Brief of Amici Got Green, et al., at 6; Brief of Amicus Northwest Justice Project at 17.) When they are then suspended for failure to pay, they suffer further damage as they are unable to obtain or maintain jobs or promotions. (*Id.* at 10-13; Brief of Amicus Northwest Justice Project at 17-18; Brief of Amici ACLU, et al., at 3-4.) They cannot so much as go to the store or take their children to the doctor without becoming a burden on family or friends—or risking arrest for DWLS 3rd if family or friends are unavailable. (*See Id.* at 4, 11; Brief of Amici ACLU, et al., at 3.) Public transportation is often inadequate, especially in rural areas. (*Id.* at 11-12.) These impacts also impose additional costs on society—increased government expenditures, decreased tax revenue, and decreased productivity—contributing to the stagnation of our once-vibrant economy. (*See* Brief of Amici ACLU, et al. at 9-13.)

In contrast to the debilitating burden imposed on the poor by the current scheme of fines and suspension, a wealthy driver is able to easily pay the fine, perhaps foregoing a night of dinner and entertainment, but facing no further consequences. The wealthy driver is never suspended. Their life continues the same as before, while the poor driver's life

changes forever. This difference in the consequences of a fine, based solely on the driver's ability to pay, is offensive.³

This disparate impact on the poor, just as in *Williams*, creates a wealth-based classification. (See Brief of Amicus Northwest Justice Project at 17-18.) Drivers with the resources to pay their fines, pay. (*Id.* at 13-14, 18; Brief of Amici ACLU, et al., at 7.) On the rare occasion that a driver with resources refuses to pay, a coercive sanction may be appropriate. See *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 227, 143 P.3d 571 (2006). But the sanction of suspension is imposed almost exclusively on the poor who have no power to pay their fines. This disparate impact works an invidious discrimination based on wealth.

2. Coercive suspension becomes punishment for poverty

³ This fundamental inequality in the real economic impact of fines for traffic offenses is a serious equal protection problem. The principles set forth in *Bearden* and *Blank* are only a band-aid to cover this festering constitutional wound that continues to oppress the poor for the convenience of the wealthy. As Justice Blackmun observed in *Tate*:

Eliminating the fine whenever it is prescribed as alternative punishment avoids the equal protection issue that indigency occasions and leaves only possible Eighth Amendment considerations. If, as a nation, we ever reach that happy point where we are willing to set our personal convenience to one side and we are really serious about resolving the problems of traffic irresponsibility and the frightful carnage it spews upon our roadways, a development of that kind may not be at all undesirable.

Tate v. Short, 401 U.S. 395, 401, 91 S.Ct. 668, 28 L.Ed.2d 130 (1971) (Blackmun, J., concurring).

A truly equal penalty for traffic infractions would be license suspension for a set term—for example, a 3-day suspension for a speeding ticket. Time without a license impacts all drivers equally; fines do not.

when the suspended driver has no ability to pay.

DOL argues that suspension for failure to pay is not punishment. (Brief of Amicus DOL at 14, 18.) But, as shown above and in Briefs of Amici, indigent drivers suspended for failure to pay do suffer a very real punishment. Since being suspended, Mr. Johnson is unable to earn sufficient funds to maintain his home or put food on the table, and must now rely on government assistance. (See Opening Brief at 33.) Like many others, he has suffered depression and hopelessness as a result of this punishment for his poverty. (See Brief of Amici Got Green, et al., at 17-18.) Suspension for inability to pay is a punishment in fact. It is also punishment as a matter of law.

