

# Vacate drug possession convictions after State v. Blake

## **Author**

Northwest Justice Project

## **Last Review Date**

March 28, 2025

State v. Blake is a 2021 Washington State Supreme Court decision that says the state's drug possession law is unconstitutional.

If you were convicted of drug possession on or before February 25, 2021, you can get those convictions cleared ("vacated") and removed from your criminal record. You may also get a refund of related costs you paid on those cases, including legal financial obligations (LFOs).

## **1. Fast facts**

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### **Vacate your drug possession convictions**

Because of the State v. Blake decision, you can vacate any Washington State felony drug possession conviction between 1971 and February 25, 2021. Vacating a conviction removes it from your criminal record. This means the conviction will be treated as if it never happened.

The law the court found unconstitutional is "Unlawful Possession of a Controlled Substance" or "VUCSA – possession" (RCW 69.50.4013 and earlier versions of that law).

You may also be able to vacate misdemeanor drug possession convictions and get LFO refunds from District or Municipal Courts. Read [Civil Survival's Guide to](#)

**Blake Eligibility** (<https://civilsurvival.org/guides/determining-blake-eligibility/>). It lists the type of convictions that can now be vacated because of Blake.

If you don't remember the details of your conviction/s, **Civil Survival** can provide you with a free copy of your criminal history (<https://civilsurvival.org/contact/request-criminal-history/>).

**Immigrants:** If you weren't born in the United States, **don't try this process on your own**. Get legal help and be sure that your lawyer is aware of the immigration consequences by telling them that they should contact the Washington Defender Association for immigration case assistance (<https://defensenet.org/case-support/wda-immigration-project/wdaip-case-assistance/>).

**Currently incarcerated or on community custody:** People with unconstitutional drug possession convictions who are incarcerated or on community custody for felony drug possession are being resentenced or their supervision is being shortened. If a friend or loved one is in this situation and hasn't heard from an attorney about resentencing, they should **call the Washington State Office of Public Defense** at 800-414-6064, ext. 218.

## Ask to refund your LFOs

If you were convicted **only** of simple drug possession, you are entitled to a refund of all LFOs that you paid on that case.

**After** you get your conviction vacated, you can apply to the Washington Courts Blake Refund Bureau (<https://refund.courts.wa.gov/>) to get your refund.

If you were convicted of drug possession and other offenses at the same, your right to a LFO refund is less clear. It depends on what those other crimes are. Get legal help if this is your situation.

You may need to take action to get your full refund:

- **If you paid LFOs to a collection agency or other private business** for your drug possession conviction, not directly to the court, you may need a lawyer to help get a full refund. These are called Blake "third-party expenses."

- **If you receive SSI or other public benefits**, be sure to report any LFO refund to the benefits agency. You may have to spend the refund quickly to avoid eligibility problems. Learn how to protect your benefits in this situation from Civil Survival (<https://civilsurvival.org/guides/refund-check-social-security/>).
- **If you owe more than \$100 in unpaid child support** to the other parent, the Washington State Division Child Support (DCS) will take up to half your Blake refund (<https://www.dshs.wa.gov/esa/division-child-support/blake-refunds>) if it's over \$50. If this would be a hardship for you, call to discuss your options with your child support case manager, 1-800-442-KIDS (5437).

## Costs of Supervision Refunds

Once your case is vacated, you're also entitled to a refund of any costs of supervision that you paid to the Department of Corrections (DOC). DOC is automatically sending out those refunds in chronological order. To be sure that you receive your COS refund, update your mailing address with DOC (<https://www.doc.wa.gov/corrections/justice/resentencing/blake-refunds.htm>).

## Veterans Benefits

If you lost veterans benefits due to an unconstitutional drug possession conviction, get legal help. You may be able to get back the value of the VA benefits that you lost.

## 2. Videos

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A State v. Blake Guide for the Incarcerated (PDF) ([https://drive.google.com/file/d/10jpWJp1rJLW2\\_KZXazBLpeRm0bRV-30i/view?pli=1](https://drive.google.com/file/d/10jpWJp1rJLW2_KZXazBLpeRm0bRV-30i/view?pli=1)) and the videos below are available on the tablets in DOC facilities. This video series speaks to people who are currently incarcerated, but much of the information applies to everyone.

