



OFFICE OF THE PROSECUTING ATTORNEY

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POLICY 2021-010: VACATION OF CONVICTIONS PURSUANT TO STATE v. BLAKE

I. PURPOSE:

Pursuant to *State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021) and *Vanorman v. State*, No. 55086-5-II, 2021 Wash. App. LEXIS 2748 (Ct. App. Nov. 16, 2021), individuals who have prior convictions for simple possession of controlled substance violations of the Uniform Controlled Substances Act (Chapter 69.50 RCW, and particular 69.50.4013) are eligible to have their convictions vacated, and all fines and other monetary penalties refunded. Guidance from the Supreme Court and Administrative Office of the Courts suggests that these vacations should be moved through the Court as quickly as possible, and with the least amount of inconvenience to the convicted individuals. It is the Policy of the Columbia County Prosecuting Attorney's Office to remove any unnecessary barrier to the granting of these vacations of *Blake* convictions, and to aid convicted individuals in presenting their requests to the Court.

At the same time, there may be reasons why a convicted individual may not want their *Blake* conviction vacated, or may wish the vacation to be granted at a particular time, or after a particular other vacation or event. Timing of vacations may be important to the overall strategy of a convicted individual in clearing their record, or in obtaining State, Federal, or private charitable benefits and aid, or other personal reasons. It is not the policy of the Columbia County Prosecuting Attorney's Office to substitute our judgment and desire to clear the list of *Blake* convictions against the needs and desires of convicted individuals.

Additionally, drafting of documents and provision of legal advice to private individuals could potentially constitute unauthorized attorney/client relationships, or give the impression or appearance to a reasonable person that this office provides representation to private citizens, which is forbidden by statute. It is the policy of the Columbia County Prosecuting Attorney's Office to avoid any potential appearances of impropriety, of unauthorized practice of law, or of representation which constitutes a conflict of interest.

II. POLICY:

It is the policy of the Columbia County Prosecuting Attorney's Office to provide an easy, straightforward, and streamlined process to quickly vacate *Blake* convictions without giving any appearance of unauthorized representation of the convicted individuals, or substituting our judgment for the wishes and needs of convicted individuals.

After extensive discussion, both internally and with the Superior Court Judge and Clerk, a process has been developed to accomplish these policies.

III. PROCEDURE:

- A. Any convicted individual with a conviction of simple possession of a controlled substance under RCW 69.50.4013 and previous versions of the law between 1973 and February 25, 2021, may contact the Columbia County Prosecuting Attorney's Office to begin the process of vacation of their *Blake* conviction.
1. Upon contact, the convicted individual shall be provided a *Blake Conviction Vacation Intake Sheet* ("Intake Sheet"), which shall be filled out by the convicted individual and returned to this office. **Only the convicted individual or an attorney retained by him or her may submit the intake sheet. Intake Sheets submitted by any other individual will not be considered. "Submitted" does not include "delivered," and so long as the Intake Sheet has been signed by the Convicted Individual or his or her attorney, it will be considered "submitted" by the convicted individual.**
 2. Upon receipt of the *Blake Conviction Vacation Intake Sheet*, the Prosecutor or a Deputy Prosecutor will review the Intake Sheet to determine whether all convictions in the case are affected by *Blake*, or whether only some of the convictions were affected by *Blake*. The Order Affording Relief from Judgment Pursuant to *State v. Blake* ("Agreed Order") shall be drafted based upon the Intake Sheet and record review of the attorney.
 - i. If the *Blake* conviction or convictions constitute(s) only part of the convictions in the original judgment and sentence in the case, an Amended Judgment and Sentence must also be drafted to submit with the Agreed Order to the Court.
 3. Once completed, the Agreed Order (and amended judgment and sentence, if applicable) must be provided to the convicted individual or his or her attorney, and must be signed and returned to our office by the convicted individual or his or her attorney. **Only original, signed documents may be submitted to the Court, we cannot accept scans, photocopies, or other facsimiles of the original order, or amended judgment and sentence, if applicable.** Enclose a copy of the Blake Unrepresented Defendant Request to Vacate Letter with the legal documents, if the convicted individual is unrepresented, or a Blake Attorney Request to Vacate Letter if the request is from an attorney representing the convicted individual.
 4. **IMPORTANT: Our office cannot provide any legal advice on the effects of the vacation to any convicted individual. Individuals who have any questions regarding the effects of the vacation need to discuss those questions with a privately-retained or publicly-funded attorney with**

whom they have an attorney/client relationship. While our goal is to comply with the law and ideals of justice and fairness in providing a simple process for *Blake* convictions, it should be made clear to convicted individuals who contact this office for *Blake* vacations that our office in no way represents them or their interests, beyond the duty owed to an opposing party or general member of the public to act fairly and honorably.

5. When our office has received the signed original copy of the Agreed Order back from the convicted individual or his or her attorney, the reviewing attorney or Prosecuting Attorney will sign the order, and submit the order *ex parte* to the Judge of the Columbia County Superior Court for review and approval. Once a signed and filed copy has been provided to our office, the Clerk's Office should also mail a copy of all final paperwork to the convicted individual or his or her attorney, and provide copies to all relevant government agencies.
6. Processing of refunds of legal financial obligations will be handled by the Superior Court Clerk's Office, Auditor's Office, and Treasurer's Office. Our office has no involvement in this process, and we are unable to intercede with those offices on behalf of any convicted individual or his or her attorney.
7. All documents for this process are located on the Office's "S Drive" under "01superior/09BLAKE MATERIALS/UP-TO-DATE BLAKE PACKET" Any changes to the forms or new forms must be saved to this folder to ensure that those changes take effect.
8. Documents drafted for each convicted individual should be saved in the "S Drive" under "01superior/09BLAKE MATERIALS/BLAKE Vacations" to ensure that all vacated *Blake* cases are in the same place for easy access.

Enacted 12/1/21