

How to Change Your Sentence and Correct Your Criminal Record Under the “State v. Blake” Case

On February 25th, 2021 the Washington Supreme Court issued an important decision in State of Washington v. Blake, 197 Wn.2d 170 (2021). If this decision applies to you, you may qualify to have your sentence shortened and get any conviction for drug possession removed from your record.

WHAT DOES THE BLAKE CASE DO?

- State v. Blake determined that the Washington law that makes it a crime to possess drugs (RCW 69.50.4013) violates the Constitution. Crimes that violate our Constitution are invalid.
- Because of this ruling, all convictions for drug possession, including attempt, conspiracy or solicitation to possess drugs, are now invalid. These convictions are invalid regardless of how long ago you got them and regardless of whether you plead guilty or were convicted at trial.
- Convictions for Delivery of drugs, Manufacture of drugs, or Possession with Intent to Deliver drugs are not included in the Blake case and are still valid crimes. The information here does not apply to these crimes.

DOES STATE V. BLAKE APPLY TO ME?

- Is drug possession, or attempt, conspiracy or solicitation to possess drugs, one of the crimes you were most recently convicted of and are now serving time for?
- Were you ever convicted of drug possession or attempt, conspiracy or solicitation to possess drugs in the past?
- Are you currently serving a sentence because you were convicted of Unlawful Possession of Firearm in the Second Degree? If so, did you get this conviction because you were prohibited from having a gun due to your prior drug possession conviction (or convictions) but possessed a gun anyway?

IF THE ANSWER TO ANY OF THESE QUESTIONS IS ‘YES’, THEN STATE V. BLAKE APPLIES TO YOU

IF THE BLAKE CASE APPLIES TO ME, HOW CAN I GET MY SENTENCE CHANGED?

To get your current sentenced changed (shortened) you must file a request with the Superior Court judge in the county where you were most recently convicted. You will also need a lawyer to help you. So your request should also ask the judge to appoint a public defender to represent you. This request is called a “Motion For Resentencing Pursuant to State v. Blake And Request For Appointment Of Counsel.” You will also need to state that you cannot afford a lawyer. This statement is called an Affidavit of Indigency. Samples for you to use are attached to this document.

Take These Steps:

1. Get a blank copy of the Motion and Affidavit of Indigency (Affidavit).
2. On the Motion, fill in the name of the county where you were most recently convicted. Print your name and date of birth at the top. Sign and date in the two places where indicated.
3. On the Affidavit, fill in the same county as on your Motion. Print your name and date of birth at the top and print your name in the first line. Check the boxes that apply to you. Date and sign at the bottom.
4. Make two copies of both documents: one for the prosecutor and one to keep for yourself.
5. Mail the original MOTION and AFFIDAVIT to the Clerk of the Court where you were most recently convicted.
6. Send a copy of the MOTION and AFFIDAVIT to the prosecutor.
7. Do not file a Personal Restraint Petition (PRP) or send documents to the Court of Appeals.

What Happens Next:

How quickly the judge responds to your request and appoints you a lawyer will depend on the Court and prosecutor. Some courts are able to respond more quickly than others. You will get a letter in the mail from the court.