DOL cites *State v. Scheffel*, 82 Wn.2d 872, 879, 514 P.2d 1052 (1973), for the proposition that suspension is not punishment, but takes the court's statement out of context. Scheffel's license was revoked under the Habitual Traffic Offenders Act because he had been convicted of DUI three separate times. *Id.* at 874. He argued that the revocation was an additional punishment for crimes for which he had already been punished. *See Id.* at 879. The court held that the revocation was not a punishment for the underlying crimes, but was a civil sanction imposed to protect the public by removing a dangerous driver from the road. *Id.*

In contrast, suspension for failure to pay a fine—which did not even exist in Washington at the time of the *Scheffel* decision—is a sanction imposed for the sole purpose of coercing payment of the fine. Its purpose is not to protect the public but to promote efficient administration of traffic regulation and compliance with court orders. *Redmond v. Moore*, 151 Wn.2d 664, 677, 91 P.3d 875 (2004).

This coercive suspension is a remedial sanction of the same nature as civil contempt, designed to compel a person to comply with a court order to pay a fine. *City of Milwaukee v. Kilgore*, 193 Wis. 2d 168, 187-88, 532 N.W.2d 690 (1995). A remedial sanction is conditional and indeterminate. *King v. Dept. of Social and Health Servs.*, 110 Wn.2d 793, 800, 756 P.2d 1303 (1988). The person must be able to purge the sanction through compliance. *Id.* In other words, the person “carries the keys of his prison in his own pocket” and will be released from the sanction upon complying with the order. *Britannia Holdings Ltd. v. Greer*, 127 Wn. App. 926, 933, 113 P.3d 1041 (2005). The “purge condition” here is to pay the fine imposed for the infraction.

Similar to civil contempt, suspension for failure to pay only remains coercive if the driver has the means to comply with the original court order to pay. *See Britannia*, 127 Wn. App. at 933. Suspension, like

civil contempt, loses its coercive character “and **becomes punitive** where the contemnor cannot purge the contempt.” *Id.* (emphasis added). If the person has no power to pay the fine, the justification for the coercive sanction disappears. *See In re M.B.*, 101 Wn. App. 425, 440, 3 P.3d 780 (2000). An unjustifiable sanction is a violation of due process. *Britannia*, 127 Wn. App. at 933. As a matter of law, “coercive” suspension of a driver with no ability to pay **is a punishment**.

Indigent drivers do not have the means pay their fines. They do not carry the keys to the “prison” of license suspension in their own pockets. The suspension cannot succeed in coercing payment and becomes, instead, an odious punishment imposed solely because the person is poor.⁴ Without an inquiry into ability to pay and a finding that the person is willfully refusing to pay, coercive license suspension violates due process.

3. Constitutional principles set forth in *Bearden* and *Blank* are implicated when a driver’s license is suspended for failure to pay.

The combination of a wealth-based, semi-suspect classification and the important interest at stake requires heightened scrutiny in this case.

⁴ A possible solution to this punitive effect would be to give drivers credit against the fine for the fair value of each day suspended, thereby limiting the duration of the suspension to the value of the fine. This system is already in place for convicted defendants found in contempt for failure to pay a fine or costs. RCW 10.01.180(3).

(Brief of Amicus Northwest Justice Project at 13-16.) *Bearden* provides the framework for determining whether suspension of drivers who are unable to pay violates equal protection and due process principles:

Whether analyzed in terms of equal protection or due process, the issue cannot be resolved by resort to easy slogans or pigeonhole analysis, but rather requires a careful inquiry into such factors as “the nature of the individual interest affected, the extent to which it is affected, the rationality of the connection between legislative means and purpose, and the existence of alternative means for effectuating the purpose.”

Bearden, 461 U.S. at 666-67 (citations omitted). This is precisely the analysis undertaken in Petitioner’s Opening Brief at 30-38.

Rather than engage in this analysis, DOL argues that the principles of *Bearden*, *Blank*, and *Tate* do not apply unless imprisonment is at stake. (Brief of Amicus DOL at 13, 17-19.) DOL misinterprets *Blank* to support its argument that “fundamental fairness concerns are raised only when a defendant faces imprisonment.” (Brief of Amicus DOL at 18.) This Court’s holding in *Blank* was not nearly so narrow.

