Supreme Court No.____
(COA NO. 85818-1-I)

THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

HUMBERTO GARCIA,

Petitioner.

FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH
COUNTY

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER AND DECISION BELOW

Humberto Garcia, petitioner here and below, asks this Court to accept review of the Court of Appeals' published decision dated June 17, 2024, pursuant to RAP 13.4 and RAP 13.5A. App. A. The Court of Appeals denied Mr. Garcia's motion to reconsider in a decision dated July 16, 2024.

B. ISSUES PRESENTED FOR REVIEW

(1) The bail jumping statute in effect between 2001 and 2020 required proof, in pertinent part, that the accused had been released or admitted to bail by court order, and that the accused was held for, charged with, or convicted of a particular crime.[1] Multiple Court of Appeals decisions follow the plain language of the statute and hold that a predicate crime is an

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[1] RCW 9A.76.170(1), 9A.76.170(3) (2017).

element of the crime of bail jumping and needs to be included in the information and any "to-convict" jury instruction. Both the Court of Appeals and the decision it relied on, *State v. Paniagua*,[2] ignored this body of caselaw when they concluded in their published decisions that a predicate crime is not an element of bail jumping. Should this Court accept review to harmonize these conflicting cases from the Court of Appeals?

(2) It violates due process to convict a person for a crime without proof of all the elements of the crime. Mr. Garcia's conviction of bail jumping relied on the predicate crime of possession of a controlled substance. This crime was declared unconstitutional and void by this Court in *State v. Blake*.[3] It is a longstanding legal

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[2] 22 Wn. App.2d 350, 511 P.3d 113 (2022).
[3] 197 Wn.2d 170, 481 P.3d 521 (2021).

principle that a void statute is a legal nullity from its inception. A void, unconstitutional crime cannot satisfy a predicate crime element because it is a legal nullity. When the Court of Appeals affirmed Mr. Garcia's bail jumping convictions predicated on a void crime, it neither cited this principle nor explained why the courts should create a novel, singular exemption from this longstanding principle. This published Court of Appeals decision is contrary to precedent of this Court and principles underlying our legal system. Should this Court correct this significant dilution of a longstanding legal principle?

(3) This Court has previously held that the validity of a court order underlying a crime is an issue that can be raised with the trial court, whether or not the validity of the order is considered an "element" of the crime. Where the order to release a defendant is

based on the authority granted by an invalid, unconstitutional statute, the order is also invalid and "inapplicable" to the charged crime. The Court of Appeals relied on an inaccurate, truncated version of the elements of the crime of bail jumping, first proposed by another published decision of the Court of Appeals, which omitted the element related to the underlying court order. Should this Court accept review to harmonize its prior decision about a defendant's ability to challenge the applicability of underlying court orders with the Court of Appeals' decision in this case?

C. STATEMENT OF THE CASE

In July 2017, the prosecution charged Mr. Garcia with possessing a controlled substance in violation of RCW 69.50.4013(1). CP 50. When Mr. Garcia did not

attend two pretrial hearings, the prosecution added two counts of bail jumping in March 2018. CP 53.

Mr. Garcia proceeded to trial and was found guilty of all three charges. CP 56; RP 5-6. The trial court imposed a sentence of 12 months incarceration on the possession conviction and nine months for each bail jumping conviction, all to run concurrently. CP 60; RP 14-15.

Approximately three years later, the Supreme Court decided *State v. Blake*. 197 Wn.2d 170, 481 P.3d 521 (2021). *Blake* rendered former RCW 69.50.4013(1), possession of a controlled substance, unconstitutional and "void." *Id.*

Subsequently, Mr. Garcia moved under CrR 7.8(b)(4) and (5) to vacate his convictions for possession of a controlled substance and the two related bail jumping charges. CP 41-48. The trial court vacated the

possession of a controlled substance conviction, but it held that the bail jumping convictions remained valid. CP 4-7.

