

August 17, 2021

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Personal Restraint
Petition of

MICHAEL WILLIAM RICHIE,

Petitioner.

No. 53589-1-II

UNPUBLISHED OPINION
AFTER REMAND

WORSWICK, J. — Michael Richie seeks relief from personal restraint imposed following his 2014 conviction for second degree assault. On remand from this court, the trial court sentenced him in 2016 to life without possibility of parole under the Persistent Offender Accountability Act because he had strike offenses in the form of prior convictions for second degree robbery. After the legislature removed second degree robbery from the list of strike offenses, Laws of 2019, ch. 187, Richie petitioned for resentencing, seeking retroactive application of that act. The act was held not to apply retroactively in *State v. Jenks*, 197 Wn.2d 708, 719, 487 P.3d 482 (2021). But the State now concedes that under Laws of 2021, ch. 141, § 1:

In any criminal case wherein an offender has been sentenced as a persistent offender, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was a persistent offender.

We accept the State's concession and remand Richie's judgment and sentence to the trial court for resentencing. The certificate of finality will be issued as soon as possible.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



Worrick, J.

We concur:



Maxa, J.



Veljacic, J.