In the portion of the opinion cited by DOL, Justice Madsen, writing for the Court, was describing the Court’s previous holding in *State v. Curry*, 118 Wn.2d 911, 829 P.2d 166 (1992). The *Curry* court had cited *Bearden* and other cases for the principle that “it is fundamentally unfair to

imprison defendants solely because of inability to pay.” *Blank*, 131 Wn.2d at 241. None of these cases—not *Blank*, nor *Bearden*, nor *Curry*—restricts the applicability of fundamental fairness principles and the need to inquire into ability to pay only to situations where a defendant faces imprisonment rather than some other sanction for failure to pay.

Imprisonment was not at stake in *Blank*. There, defendants argued that the imposition of recoupment of appellate costs was unconstitutional because they were indigent and would not be able to pay. This Court noted that *Curry*, *Bearden*, and *Williams* “suggest by analogy” that the time for inquiry into ability to pay “is the point of collection.” *Blank*, 131 Wn.2d at 241-42. “If at that time defendant is unable to pay ... constitutional fairness principles are implicated.” *Id.* at 242. This is true even when something less than imprisonment is at stake.

The Court recognized that the judgment for appellate costs could be enforced in the same manner as a civil judgment—*i.e.*, by means less severe than imprisonment. *See Id.* at 242, n. 6. The Court was intentionally broad in its holding to be sure to include **any** enforcement mechanism or sanction for nonpayment: “before **enforced collection or any sanction** is imposed for nonpayment, there must be an inquiry into ability to pay.” *Id.* at 242 (emphasis added). This broad language capturing any possible

sanction for nonpayment is repeated throughout the opinion. *See Id.* at 242, 245, 246, and 247. Nowhere does the *Blank* court limit its holding to only situations where imprisonment is at stake.

Later decisions of this Court applying *Bearden* and *Blank* have continued to use broad language to require inquiry into ability to pay prior to any sanction for nonpayment. In *Smith v. Whatcom County Dist. Court*, 147 Wn.2d 98, 112, 52 P.3d 485 (2002), this Court held that “Washington law therefore follows *Bearden* in requiring the court to find that a defendant’s failure to pay a fine is intentional before **remedial sanctions** may be imposed” (emphasis added). More recently, in *State v. Nason*, 168 Wn.2d 936, 945-46, 233 P.3d 848 (2010), citing *Smith*, *Blank*, and *Bearden*, this Court held that “inquiry [into ability to pay] must come at the time of the **collection action or sanction**” (emphasis added).

Coercive suspension of a driver’s license is certainly a collection action or remedial sanction. The principles of *Bearden* and *Blank* apply. Suspension for failure to pay is unconstitutional without inquiry into the driver’s ability to pay.⁵ Because the record here does not reveal any finding

⁵ DOL appears concerned that it should not be required to make inquiry into ability to pay. Mr. Johnson agrees. It is the courts that are best positioned to make the inquiry. (*See* Opening Brief at 39.) Indeed, the courts have a duty to do so. *Nason*, 168 Wn.2d at 945. Unfortunately, the courts have not been fulfilling that duty. (*See* Opening Brief at 39-40; Statement of Additional Grounds at 3-8.)

of willful failure to pay, the suspension of Mr. Johnson's license was invalid and could not support a conviction of DWLS. This Court should reverse both the conviction and the underlying suspension.

B. Even if Rational Basis Review Is Proper, Coercive Suspension of Poor Drivers for Inability to Pay Is Not Rationally Related to Any Legitimate State Interest.

The parties have already argued the applicability of the rational basis test, but DOL raises some new state interests in hopes of supporting the suspension scheme. Rational basis review is not the proper analysis. (See Opening Brief at 28-38; Reply Brief at 17-18; Brief of Amicus Northwest Justice Project at 12-17.) But even if rational basis review is proper, the correct inquiry would be whether the *classification or disparate impact*—not the law as a whole—is rationally related to a state interest. (See Reply Brief at 20-21.) Coercive suspension of indigent drivers for failure to pay is not rationally related to the state interests proposed by DOL.