D. ARGUMENT

1. The Court of Appeals' decision that a predicate crime is not an element of bail jumping conflicts with the text of the statute and several published decisions arriving at the opposite conclusion

The straightforward text of the bail jumping statute requires that a defendant be held for, charged with, or convicted of an alleged crime of some severity. RCW 9A.76.170(3)(a)-(d) (2017). The Court of Appeals' decision illogically concludes that this language does not create an element of a predicate crime. Slip op. at 3. What the Court of Appeals misunderstood is that the plain language establishes a predicate crime as an element of the offense, as many other courts have previously concluded.

a. *The Court of Appeals misunderstood and illogically applied the language of the statute to conclude that a predicate crime is not an element of bail jumping*

The plain language of the bail jumping statute for which Mr. Garcia was convicted required a predicate class B or C felony for which the defendant is "held [. . .], charged [. . .], or convicted [. . .]." RCW 9A.76.170(3)(c) (2017). The Court of Appeals relied on reasoning in a previously published decision, *Paniagua*, to erroneously conclude that this language does not create an element requiring a predicate crime. Slip op. at 3; *State v. Paniagua*, 22 Wn. App. 2d 350, 511 P.3d 113 (2022).

The Court in *Paniagua* highlighted that the statute's language only requires a defendant to be "under charges," not that he be found guilty of the charge, to sustain a conviction for bail jumping. *Id.* at 356. From this, the Court concluded that "a predicate

crime does not constitute an element of bail jumping." *Id.*

This conclusion does not logically follow. Stating that a person is "under charges" obfuscates the fact that someone accused in our legal system cannot be "under charges" for nothing or a non-crime. As illustration, in order to "hold" someone arrested without a warrant, a court must find probable cause that the accused committed a crime. *Gerstein v. Pugh*, 420 U.S. 103, 114, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975); *see also* CrR 3.2.1(a). This means that there must be an allegation of facts that sufficiently constitute a crime, and there must have been some legal action taken in response to those allegations. This fails to support the decision in *Paniagua* because only if the bail jumping element required no evidence of a crime at all could one logically conclude no predicate crime is required.

The interpretation endorsed by the Court of Appeals and *Paniagua* makes the words "held for, charged with, or convicted of a class B or class C felony" in the statute superfluous and inoperative. RCW 9A.76.170(3). It is a basic cannon of statutory construction that courts must give effect to every word and clause in a statute, and "[n]o part should be deemed inoperative or superfluous unless the result of obvious mistake or error." *Cox v. Helenius*, 103 Wn.2d 383, 387-88, 693 P.2d 683 (1985). The decision in *Paniagua* that no evidence of an underlying crime is required for a conviction for bail jumping makes the requirement that a defendant be at least held for a "class B or class C felony" inoperative and superfluous. RCW 9A.76.170(3). This is an unreasonable interpretation of the statute.

Thus, a simple examination of the reasoning underlying *Paniagua* reveals that it was wrongly decided and the Court of Appeals should not have relied on it, even without resort to the myriad cases reaching the necessary conclusion that an underlying offense is required to sustain a charge of bail jumping.

b. The Court of Appeals ignored multiple cases establishing that an element of the crime of bail jumping requires a simple identification of the predicate crime

Cases interpreting the "charged with . . . a class B or class C felony" element have required proof of an underlying crime. RCW 9A.76.170(3) For example, the Court in *State v. Anderson* held that, even though the prosecution does not need to prove that the defendant was charged with a specific crime, it must still prove that he was charged with *a crime* to sustain a conviction for bail jumping. 3 Wn. App. 2d 67, 72, 413 P.3d 1065 (2018) (holding that a to-convict instruction

for bail jumping must include a "simple identification" of the underlying crime). Another case found that it is insufficient for an information to swap a court number for a description of the predicate crime. *State v. Green*, 101 Wn. App. 885, 891, 6 P.3d 53 (2000). Further expanding on this requirement, another Court found that an instruction defining this element as merely "regarding a felony matter" is insufficient to support a conviction. *State v. Pope*, 100 Wn. App. 624, 629-30, 999 P.2d 51 (2000).

Applying these precedents, this Court found that an information which identified the underlying crime for a charge of bail jumping as "unlawful possession of a controlled substance, a felony" was sufficient to give adequate notice to the defendant (years before possession of a controlled substance was found to be unconstitutional). *State v. Williams*, 162 Wn.2d 177,

185, 170 P.3d 30 (2007) *abrogated on another point of law by State v. Bergstrom*, 199 Wn.2d 23, 502 P.3d 837 (2022). It found that a "simple identification" of the predicate crime is necessary, but not more. *Id.* at 187.