1. What is State v Blake for the incarcerated? ([https://youtu.be/Mwt7nE0\\_\\_Y8](https://youtu.be/Mwt7nE0__Y8))
2. Do I have a Blake conviction? (<https://youtu.be/cgjNoJDrsew>)
3. Blake: What if I am not a US citizen? (<https://youtu.be/JYiQ0EqiTic>)

4. I have a Blake conviction. Now what? (<https://youtu.be/I7FTg0PhvOY>)
5. What is the Blake Refund Bureau? (<https://youtu.be/Z4kcOv3OcpM>)
6. Can I get a refund of other money I paid? (<https://youtu.be/awD8CF8nnBU>)
7. Blake: Anything else I should do? (<https://youtu.be/4VwsAQZ89vE>)

## **Blake Coffee Break**

**Living with Conviction** hosted a virtual conversation about what the State v. Blake case means for people with drug possession convictions (<https://youtu.be/50IYNe21d34?si=nIhQttYv6-T6eD3L>) going back to 1971. Learn how to get those convictions cleared ("vacated"), and you may be eligible for refunds of money you paid!

## **3. Who can help?**

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### **For convictions from King, Pierce, Snohomish, Cowlitz, or Asotin County**

**Don't** file a Blake motion without a lawyer in these counties. There's an easier way!

**Living with Conviction** (<https://livingwithconviction.org/blake-1>) will help you navigate this process for free. Call 206-307-3028 or email [info@LivingwithConviction.org](mailto:info@LivingwithConviction.org) (<mailto:info@LivingwithConviction.org?subject=Blake%20help%20&body=I%20need%20help%20with%20my%20conviction>)

Or you can contact the public defender or prosecutor for the county where you were convicted:

- **King.** Visit the King County Department of Public Defense (<https://kingcounty.gov/depts/public-defense/Blake-information.aspx>) and fill out their intake form.
- **Pierce.** Visit the Pierce County Department of Assigned Counsel (<https://www.piercecountywa.gov/7202/Do-you-have-a-Pierce-County->

UPCS-convict) and fill out their intake form or email them.

- **Snohomish.** Visit the [Snohomish County Public Defender Association](https://www.snocopda.org/blake/) (<https://www.snocopda.org/blake/>) and fill out their intake form.
- **Cowlitz.** Contact the [Cowlitz Office of Public Defense](https://www.co.cowlitz.wa.us/2498/Office-of-Public-Defense) (<https://www.co.cowlitz.wa.us/2498/Office-of-Public-Defense>) at 360-578-7430.
- **Asotin.** Fill out the [State v. Blake form](https://www.asotincountywa.gov/403/State-v-Blake) (<https://www.asotincountywa.gov/403/State-v-Blake>) on the Asotin County Clerk's webpage.

It may take them some time to get to your case, but they will vacate it for you if it is eligible for Blake relief. You **don't** have to be low income to qualify for this free help.

## For all other counties

In simple cases you can vacate your conviction on your own, without a lawyer. But you may need help figuring out if your case is simple.

If you have a low income, you can apply for free legal help from the public defender in the county of your conviction.

(**The Washington State Office of Public Defense** (<http://opd.wa.gov/find-legal-help-and-information/vacate-drug-possession-convictions-state-v-blake>) (OPD) has information about Blake relief. You can contact OPD at 1-800-414-6064, ext. 218.

These civil legal aid organizations also offer free Blake assistance for everyone regardless of financial status.

- **Living with Conviction:** call 206-307-3028 or email [info@LivingwithConviction.org](mailto:info@LivingwithConviction.org) (<mailto:info@LivingwithConviction.org?subject=Blake%20help%20&body=I%20need%20help>)
- **The Way to Justice:** call 509-822-7514 or email [contactus@thewaytojustice.com](mailto:contactus@thewaytojustice.com) (<mailto:contactus@thewaytojustice.com>)
- **Northwest Justice Project:** [Apply Online](https://njpoi.legalserver.org/modules/matter/extern_intake.php?pid=129&h=daa817&) ([https://njpoi.legalserver.org/modules/matter/extern\\_intake.php?pid=129&h=daa817&](https://njpoi.legalserver.org/modules/matter/extern_intake.php?pid=129&h=daa817&)) or call CLEAR 1-888-201-1014 weekdays 9:15 a.m. until 12:15 p.m. This line is often busy. Keep trying!
- **Seniors (age 60 and over)** can also call CLEAR\*Sr at 1-888-387-7111
- **Deaf and hard-of-hearing** callers can call any of these numbers using the relay service of your choice.