1. Suspension prevents, rather than promotes, compliance with financial responsibility laws.

DOL argues that the legislature could have rationally concluded that drivers who are unable to pay fines are also unable to maintain liability insurance and therefore should be suspended to promote

compliance with financial responsibility laws in Chapter 46.29 RCW. This is not rational. Suspension for failure to pay prevents, rather than promotes, compliance with financial responsibility laws.

Chapter 46.29 RCW, by its own terms, applies only after a driver has been involved in an accident or been convicted of certain traffic crimes. These financial responsibility laws are supplemented by Chapter 46.30 RCW, which requires all drivers to maintain current liability insurance. Proof of insurance also serves as proof of financial responsibility for the future. RCW 46.29.460.

Suspension creates a barrier to compliance with financial responsibility laws. Insurance companies do not issue policies to suspended drivers. Prior suspensions result in increased premiums. In the absence of suspension, an indigent person would be able to maintain the insurance they already have, continue to drive legally, and provide compensation in case of an accident.

In contrast, under the current scheme, indigent drivers who are suspended for their inability to pay will lose their insurance as a consequence. They will no longer be able to comply with financial responsibility laws because they cannot pay the fine to clear their suspension. Even if an indigent driver does manage to pay off their fines,

they will face higher premiums than if they had not been suspended. They may be unable to afford the same amount of insurance that they had prior to suspension, if they can afford any at all.

Suspension actually takes drivers who had previously been in compliance with financial responsibility laws and destroys their ability to comply in the future. Suspension of indigent drivers for failure to pay prevents, rather than promotes, compliance with the financial responsibility laws. There is no rational relationship.⁶

2. Suspension prevents, rather than promotes, compliance with traffic fines.

The parties have already briefed the issue of whether suspension of indigent drivers for failure to pay is rationally related to the state's interest in collecting the fines. It is irrational to think that suspending the driver's

⁶ In addition, should the Court agree with DOL's position that suspension for failure to pay is authorized by RCW 46.20.289, DOL's argument about financial responsibility laws cannot stand. Drivers suspended under RCW 46.20.289 are not required to provide proof of financial responsibility for the future prior to having their licenses reinstated:

Except for a suspension under RCW ... 46.20.289 ... whenever the license or driving privilege of any person is suspended ... the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

RCW 46.20.311(b) (emphasis added). Clearly the legislature did not conclude that drivers suspended under RCW 46.20.289 are also unable to maintain liability insurance, or it would have required those drivers to provide proof of financial responsibility for the future before they could be reinstated. Instead, the legislature expressly exempted them from that requirement.

license of a person who is unable to pay a fine will suddenly make the person able to pay. (*See* Opening Brief at 34-36; Reply Brief at 20-21.) Amici have further demonstrated that suspension actually makes it **more difficult** for indigent persons to pay their fines, leading to a cycle of debt and hopelessness that makes them less likely to make any effort to pay their fines. (*See* Brief of Amici Got Green, et al., at 17-20; Brief of Amici ACLU, et al., at 7-8.)

DOL takes issue with Mr. Johnson's citation of *Tate v. Short* in his Opening Brief at 34. As is clear from the context of the brief, that quote demonstrates what ought to be an obvious principle: that no threatened sanction will ever succeed in obtaining payment from a person who has no power to pay. You cannot squeeze blood from a stone.

Suspension of indigent drivers for failure to pay prevents, rather than promotes, compliance with traffic fines. There is no rational basis.

3. The Nonresident Violator Compact does not require suspension for failure to pay.

DOL argues that suspension of indigent drivers for failure to pay is rationally related to the state's interest in upholding the Nonresident Violator Compact. This argument fails. The state cannot uphold the Compact by doing something that the compact does not require.

Nothing in the language of the Compact requires a member state to enact a scheme of suspending its own drivers for failure to pay fines for infractions committed in their own state. The Compact only requires a home state to suspend a driver's license for failure to "comply with the terms of a citation" issued by another member state. *See* RCW 46.23.010, Art. II-IV. It relates to the acts of Washington-licensed drivers committed in other states, not to the acts of Washington drivers here in Washington.