These cases analyzed the sufficiency of "to-convict" instructions or informations for the offense of bail jumping. These courts consistently held that a bail jumping information or instruction needs to provide, at least, a simple description of *an underlying crime*. It is not enough to refer to a case number or state that the case is "regarding a felony" because an actual crime must be specified. *Green*, 101 Wn. App. at 891; *Pope*, 100 Wn. App. at 629-30. An underlying crime is thus part of the elements of the offense of bail jumping

Neither the decision of the Court of Appeals nor the cases it relied on, *Paniagua* or *Downing*, confront *Anderson*, *Green*, *Williams*, or *Pope*. Slip op. at 2-3;

Paniagua, 22 Wn. App. 2d 350; *State v. Downing*, 122 Wn. App. 185, 93 P.3d 900 (2004). This ignorance contributed to the Court of Appeals' incorrect conclusion that no proof of an underlying crime is required for a conviction for bail jumping, because these cases about instructional sufficiency make clear that the opposite is true.

2. The Court of Appeals failed to understand that a void predicate crime, which is a legal nullity, cannot establish necessary elements of a crime

A legal nullity cannot supply the underlying crime or order to release needed to satisfy the elements of the crime of bail jumping. In Mr. Garcia's case, the underlying crime which gave rise to the order to release was the former crime of possession of a controlled substance. Because this former offense was unconstitutional and void, no valid crime or resulting

valid court order supports Mr. Garcia's conviction for bail jumping.

It is a violation of due process "to convict and incarcerate a person for a crime without proof of all the elements of the crime." *In re Pers. Restraint of Hinton*, 152 Wn.2d 853, 859, 100 P.3d 801 (2004). Because proof of a predicate crime is an element of the crime of bail jumping, due process requires proof of a predicate crime to uphold a conviction for bail jumping. *See Anderson*, 3 Wn. App. 2d at 72. The State can no longer satisfy this requirement in Mr. Garcia's case because the predicate crime for his bail jumping convictions was unconstitutional and void.

This Court declared the crime of possession of a controlled substance unconstitutional because it criminalizes innocent and passive conduct with no criminal intent, in violation of federal and state rights

to due process. *State v. Blake*, 197 Wn.2d 170, 173, 481 P.3d 521 (2021). Because of this, convictions for this offense were void and required vacatur. *Id.* at 195.

Mr. Garcia's conviction for possession of a controlled substance was correctly vacated following this decision. Slip op. at 2. But the Court of Appeals and the trial court both erred when considering the legal effects of this vacatur on resulting convictions for bail jumping.

Longstanding legal principles dictate how courts must interpret the effect of an unconstitutional statute. "If a statute is unconstitutional, it is and has always been a legal nullity. The point is so well established that it should require no citation of supporting authorities." *State ex rel. Evans v. Brotherhood of Friends*, 41 Wn.2d 133, 143, 247 P.2d 787 (1952) (emphasis added). Black's law dictionary defines

nullity as "[s]omething that is legally void." *Nullity*, Black's Law Dictionary (12th ed. 2024).

Void is defined as, "[t]o render of no validity or effect; to annul; [nullify]." *Void*, Black's Law Dictionary (12th ed. 2024). A void judgment is given its own definition:

> A judgment that has no legal force or effect, the invalidity of which may be asserted by any party whose rights are affected at any time and any place, whether directly or collaterally. *From its inception, a void judgment continues to be absolutely null. It is incapable of being confirmed, ratified, or enforced in any manner or to any degree*. One source of a void judgment is the lack of subject-matter jurisdiction.

Judgment, Black's Law Dictionary (12th ed. 2024) (bullet removed) (emphasis added).

An unconstitutional crime, such as the former crime of possession of a controlled substance, is a legal nullity. As decades of legal precedent have established, a legal nullity is void from its inception. *Evans*, 41

Wn.2d at 143; *Judgment*, Black's Law Dictionary (12th ed. 2024). It is of no force or effect from its inception, and orders issued pursuant to its "authority" have no force or effect and cannot be enforced.