Contact the **Northwest Justice Project** for Blake help if you are no longer incarcerated or under community custody.

CLEAR has free interpreters when needed.

### **Administrative Vacate Team**

As of spring 2025, a team at the Administrative Office of the Courts (AOC) is working with a few district and municipal courts to automatically vacate unconstitutional drug possession convictions without you needing to do anything. This team is just getting started. The courts with whom this team is working are sending out a notice of hearing inviting you to attend the hearing in person or virtually, but you aren't required to attend. At those hearing, the judge is signing many orders vacating unconstitutional convictions.

After the hearing, the clerk's office is mailing copies of the orders, along with information about what the vacate order means and next steps.

## **4. Self-help**

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To vacate your conviction, you or your lawyer must file a written request to the court in the county where you were convicted. That written request is called a "motion." Every county is handling Blake motions differently.

**For King, Pierce, Snohomish, Cowlitz, and Asotin counties, don't do this on your own. There's an easier way!**

The forms and step-by-step instructions are for vacating convictions from **Superior Court**. We don't yet have forms or instructions for District or Municipal Court convictions.

**If you were convicted of other offenses at the same time as drug possession, your case is more complicated. Try to get legal help.**

If your drug possession conviction was recent and you entered a **plea to avoid a higher charge**, there is a slight chance the prosecutor will recharge you at that higher defense. Try to get legal help.

**Want help?** Living with Conviction (<https://livingwithconviction.org/blake-1>) will help you navigate this process for free. Call 206-307-3028 or email [info@LivingwithConviction.org](mailto:info@LivingwithConviction.org) (<mailto:info@LivingwithConviction.org?subject=Blake%20help%20&body=I%20need%20help%20with%20my%20conviction%20case%20in%20Washington>)

## 5. Before you file

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If your case is right for self-help, you'll need to gather information before you follow our step-by-step instructions.

1. **Find your case number/s.** Each court case has a case number (also called "cause" number) assigned to it. Before you can vacate a conviction, you need to figure out what your case number is. To find your case number online, search by your name on the Washington State Courts' Person Search (<https://dw.courts.wa.gov/>) or Odyssey Portal (<https://odysseyportal.courts.wa.gov/odyportal>). (This search doesn't work for King or Pierce County cases.)

This can be tricky. If you have trouble with the web search, try calling the Superior Court Clerk's office ([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.county](https://www.courts.wa.gov/court_dir/?fa=court_dir.county)) in the county where you were convicted. They can look up your name and tell you your case number.

If you're calling the clerk, also ask them for a non-certified copy of your **Judgment and Sentence** and **LFO Accounting Summary**. (See step 2.)

2. **Gather your documents.** Once you have your case number/s, you can get a copy of the **Judgment and Sentence** (J&S) from each case. This is the court document that lists the offenses that you were convicted of and the sentence the judge ordered. It also has the amount of LFOs imposed and your signature. You don't need a certified copy of your J&S. Just get a regular copy.

If you've paid any LFOs, you also can get a copy of your **LFO Accounting Summary**. This summary shows how much you have paid, including interest. (It's sometimes called a "case financial history", not a summary.) You can ask for this money to be refunded to you when your conviction is vacated. If you were convicted of another offense in the same case, you may not be eligible for a refund.

Ask the Superior Court Clerk's office ([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.county](https://www.courts.wa.gov/court_dir/?fa=court_dir.county)) for your J&S and the LFO Accounting Summary. You can do this in person or by phone or mail. This can take several weeks. You'll be charged for the copies of the J&S. The LFO Accounting Summary should be free.