SUPERIOR COURT CLERKS' ADDRESSES

<p><i>Adams County Clerk 210 West Broadway/PO Box 187 Ritzville, WA 99169-0187</i></p>	<p><i>Grays Harbor County Clerk 102 West Broadway Montesano, WA 98563-3621</i></p>	<p><i>Pierce County Clerk 930 Tacoma Avenue South Rm 110 Tacoma, WA 98402-2102</i></p>
<p><i>Asotin County Clerk 135 2nd Street/P O Box 159 Asotin, WA 99402-0159</i></p>	<p><i>Island County Clerk 101 NE 6th Street Fl 1/P O Box 5000 Coupeville, WA 98239-5000</i></p>	<p><i>San Juan County Clerk 350 Court Street, Ste 7 Friday Harbor, WA 98250-7901</i></p>
<p><i>Benton County Clerk 7122 West Okanogan Place, Bldg A Kennewick, WA 99336-2359</i></p>	<p><i>Jefferson County Clerk 1820 Jefferson Street/P O Box 1220 Port Townsend, WA 98368-1220</i></p>	<p><i>Skagit County Clerk 205 W Kincaid St, Rm 103 Mt. Vernon, WA 98273-4225</i></p>
<p><i>Chelan County Clerk 350 Orondo Avenue, Ste 501 Wenatchee, WA 98801-2885</i></p>	<p><i>King County Clerk 516 Third Avenue, Room E609 Seattle, WA 98104-2363</i></p>	<p><i>Skamania County Clerk 240 Vancouver Ave, Rm 35/P O Box 790 Stevenson, WA 98648-0790</i></p>
<p><i>Clallam County Clerk 223 East 4th Street, Suite 9 Port Angeles, WA 98362-3015</i></p>	<p><i>Kitsap County Clerk 614 Division Street - M/S 34 Port Orchard, WA 98366-4692</i></p>	<p><i>Snohomish County Clerk 3000 Rockefeller Avenue - M/S 605 Everett, WA 98201-4046</i></p>
<p><i>Clark County Clerk 1200 Franklin Street P O Box 5000 Vancouver, WA 98666-5000</i></p>	<p><i>Kittitas County Clerk 205 West 5th Avenue, Ste 210 Ellensburg, WA 98926-2887</i></p>	<p><i>Spokane County Clerk 1116 W Broadway Ave., Rm 300 Spokane, WA 99260-0280</i></p>
<p><i>Columbia County Clerk 341 E Main Street, Ste 2 Dayton, WA 99328-1361</i></p>	<p><i>Klickitat County Clerk 205 S. Columbus Ave. Rm 206 Goldendale, WA 98620-9279</i></p>	<p><i>Stevens County Clerk 215 South Oak Street, Room 206 Colville, WA 99114-2862</i></p>
<p><i>Cowlitz County Clerk 312 SW 1st Ave., Rm 233 Kelso, WA 98626-1724</i></p>	<p><i>Lewis County Clerk 345 West Main Street, MS CLK01 Chehalis, WA 98532-4802</i></p>	<p><i>Thurston County Clerk 2000 Lakeridge Drive SW, Bldg 2 Olympia, WA 98502-6045</i></p>
<p><i>Douglas County Clerk 203 South Rainier/P O Box 516 Waterville, WA 98858-0516</i></p>	<p><i>Lincoln County Clerk 450 Logan Street/P O Box 68 Davenport, WA 99122-0068</i></p>	<p><i>Wahkiakum County Clerk 64 Main Street/P O Box 157 Cathlamet, WA 98612-0157</i></p>
<p><i>Ferry County Clerk 350 E Delaware Ave, Stop 4 Republic, WA 99166-9747</i></p>	<p><i>Mason County Clerk 419 North 4th Street, Rm 103 P O Box 340 Shelton, WA 98584-0340</i></p>	<p><i>Walla Walla County Clerk 315 W Main Street/P O Box 836 Walla Walla, WA 99362-0259</i></p>
<p><i>Franklin County Clerk 1016 North 4th Ave., Rm B306 Pasco, WA 99301-3706</i></p>	<p><i>Okanogan County Clerk 149 3rd Avenue N, Room 301 /P O Box 72 Okanogan, WA 98840-0072</i></p>	<p><i>Whatcom County Clerk 311 Grand Avenue, Rm 301 Bellingham, WA 98225-4048</i></p>
<p><i>Garfield County Clerk 789 Main Street/P O Box 915 Pomeroy, WA 99347-0915</i></p>	<p><i>Pacific County Clerk 300 Memorial Avenue/P O Box 67 South Bend, WA 98586-0067</i></p>	<p><i>Whitman County Clerk 400 North Main Street/P O Box 390 Colfax, WA 99111-0390</i></p>
<p><i>Grant County Clerk 35 "C" Street NW /P O Box 37 Ephrata, WA 98823-0037</i></p>	<p><i>Pend Oreille County Clerk P O Box 5020 Newport, WA 99156-5020</i></p>	<p><i>Yakima County Clerk 128 North 2nd Street, Room 323 Yakima, WA 98901-2639</i></p>