The Court of Appeals' decision rightly recognized that *Blake* voided all drug possession convictions. Slip op. at 1. It also rightly recognized that one of the three elements of the crime of bail jumping requires that the defendant be held for or charged with a criminal offense. Slip op. at 2-3. The decision fundamentally erred, however, to find that no element of bail jumping required proof of an underlying crime. Slip op. at 3. The decision also completely failed to address Mr. Garcia's argument that the trial court never had authority to compel his appearance on the charges. Slip op. at 2. Because of these errors, the decision wrongfully allowed Mr. Garcia's convictions for bail

jumping to stand despite lack of an underlying crime or valid underlying order.

3. The Court of Appeals cited an incorrect, truncated version of the elements of bail jumping, causing it to misunderstand the legal effect of the void predicate offense

This Court should reverse the decision of the Court of Appeals because its decision relies on an incorrect and abbreviated version of the elements of bail jumping. The Court of Appeals, and each of the cases cited in its decision, relied on the same abbreviated and incorrect articulation of the elements of the crime of bail jumping. Slip op. at 2-3; *Downing*, 122 Wn. App. at 192; *Paniagua*, 22 Wn. Ap. 2d at 357, *State v. Koziol*, 28 Wn. App. 2d 1024, 2023 WL 6223099, *2 (2023) (unpublished), *State v. Smith*, 26 Wn. App. 2d 1049, 2023 WL 3721261, *3 (2023) (unpublished); *State v. Hagen*, 25 Wn. App. 2d 1002, 2022 WL 17820159, *6 (2022) (unpublished). In so

doing, the Court of Appeals failed to address the other source of constitutional infirmity of a bail jumping conviction premised on a prior void charge of possession of a controlled substance: the invalid order to release.

This abbreviated and incorrect articulation of the elements first appeared in *Downing*. 122 Wn. App. at 192. *Downing*'s abbreviated statement of the elements requires that the defendant:

> (1)was held for, charged with, or convicted of a particular crime;
>
> (2)had knowledge of the requirement of a subsequent personal appearance, and
>
> (3)failed to appear as required.

Id.

These three elements leave out necessary language found in the statute about a required court order releasing the defendant or admitting them to

bail. At the time of the offenses in this case, the bail jumping statute read, in pertinent part: "[a]ny person having been *released by court order or admitted to bail* with knowledge of the requirement of a subsequent personal appearance before any court of this state, and . . . fails to appear . . . as required is guilty of bail jumping." RCW 9A.76.170(1) (2017) (emphasis added).

Other cases articulated the second element of the crime of bail jumping as follows:

> (2) the defendant was *released by court order or admitted to bail* with the requirement of a subsequent personal appearance[.]

Pope, 100 Wn. App. at 627 (emphasis added); *State v. Malvern*, 110 Wn. App. 811, 813, 43 P.3d 533 (2002). This articulation of the second element of bail jumping is the most faithful to the language of the statute. This element requires proof of a court order—one either releasing the defendant or admitting him to bail.

Because a court order is an element of the offense, it logically follows that the order must be valid.

Because of the omission in the elements suggested by *Downing*, the Court of Appeals failed to consider the effect of an unconstitutional underlying crime on any orders issued during the pendency of that prosecution. An unconstitutional crime, void *ab initio*, can have no legal effect, so any orders issued pursuant to its authority can have no legal effect. A valid order is required for a conviction of bail jumping because an order is an element of the offense. Thus, the Court of Appeals erred because it did not apprehend the full requirements of the elements of the crime of bail jumping.

4. The decision of the Court of Appeals conflicts with a decision of this Court holding that the validity of an underlying court order is an issue that can always be raised with the court

The validity of a court order underlying a crime is an issue that can be raised with the trial court, whether or not the validity of the order is considered an "element" of the crime. Bail jumping requires that a defendant be ordered released or to bail. RCW 9A.76.170(1). That order must be valid, whether or not the validity of the order is an element. A crime based on an invalid legal order is not a crime.

The seminal case standing for the proposition that the validity of an underlying order is an inherent issue is *State v. Miller*. 156 Wn.2d 23, 123 P.3d 827 (2005). In *Miller*, this Court addressed whether the validity of a no-contact order underlying a charge of violation of a no-contact order is an element, explicit or implied, of that crime. *Id.* at 29. This Court concluded

that the validity of the order was not an express or implied element of the crime, reasoning that the legislature likely left that question for the court, not the jury, because "issues concerning the validity of an order normally turn on questions of law." *Id.* at 31.