## 6. Step-by-step

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If your case is right for self-help, and you've gathered your documents, follow these steps to vacate your conviction on your own, without a lawyer.

1. **Fill out the forms.** You can fill out the forms online (<https://walawhelp.documate.org/start/playground2/Blake%20Vacate%20Forms>) or print them to fill out by hand.
2. **Contact the prosecutor's office** (<https://waprosecutors.org/prosecutordirectory/>).

Before filing your papers or scheduling a court hearing, you should contact the prosecutor's office involved in your case to see if they might agree. This

will take some time. When you call, you can say:

I'm filing a motion to vacate my drug possession conviction based on the State v. Blake case. Which prosecutor in your office handles Blake cases? What's the best way for me to send paperwork to you? Is a hearing always required?

Write down the prosecutor's name, then send that person a copy of your Motion (with any attachments) and a proposed Order. Wait a few days, then call that prosecutor to ask if they'll agree to sign an order vacating your conviction.

The Prosecutor may agree to vacate your conviction but may want to prepare and present their own order. That might be okay, but you should read the Prosecutor's proposed order carefully. Make sure it says that your conviction is being vacated because it is **unconstitutional and void**.

Also, ask that the order list the **specific amount of LFOs** you paid for this case. Some courts do not include the amount, just that you will get a refund. If you owe LFOs on other cases in the same county, they may apply your refund to those other cases, but they are not supposed to. Otherwise, you should get the refund.

If you don't agree with everything the prosecutor's proposed order says, **you don't have to sign it!** You can schedule a hearing and ask the judge to sign your proposed order instead of the prosecutor's. You must follow court rules and properly notify the prosecutor of the hearing. Try to get legal help if you and the prosecutor disagree on the order.

You have the **right** to file your motion and get a decision from a judge.

If the Prosecutor says your case is **not eligible** for a Blake vacate, you should try to get legal help.

If you have low income, you can also ask the judge to assign a lawyer to represent you at public expense. If the judge refuses to assign a lawyer, please contact your local public defender (<https://opd.wa.gov/public->

defender-offices).

3. **Make 3 copies of your completed forms** (except for the Proof of Service).

4. **Call or visit the Superior Court Clerk's Office**  
([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.county](https://www.courts.wa.gov/court_dir/?fa=court_dir.county)).

Tell the clerk you will be filing a motion to vacate your drug possession conviction because of the State v. Blake case. If a hearing is required, tell the clerk you want to schedule a hearing on your motion 3 or 4 weeks from now.

Ask the clerk:

- What day and time can I schedule a hearing on my Blake motion to vacate?
- Which docket or calendar will the motion be on?
- What courtroom will the hearing be in? (This may be assigned on the day of the hearing.)
- Is there an option to appear remotely? (Phone or video.)
- Do you have a local form I have to use to schedule a hearing?

If the clerk says you must use their local form, ask them where you can get that form. Otherwise, you can use the **Notice of Hearing** form we give you. Write in the hearing details you got from the clerk.

In some counties the judge may decide these motions **without a hearing**. If the clerk says you don't need a hearing date, ask when you can expect to get a decision. You still need to follow all the steps below (except preparing for and going to the hearing).

The clerk should **not** charge you a fee to file this motion.

5. **File the originals with the Superior Court Clerk.**

**To file in person:**

- Bring your originals and copies to the clerk's office
- Give the clerk your set of originals to file
- Ask the clerk to stamp your copies to show the date you filed the originals, OR stamp the copies yourself
- Take the stamped copies back from the clerk. The clerk keeps the originals

**To file by mail:** mail the court clerk your originals plus one set of copies with a postage-paid return envelope addressed to you.

6. **Deliver or mail working copies to the judge if local rules require it.** Ask the clerk where to deliver the judge's working copies. (*Skip this step if local rules don't require it.*)
7. **Deliver or mail a copy to the prosecutor's office right away.** Most counties require service at least **14 days** before a hearing. Ask the clerk if your county's deadline is different.

You can serve the prosecutor by hand delivery or regular mail.

**Hand Delivery** means handing a copy to someone who works in the prosecutor's office. Have them stamp the date on your copy of the same papers. Tell them you've scheduled a hearing, and they should give your papers to a prosecutor right away.