Washington Prosecutor Offices

<i>Adams County Prosecutor 210 West Broadway Ritzville, WA 99169</i>	<i>Grays Harbor County Prosecutor 102 West Broadway, Room 102 Montesano, WA 98563</i>	<i>Pierce County Prosecutor 930 Tacoma Avenue South, #946 Tacoma, WA 98402</i>
<i>Asotin County Prosecutor 135 2nd Street/P O Box 220 Asotin, WA 99402</i>	<i>Island County Prosecutor 101 NE 6th Street/P O Box 5000 Coupeville, WA 98239</i>	<i>San Juan County Prosecutor 350 Court Street/PO Box 760 Friday Harbor, WA 98250</i>
<i>Benton County Prosecutor 7122 West Okanogan Place Kennewick, WA 99336</i>	<i>Jefferson County Prosecutor 1820 Jefferson Street/P O Box 1220 Port Townsend, WA 98368</i>	<i>Skagit County Prosecutor 605 South Third Street Mount Vernon, WA 98273</i>
<i>Chelan County Prosecutor 401 Washington Street/P O Box 2596 Wenatchee, WA 98807</i>	<i>King County Prosecutor 516 Third Avenue, Room W-554 Seattle, WA 98104</i>	<i>Skamania County Prosecutor 240 NW Vancouver Ave/P O Box 790 Stevenson, WA 98648</i>
<i>Clallam County Prosecutor 223 East 4th Street, Suite 11 Port Angeles, WA 98362-3015</i>	<i>Kitsap County Prosecutor 614 Division Street - M/S 35 Port Orchard, WA 98366</i>	<i>Snohomish County Prosecutor 3000 Rockefeller Avenue - M/S 504 Everett, WA 98201-4046</i>
<i>Clark County Prosecutor P O Box 5000 Vancouver, WA 98666-5000</i>	<i>Kititas County Prosecutor 205 West 5th Avenue, #213 Ellensburg, WA 98926</i>	<i>Spokane County Prosecutor 1100 West Mallon Avenue Spokane, WA 99260</i>
<i>Columbia County Prosecutor 215 E. Clay Street Dayton, WA 99328</i>	<i>Klickitat County Prosecutor 205 S. Columbus Ave. #106/MS-CH 18 Goldendale, WA 98620</i>	<i>Stevens County Prosecutor 215 South Oak Street, Room 114 Colville, WA 99114</i>
<i>Cowlitz County Prosecutor 312 SW 1st Avenue Kelso, WA 98626</i>	<i>Lewis County Prosecutor 345 West Main Street - M/S: PRO 01 Chehalis, WA 98532</i>	<i>Thurston County Prosecutor 2000 Lakeridge Drive SW, #238 Olympia, WA 98502</i>
<i>Douglas County Prosecutor 213 South Rainier/P O Box 360 Waterville, WA 98858</i>	<i>Lincoln County Prosecutor 450 Logan Street/P O Box 874 Davenport, WA 99122</i>	<i>Wahkiakum County Prosecutor 64 Main Street/P O Box 397 Cathlamet, WA 98612</i>
<i>Ferry County Prosecutor 350 E. Delaware Ave, #11 Republic, WA 99166</i>	<i>Mason County Prosecutor 521 North 4th Street/P O Box 639 Shelton, WA 98584</i>	<i>Walla Walla County Prosecutor 240 West Alder Street, Suite 201 Walla Walla, WA 99362-2807</i>
<i>Franklin County Prosecutor 1016 North 4th Avenue Pasco, WA 99301</i>	<i>Okanogan County Prosecutor 237 Fourth Avenue N./P O Box 1130 Okanogan, WA 98840</i>	<i>Whatcom County Prosecutor 311 Grand Avenue, Suite 201 Bellingham, WA 98225</i>
<i>Garfield County Prosecutor 809 Columbia Street/P O Box 820 Pomeroy, WA 99347</i>	<i>Pacific County Prosecutor 300 Memorial Avenue/P O Box 45 South Bend, WA 98586</i>	<i>Whitman County Prosecutor 400 North Main Street/P O Box 30 Colfax, WA 99111</i>
<i>Grant County Prosecutor 35 "C" Street/P O Box 37 Ephrata, WA 98823</i>	<i>Pend Oreille County Prosecutor S. 229 Garden Avenue/P O Box 5070 Newport, WA 99156</i>	<i>Yakima County Prosecutor 128 North 2nd Street, Room 329 Yakima, WA 98901</i>