This Court found that failing to include the validity of an order as an element does not preclude courts from addressing issues relating to the validity of an underlying court order. *Id.* This Court referred to these issues as determining the "applicability" of the order to the crime charged, explaining that "[a]n order is not applicable to the charged crime if it is not issued by a competent court, is not statutorily sufficient, is vague or inadequate on its face, or otherwise will not support a conviction of violating the order." *Id.* As part of its gatekeeping responsibilities, courts should

determine whether the alleged violated order "is applicable and will support the crime charged." *Id.*

Both orders to release or to bail and no-contact orders are issued by courts pursuant to their authority over a person charged with a criminal offense. CrR 3.2, CrR 3.4; RCW 10.99.040(2)(a). The same legal and policy justifications support cognizing a challenge to a no-contact order as to an order to release or to bail. These are both versions of conditions of release. A court's gatekeeping responsibilities require that courts must ensure that underlying orders are validly imposed as part of its responsibility of determining the "applicability" of an underlying order. Thus, the decision in *Miller* compels that this Court, too, should be able to address whether the order to release underlying Mr. Garcia's convictions for bail jumping now fail to satisfy the essential requirements of the

offense because it is neither valid nor applicable after *State v. Blake*.

Because the order of release in this case resulted from the court exercising authority solely based on a legal nullity, the order can have no force or effect. *Evans*, 41 Wn.2d at 143. Sanctions of prison time and other loss of liberty resulting from a criminal conviction premised on an order with no force or effect is anathema to our judicial system. Because of *Blake*, the order to release in this case was "not applicable" to the crime of bail jumping because it was issued unconstitutionally. *Miller*. 156 Wn.2d at 29. This Court should grant review to address the Court of Appeals decision's misapprehension of the law and its conflict with cases from this Court and the Court of Appeals.

E. CONCLUSION

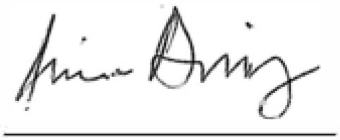
This Court found the crime of possession of a controlled substance unconstitutional and void because it criminalized innocent and passive non-conduct. As a result, Mr. Garcia's conviction for that offense was properly vacated. Lower courts have been reluctant to faithfully apply the necessary consequences of this Court's important and watershed decision. Faithful and honest application of longstanding legal principles regarding the effects of an unconstitutional crime means that other, necessarily related convictions must fall, too. Bail jumping is one example.

It is a basic foundational principle of our justice system that courts cannot restrain a person's liberty without authorization of law. When the authorization of law vanishes, so too does the court's power. This was the case with Mr. Garcia's bail jumping convictions.

Both the crime for which he was charged and the order to release found their authority in an unconstitutional statute, a legal nullity. A legal nullity cannot support either the order to release or the predicate crime required for the conviction of bail jumping. This Court should faithfully follow the legal implications of its courageous precedent and vacate Mr. Garcia's convictions for bail jumping predicated on a void order and void predicate crime.

Per RAP 18.17(c)(2), the undersigned certifies this brief contains 3,805 words, per software word count.

DATED this 14th day of August, 2024.



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APPENDIX A

FILED
6/17/2024
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. HUMBERTO JOSE GARCIA, Appellant.	No. 85818-1-I DIVISION ONE PUBLISHED OPINION

CHUNG, J. — When Humberto Garcia moved to vacate his convictions for one count of drug possession based on State v. Blake, 197 Wn.2d 170, 481 P.3d 521 (2021), he also requested vacation of his convictions for bail jumping resulting from his failure to appear at two separate court dates on the drug possession charge. The court vacated his conviction for drug possession but left the bail jumping convictions intact. Garcia argues that the trial court erred by failing to vacate the bail jumping convictions because the underlying drug possession charges were invalid. We disagree and affirm.

FACTS

In March 2018, a jury convicted Humberto Garcia of one count of possession of a controlled substance and two counts of bail jumping based on his failure to appear for two court dates related to the possession charge. In 2021, the Washington State Supreme Court held the drug possession statute unconstitutional and voided all drug possession convictions. Blake, 197 Wn.2d 170.