**Mail:** If you're mailing, you must mail your papers **more than 3 days before your deadline.**

- When counting, don't count the day of mailing, weekends, or court holidays (Example: if you mail something on a Monday, it counts as served on Thursday)
- If the third day is on a weekend or holiday, it is not "served" until the next court day

If you send your papers by regular first-class mail, you can have an extra copy sent by certified mail, return receipt requested, for extra proof of mailing. You can staple the green return receipt card to the Proof of Service form. (This is not required.)

8. **File your Proof of Mailing or Hand Delivery.** As soon as you have mailed or delivered the papers to the prosecutor, fill out and sign the Proof of Mailing or Hand Delivery form. Then:

- Make 3 copies
- Take the original and copies to the court clerk's office
- Give the original to the clerk for filing
- Ask the clerk to stamp the date you filed the original on your copies
- Bring your copies to the hearing.

9. **Get ready for the court hearing.** Before the hearing, make a **brief outline** of what you want the court to know. When the court asks you to speak, say something like this:

- My name is \_\_\_\_\_. Thank you for letting me be heard. I'm bringing a motion to vacate my drug possession conviction based on the *State v. Blake* case that was decided in 2021.
- I was convicted of drug possession under RCW 69.50.4013 or an earlier simple drug possession statute.
- I've given a copy of my proposed order to the prosecution. May I hand it up to you now?

10. **Go to your court hearing.** Read the next chapter for what to bring and do at the hearing.

11. **Get certified copies of the signed order from the clerk.** When the order is available, go to the clerk's office and ask for at least **2 certified copies** of the signed orders. The clerk will charge you for the copies.

Keep a certified copy of your order with you in case someone, like a prospective employer, gets negative information from some other source.

12. **Apply for your LFO refund, if any.** After you get the vacate order, if the judge decided you're eligible for an LFO refund, you must apply for payment with the Washington Courts Blake Refund Bureau (<https://refund.courts.wa.gov/>). If you have trouble with the Refund Bureau, get legal help.

13. After the hearing, follow up with the Washington State Patrol (WSP) and other agencies.

## 7. Court hearing

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Bring your copies of the documents that the clerk's office and prosecutor's office date stamped. Also bring the extra copies of your **Proof of Mailing or Hand Delivery** and **Order to Vacate**.

If you have children, try to find someone to watch them while you go to court. The judge probably won't let them sit in the courtroom.

Don't bring a weapon, or something that could be mistaken for a weapon (like a pocketknife), to the courthouse.

Try to be in the courtroom at least 15 minutes before you were told to be there. Give yourself time to find parking, or the right transit stop, or to wait in line to get into the courthouse.

If your hearing is online, follow these tips for phone and video hearings

When you get to the courtroom:

- Check in with the courtroom clerk. Usually, they are sitting at a desk close to the judge. **Tell the courtroom clerk your name because they need to know that you are there.**
- Find the prosecutor and introduce yourself. Go over any last-minute details with them before the hearing, like an agreed order.
- When the judge calls your case, walk up to the table or podium for lawyers in front of the judge. Wait for them to tell you that it is your turn to speak. **Follow your outline.**

- During the hearing, speak only to the judge. Speak only when it is your turn. **Don't interrupt** the judge or speak to the prosecutor, even if they interrupt or speak to you.
- Be polite, reasonable, and calm. If you're confused or don't understand something, politely tell the judge so and ask for clarification. If the judge asks you any questions, answer the best you can. If you don't know the answer to the judge's question, don't guess. Tell the judge you don't know the answer. If you need time to think, just tell the court you need a moment. Take your time.
- If the judge agrees with you and signs your order, ask the judge or courtroom clerk when the order will be available at the clerk's office.

## 8. Follow up

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### Check with Washington State Patrol & other agencies

**About a month** after the judge signs your vacate order, call WSP at (360) 534-2000. Ask WSP if they got your vacate order from the court and are working on processing it. (The clerk should have sent it.) If they don't yet have it, call the court clerk's office and ask them to send a copy to WSP.