The state fully upholds the Compact by suspending Washington drivers who fail "to comply with the terms of a notice of traffic infraction or citation" issued by another member state. RCW 46.20.289. The Compact requires nothing more. Suspending indigent Washington drivers for failure to pay fines for infractions committed in Washington does nothing to uphold or further the purposes of the Nonresident Violator Compact. There is no rational basis for suspension of indigent drivers for their inability to pay a fine.

C. The Legislature's Rejection of the Original Text of HB 1854 Demonstrates that DWLS 3rd Does Not Include Failure to Pay.

Appendix B to the Brief of Amicus Northwest Justice Project includes the original text of HB 1854, which was proposed in 2005 in response to *Redmond v. Moore*. Northwest Justice Project points out that

the bill was amended before it was passed, to help low-income drivers pay their fines and avoid suspension. (Brief of Amicus Northwest Justice Project at 9.) In the event the Court feels it necessary to resort to legislative history to interpret the DWLS statute, the legislature's rejection of the original bill is significant evidence that DWLS 3rd does not include failure to pay.

In addition to establishing new suspension procedures, the original text of the bill drew a hard line on failure to pay. It included legislative findings that "swift and certain suspension" for failure to pay was "[a]n essential mechanism." Most significantly, it added failure to pay as a fifth reason in RCW 46.20.289, RCW 46.20.291, and RCW 46.20.342:

... failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, failed to pay any portion of a fine or monetary penalty, or has otherwise failed to comply with the terms of a notice of traffic infraction or citation...

(Brief of Amicus Northwest Justice Project, App. B, HB 1854, at 8, 9, 12.)

(amendments as underlined in original) The bill also added failure to pay to RCW 46.64.025, relating to failure to appear.

All of these changes were rejected by the legislature in favor of Substitute House Bill 1854. The substitute bill did not include any legislative findings. It did not add failure to pay to RCW 46.20.289,

RCW 46.20.291, RCW 46.20.342, or RCW 46.64.025. Rather than punishing failure to pay, the legislature chose to establish the current payment plan scheme, to assist low-income drivers to continue to drive while making regular payments on their fines. This is strong evidence that the legislature did not intend DWLS 3rd to include failure to pay.

IV. CONCLUSION

Suspension for failure to pay works an invidious discrimination against poor drivers. Only the poor end up suspended. Suspension works an immense hardship and unjustly punishes the poor for something they cannot control. Heightened scrutiny is required under *Bearden* and *Blank*, which apply to any enforced collection or sanction for failure to pay. There is no rational relationship between suspending the indigent and the state interests proposed by DOL. Suspension of the indigent for failure to pay is unconstitutional.

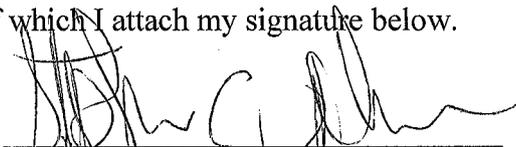
Respectfully Submitted this 7th day of March, 2013.

CUSHMAN LAW OFFICES, P.S.



Kevin Hochhalter, WSBA #43124
Attorney for Stephen Johnson

I, Stephen Johnson, filed a Statement of Additional Grounds in this matter as allowed under RAP 10.10 and wish to join in this Answer to the Amicus Briefs, in evidence of which I attach my signature below.



Stephen Chriss Johnson

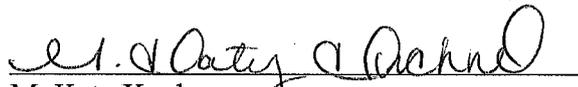
CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the State of Washington, that on March 7, 2013, I caused to be served a true copy of the foregoing Brief, by *legal messenger or U.S. Postal Mail, with pre-paid postage*, and addressed to each of the following:

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DATED this 7th day of March, 2013, in Olympia, Washington.


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