STATE OF WASHINGTON

SNOHOMISH COUNTY SUPERIOR COURT

|  |  |  |
| --- | --- | --- |
| THE STATE OF WASHINGTON, |  |  |
|  |  |  |
|  Plaintiff, |  | No. [Cause No] |
|  v. |  |  |
|  |  | MOTION FOR ORDER VACATING CONVICTION AND DISMISSING CHARGE(S) |
| [last name], [first name] [middle initial], |  |
|  |  |
|  Defendant. |  |

COMES NOW the Pro Se Defendant who hereby moves the above-entitled court for the entry of an order vacating the Defendant’s conviction for Possession of a Controlled Substance in violation of RCW 69.50.4013 (or its predecessor statutes). This motion is brought pursuant to CrR 7.8(b) and State v. Blake, Wash. S. Ct. No. 96873-0 (Feb. 25, 2021) and is based upon the records and files herein, and upon the legal memorandum and declaration attached hereto.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant

LEGAL MEMORANDUM

On February 26, 2021, the Washington Supreme Court declared that the Legislature exceeded its police powers in enacting RCW 69.50.4013. This opinion invalidates all convictions for violations of RCW 69.50.4013 (or its predecessor statutes). [[1]](#footnote-1)

CrR 7.8(b) permits a party to seek relief from a final judgment if “[t]he judgment is void” or for “[a]ny other reason justifying relief from the operation of the judgment.”

In this case, the Defendant requests that the Court enter an order vacating his/her conviction for Possession of a Controlled Substance and dismissing said charge(s).

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that I am an attorney licensed to practice in the State of Washington, that I represent the Defendant, and that I am familiar with the facts of the above-entitled cause, and make this affidavit in that capacity:

1. The Defendant was convicted of Possession of a Controlled Substance in Snohomish County Superior Court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ and was sentenced to \_\_\_\_\_\_\_\_ days/months in custody and \_\_\_\_\_\_\_ months of Community Custody. (See attached Judgment and Sentence).

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

 Signed in Everett, WA this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [date today].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Defendant

1. Washington’s strict liability simple possession statute was first enacted in 1971 as part of the Uniform Controlled Substances Act. The RCW citation to the crime has changed over the years:

RCW 69.50.4013 ‑ post July 1, 2004 (Laws of 2003, ch. 53, sec. 334)

RCW 69.50.401(d) from March 21, 1979 until June 30, 2004 (Laws of 1979, ch. 67 and Laws of 2003, ch. 53, sec. 334)

RCW 69.50.401(c) from May 21, 1971 through March 20, 1979 (Laws of 1971, ex. sess. ch. 308, secs. 69.50.401 and 69.50.607) and Laws of 1979, ch. 67 [↑](#footnote-ref-1)