**About 3 months** after you called the WSP to make sure they got your vacate order, you should check if your criminal history record with WSP is up-to-date and correct. Do this by ordering a new official and/or unofficial copy of your criminal history report.

Your criminal history info may have found its way into **other databases**. Contact the FBI, local law enforcement, Department of Corrections, Department of Licensing, and other agencies to ask them to remove their records about this info from public dissemination. You may need to send them a certified copy of the vacate order.

A **private data company** may have your conviction record. Ask the agencies to tell any private company that has gotten the record from them in the past to update their records and stop disseminating it because of the vacate order. You may need to send them a certified copy of your order.

Try to keep at least 1 certified copy of your order in case someone, like a prospective employer, gets negative info from some other source.

## 9. Forms

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Form attached:

**Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFOs Amounts** (Blake 001 (Superior Court))

Form attached:

**Notice of Hearing (Note for Calendar re: Blake Motion)** (Blake 003)

Form attached:

**Order on Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFO Amounts** (Blake 007 (Superior Court - Full))

Form attached:

**Proof of Service (Blake Motion and Notice of Hearing)** (Blake 004)

Follow the general rules to format and fill out court documents.

Any documents you file with the court may remain public.

### **Tips for filling out the Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFOs Amounts (NJP Criminal 450)**

Fill out the **motion** form to explain what you want the judge to do and why they should do it.

If you got a LFO Accounting Summary, attach it to your Motion.

## **Tips for filling out the Order on Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFO Amounts (Blake 007)**

Fill out the **order** form the way you want the judge to sign it. This is a **proposed order** you'll ask the judge to sign at the hearing. If you're not sure about something in the order, leave it blank for the judge to complete.

## **Tips for filling out the Notice of Hearing (NJP General 008)**

Fill out the **Notice of Hearing** with details from the court clerk. You can try to get that information over the phone, or in-person when you file your papers. When choosing a date, leave yourself enough time to have the other party served.

**Many counties require you to use their own form.** Ask the clerk if they use a special Notice of Hearing form. If not, use ours.

## **Tips for filling out the Proof of Mailing or Hand Delivery (NJP General 002)**

Fill out this form after serving the other party. Whoever served the other party must sign it. Follow the rules for service after a case starts.

Check to be sure your server filled out the date of service, who the papers were delivered to, and how they were delivered. Also be sure the form lists all documents that were served. If your server leaves out a form, you won't have proof it was served.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.

Superior Court of Washington, County of \_\_\_\_\_

State of Washington, Plaintiff,	No. _____
vs.	Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFOs Amounts (MT)
Defendant	DOB _____

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## **Blake Motion to Vacate Drug Possession Conviction and Refund Paid LFO Amounts**

**1. This matter comes before the court on:**

- Defendant's motion.
- State's motion.
- Motion of the Court, in the interest of justice.

**2. Motion and Relief Requested:**

The movant requests the court vacate unconstitutionally void *Blake* conviction/s and order a refund of legal financial obligations (LFOs) paid on the unconstitutional conviction/s, as well as waive any balance remaining on LFOs resulting from the unconstitutional conviction/s. The movant requests the court further direct the clerk to revoke or remove any such LFO assigned to a private collection agency, and stop any collection action resulting solely from the void convictions. This motion is based on *State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021), *State v. A.L.R.H.*, 20 Wn. App. 2d 384, 500 P.3d 188 (2021), *Nelson v. Colorado*, 581 U.S. 128, 137 S. Ct. 1249 (2017), CrR 7.8 (b)(4), GR 15(b)(8) and the case record and files.

In addition to a vacate of conviction/s, waiver of LFOs, and refund of paid LFOs, the movant requests this Court further:

- a) Order the clerk to update or vacate defendant's criminal record;
- b) Dismiss the information with prejudice as to the refiling of any charges alleged in the original or amended information or indictment in this case if no counts remain; if counts remain, dismiss the charge/s in the information, as originally filed or amended, with prejudice as to the counts/crimes vacated under *State v. Blake*;
- c) Release the defendant from all penalties and disabilities resulting from any 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;
- d) Determine any remaining term of community custody, if applicable;
- e) Quash outstanding arrest warrants in this matter if there are no other convictions on the judgment and sentence;
- f) Direct the Clerk of the Court notify the Department of Licensing to reinstate the defendant's privilege to drive, if the defendant was under 21 years old at the time of conviction and this *Blake* conviction was the sole basis for suspending the defendant's privilege to drive pursuant to RCW 69.50.420(2).
- g) Order the clerk to transmit notice of the vacate order to Washington State Patrol and local law enforcement agency to update their records to reflect the vacate;
- h) Order the Washington State Patrol to transmit notice of the vacate order to the Federal Bureau of Investigation;
- i) Order the clerk to forward a copy of the vacate order to the Department of Corrections;

### 3. **Basis**

#### a) **Conviction:**

The defendant's underlying conviction for simple drug possession was based on one or more of the following:

- a) RCW 69.50.4013(1), for convictions on or after July 1, 2004;

- b) RCW 69.50.4014, for convictions on or after July 1, 2004;
- c) RCW 69.50.401(e), for convictions between March 21, 1979 and June 30, 2004;
- d) RCW 69.50.401(d), for convictions between 1971 and March 20, 1979;
- e) An inchoate offense for one of the above statutes.

Additional information:

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**b) LFO refund (check one):**

- A refund may be due. The Clerk should determine whether LFOs were paid on the unconstitutional conviction/s and calculate an LFO refund amount.
- Attached is a true and correct copy of the **LFO Accounting Summary** obtained from the Superior Court Clerk's office. (Optional)

**4. Reservation of Rights**

Defendant reserves the right to bring a motion to seek additional or different relief from that requested here, including but not limited to a motion for resentencing or a motion for a refund for third-party costs associated with the unconstitutional conviction.

**5. Hearing**

Defendant understands Defendant may need to take further action to have this matter considered by a court.

If filed by Prosecuting Attorney, Defendant, or Defense Attorney:

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Prosecuting Attorney WSBA No.

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Defendant or Defense Attorney WSBA No.

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Print Name

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Print Name

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Defendant's Mailing Address, if known:

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Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Attach a copy of the LFO Accounting Summary (if available)**

Superior/District Court of Washington, County of \_\_\_\_\_  
Municipal Court of the City of \_\_\_\_\_

State of Washington/City of \_\_\_\_\_, No. \_\_\_\_\_  
Plaintiff,

vs.

Defendant

DOB

Note for Calendar re: Blake Motion to Vacate  
Drug Possession Conviction and Refund  
Paid LFO Amounts

Clerk's action required: 1

## Notice of Hearing

To the Court Clerk and the Prosecuting Attorney for County/City of \_\_\_\_\_:

1. I request that a court hearing on Defendant's **Blake Motion** to Vacate Drug Possession Conviction and Refund Paid LFO Amounts be considered at the following date, time, and location:



for: \_\_\_\_\_ at: \_\_\_\_\_  a.m.  p.m.  
date time

at: \_\_\_\_\_  County Superior Court  
name of county or city of the court  County District Court  
 City Municipal Court

Judge or Docket/Calendar: \_\_\_\_\_

Court Address: \_\_\_\_\_

2. I request (check one):

The Court rule on Defendant's motion without Defendant's appearance.  
 To appear at the calendar (check one):  in person  by phone/video, if available

*I understand that if I request to appear and then do not appear that the Court may continue my case or rule on the motion in my absence.*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

*Person asking for this hearing signs here*

*Print name (if lawyer, also list WSBA #)*

I agree to accept legal papers for this case at:

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**address**

*email (optional)*

This does **not** have to be your home address. If this address changes before the case ends, you **must** notify all parties and the court clerk in writing.

<b>Superior Court of Washington, County of _____</b>	
State of Washington, Plaintiff	No. _____
vs.	Order on Blake Motion to Vacate Drug Possession Conviction(s) and Refund Paid LFO Amounts
Defendant	DOB
	[ ] Granted (ORVCD)
	[ ] Denied
	Clerk's Action Required: 4, 8, 9, 10, 11, 14, 15

## **Order on Blake Motion to Vacate Drug Possession Conviction(s) and Refund Paid LFO Amounts**

### **1. Basis**

This matter comes before the court on:  Defendant's motion  State's motion  
 motion on behalf of the State by the Blake Administrative Vacate Team, 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 such a completed or inchoate offense/s on this cause number under RCW 69.50.4013, RCW 69.50.4014, or their predecessor statutes.