Superior Court of Washington County of _____

State of Washington, Plaintiff,

vs.

Defendant.

DOB

No.

**Affidavit of Indigency Supporting
Motion for Appointment of
Counsel and Resentencing
Pursuant to State v. Blake and**

I, _____, state as follows:
(print name)

1. I am unable to afford to hire my own legal counsel because I am indigent.
2. I am indigent because (check all that apply):
 - I am presumed indigent under Criminal Rule 3.1 because I am currently incarcerated and believe I am serving a sentence on a void conviction under *State v. Blake*, and I was previously determined at the time of sentencing on this cause number to be indigent.
 - I receive an annual income of \$_____, which is 125% or less of the current federally established poverty level (currently calculated at \$16,987 for a household size of one person).
 - I am unable to pay the anticipated cost of counsel for this matter because my available funds are insufficient to pay any amount for the retention of counsel.

Dated

Defendant Signature

Superior Court of Washington County of _____

State of Washington, Plaintiff,
vs.

_____,
Defendant.

DOB _____

No.

**Motion for Resentencing pursuant
to *State v. Blake* and Appointment
of Counsel**
(CLERKS' ACTION REQUIRED)

I. Motion

I, the undersigned, request the court appoint counsel to assist me in pursuing a remedy under *State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021), including resentencing, pursuant to CrR 7.8(c)(2) because I am serving a sentence based on a conviction(s) under a statute(s) determined to be unconstitutional and void under *State v. Blake*.

I request that this matter be set on the next criminal motions calendar to address this motion. I waive my presence for a motion to appoint counsel.

Dated: _____

Defendant Signature

II. Declaration

I am the defendant in the above action and declare that I have provided a copy of this notice to the _____ County Prosecuting Attorney's Office:

- 2.1 One or more of my prior convictions of either RCW 69.50.401(c) from 5/21/71-3/20/79 or RCW 69.50.401(d) from 3-21-79 to 6-30-04 or RCW 69.50.4013 from 7-1-04 to 2-25-21 is unconstitutional.
- 2.2 I request resentencing in this matter.
- 2.3 I request the appointment of an attorney at public expense because I am indigent. I have attached an affidavit of indigency to this motion. I waive my presence at any future hearing to appoint counsel.

2.4 I request a date for a resentencing hearing.

2.5 I request a refund of my paid legal financial obligations.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____
_____.

Signature of Defendant

Defendant's Printed Name

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WASHINGTON

_____ COUNTY SUPERIOR COURT

STATE OF WASHINGTON,)	Case No.:
)	
Plaintiff,)	
)	CALENDAR SETTING NOTICE
vs.)	(Court/Clerks' Action Required)
)	
Defendant)	
_____)	

COMES NOW the defendant, pro se, **and moves the Court to set a hearing on the next appropriate criminal motions calendar** for a motion to appoint counsel for a post-conviction resentencing pursuant to State v. Blake. I have served a motion and this calendar setting request with opposing counsel.

DATED this ____ day of _____, 202__.

Respectfully Submitted,

Defendant signature