

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

RUSSELL CLARKE, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF WASHINGTON, )  
 DEPARTMENT OF LICENSING, )  
 )  
 Respondent. )

No. 67831-1-I  
(consolidated with No. 67862-1-I)  
  
DIVISION ONE  
  
UNPUBLISHED OPINION

FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2013 DEC 23 AM 10:47

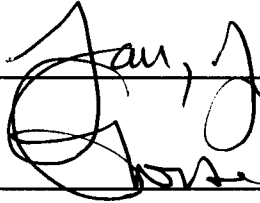
ROBERT BERGESON, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF WASHINGTON, )  
 DEPARTMENT OF LICENSING, )  
 )  
 Respondent. )

FILED: December 23, 2013

PER CURIAM. Russell Clarke and Robert Bergeson appeal superior court rulings dismissing their appeals of their license revocations. Both contend the court erred in dismissing the appeals under RCW 46.20.385(1)(b) (“A person receiving an ignition interlock driver’s license waives his or her right to a hearing or appeal”) because the statute violates principles of due process and equal protection. We stayed the appeal pending our decision in Nielsen v. Washington State Department of Licensing, \_\_\_ Wn. App. \_\_\_, 309 P.3d 1221 (2013). The Nielsen majority concluded that RCW 46.20.385(1)(b) violates substantive due process and is therefore unconstitutional. Following Nielsen, we lifted the stay and the parties filed an agreed motion to reverse and remand for further proceedings. The motion is granted.

Reversed and remanded for further proceedings.

FOR THE COURT:

  
\_\_\_\_\_  
\_\_\_\_\_  
Cox, J.  
\_\_\_\_\_