### The court orders:

- 4. CLERK'S ACTION: Vacate and Update Criminal Record.** The motion to vacate is granted as to any and all convictions under this cause number. The Clerk shall update the charge result/charge disposition code to VU (Vacated Unconstitutional).
- 5. Dismiss.** The information is dismissed with prejudice as to the refiling of any charges alleged in the original or amended information or indictment in this case.
- 6. Release and Criminal History.** The defendant shall be released from all penalties and disabilities resulting from any 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.
- 7. Firearm and Voting Rights.** The defendant's right to vote and right to possess a firearm are no longer restricted or revoked by this matter.

8. **CLERK'S ACTION: Warrants Quashed.** Any outstanding arrest warrant in this matter is quashed.
9. **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 this judgment. RCW 69.50.420(2).

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

10. **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)

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which agencies shall immediately update their records to reflect the vacation of the record of the conviction/s.

11. **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.

12. **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).

13. **Legal Financial Obligations.** All legal financial obligations, fees, fines, costs, charges, or assessments (LFOs), except any separate civil judgment/s not predicated on conviction, are waived. If the LFOs have been assigned to a private collection agency, that assignment is revoked and the account is removed from that agency for collection. All associated collection costs are waived, including fees, interest or other monies related to collection. Any associated collection actions are stopped. All non-restitution interest is waived. If the restitution and restitution interest were assessed, the balances shall be waived.

14. **CLERK'S ACTION: Waive Balances, and Stop Collection and Collection Actions.** The Clerk shall delete, strike, cancel or waive any unpaid balance on the LFOs ordered under this cause, including any interest. If the Clerk has assigned these LFOs to a private collection agency, the Clerk shall remove those LFOs from collection and waive collection costs, including fees, interest, and other monies related to collection. The

Clerk shall stop any associated collection actions. The Clerk shall waive all non-restitution interest. The Clerk shall waive any restitution and restitution interest assessed.

**15. CLERK'S ACTION: Refund.** To the extent payment was received on these LFOs, 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, and include but are not limited to: court costs, fees, fines, victim restitution, and interest, as well as additional fees, interest, or any other monies associated with this case number 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 this case.
- As determined by the Clerk, non-restitution LFOs and interest were paid in this case in the amount of \$\_\_\_\_\_ . As determined by the Clerk, restitution and restitution interest was paid in this case in the amount of \$\_\_\_\_\_ .
- The amounts paid toward non-restitution LFOs in this case, and restitution paid in this case, 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 see assistance of counsel of 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.

**The above is hereby ordered.**

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*Date*

► *Judge/Print Name:*

► *Dep. Prosecuting Attorney, WSBA No.*

► *Defendant or Defense Attorney signature*

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*Print Name*

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*Print Name*

*Defendant's Mailing Address, if known:*

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*Phone:* \_\_\_\_\_

*Email:* \_\_\_\_\_

**Superior/District Court of Washington, County of \_\_\_\_\_  
Municipal Court of the City of \_\_\_\_\_**

State of Washington/City of \_\_\_\_\_, No. \_\_\_\_\_  
Plaintiff,

vs. Proof of Service – Blake Motion and Notice  
of Hearing

Defendant DOB \_\_\_\_\_.

### **Proof of Service**

I declare that on date: \_\_\_\_\_ at time: \_\_\_\_\_ a.m./p.m.

I served the following documents:

Blake Motion to Vacate Record of Drug Possession Conviction and Refund Paid LFO Amounts

Calendar Note re Motion to Vacate Drug Possession Conviction

to the Office of the Prosecutor of \_\_\_\_\_ County/City

at this address: \_\_\_\_\_

by this method:

hand-delivery; OR

regular mail, first class postage prepaid; OR

certified mail, first class postage prepaid, return receipt requested

In accordance with Chapter 9A.72 RCW and GR 13, I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (city and state): \_\_\_\_\_ Date: \_\_\_\_\_

*Signature of server*

*Printed name of server*