In July 2023, Garcia filed a motion under CrR 7.8(b) requesting the trial court to vacate his conviction for possession pursuant to Blake, as well as the two convictions for bail jumping "solely predicated on the charge of Possession of a Controlled Substance." The court vacated only the conviction for possession, leaving the bail jumping convictions "in full force and effect." Garcia appeals.

DISCUSSION

Garcia argues the trial court erred by refusing to vacate his bail jumping convictions, which he claims are void because the State never had the authority to charge him with drug possession and the trial court never had authority to compel his appearance on that charge.

We review a court's decisions on CrR 7.8 motions for abuse of discretion. State v. Enriquez-Martinez, 198 Wn.2d 98, 101, 492 P.3d 162 (2021). "Discretion may be abused if it is exercised on untenable grounds or for untenable reasons, such as a misunderstanding of the law." Id.

Garcia was charged with bail jumping for actions that occurred in 2017. Former RCW 9A.76.170(1) (2001), the bail jumping statute in effect at the time, provided, "Any person having been released by court order or admitted to bail with knowledge of the requirement of a subsequent personal appearance before any court of this state, and . . . fails to appear . . . as required is guilty of bail jumping." Thus, the crime of bail jumping has three elements: the defendant "(1) was held for, charged with, or convicted of a particular crime; (2) had knowledge of the requirement of a subsequent personal appearance; and

(3) failed to appear as required." State v. Downing, 122 Wn. App. 185, 192, 93 P.3d 900 (2004); RCW 9A.76.170.

The issue of whether the crime of bail jumping requires a valid predicate offense is an issue of statutory interpretation that we review de novo. State v. Kindell, 181 Wn. App. 844, 851, 326 P.3d 876 (2014). We have previously concluded that a constitutional predicate offense is not required for a bail jumping conviction.[1] See State v. Paniagua, 22 Wn. App. 2d 350, 511 P.3d 113 (2022), review denied, 200 Wn.2d 1018, 520 P.3d 970 (2022). The bail jumping statute "does not require that, to be guilty of the crime, the accused must have later been found guilty of the pending charge at the time of release on bail, only that he be under charges at the time of the failure to appear." Id. at 356. As a result, our courts have concluded that "a predicate crime does not constitute an element of bail jumping." Id. By extension, a constitutional predicate crime is not an element of bail jumping. See id. at 358; Downing, 122 Wn. App. at 193 (under the bail jumping statute, "the State is not required to prove that a defendant was detained under a constitutionally valid conviction").

Garcia makes no other argument in support of vacating his bail jumping convictions. We conclude the trial court did not abuse its discretion by declining to vacate the two convictions.

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[1] All three divisions of this court have issued unpublished decisions agreeing that convictions for bail jumping stemming from a charge for simple possession remain valid in the wake of Blake. See State v. Smith, No. 83875-0-I consolidated with No. 83874-1-I, slip op. at 1 (Wash. Ct. App. May 30, 2023) (unpublished) https://www.courts.wa.gov/opinions/pdf/838750.pdf; State v. Koziol, No. 38630-9-III, slip op. at 1 (Wash. Ct. App. Sept. 26, 2023) (unpublished), https://www.courts.wa.gov/opinions/pdf/386309_unp.pdf; State v. Hagen, No. 56432-7-II, slip op. at 1, (Wash. Ct. App. Dec. 20, 2022) (unpublished) https://www.courts.wa.gov/opinions/pdf/D2%2056432-7-II%20Unpublished%20Opinion.pdf.

Affirmed.

Chung, J.

WE CONCUR:

Feldman, J.

Coburn, J.

APPENDIX B

FILED
7/16/2024
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. HUMBERTO JOSE GARCIA, Appellant.	No. 85818-1-I DIVISION ONE ORDER DENYING MOTION FOR RECONSIDERATION

Appellant Humberto Garcia filed a motion for reconsideration of the opinion filed on June 17, 2024 in the above case. A majority of the panel has determined that the motion should be denied. Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

FOR THE COURT:

Chung, J.
Judge

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 85818-1-I**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

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Date: August 14, 2024

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