

No. 80091-0

J.M. JOHNSON, J. (concurring)—The United States Supreme Court decided this case for us in *Arizona v. Gant*, ___ U.S. ___, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009). In that case, the Court held that the Fourth Amendment was violated by a vehicle search where the defendant was handcuffed and secured in a police vehicle and there was no reasonable expectation that evidence related to the crime of arrest would be obtained by the search. *Gant*, 129 S. Ct. at 1715, 1723. The facts of Valdez’s situation match the controlling facts in *Gant*; Valdez was arrested, handcuffed, and secured in a police vehicle, and there were no grounds for reasonable belief that the vehicle contained evidence of the “offense of arrest.” *Gant*, 129 S. Ct. at 1723. The United States Supreme Court’s interpretation of the United States Constitution is binding on the State of Washington, including its courts, through the supremacy clause. Therefore, under settled Fourth Amendment jurisprudence, the search of

Valdez's vehicle incident to his arrest was unlawful. This should end the discussion.

This court recognized that the *Gant* decision was crucial to the outcome of this case when we called for supplemental briefing on that decision (addressing *only* that issue). A court is ill advised to engage in unnecessary constitutional interpretation. Here, an analysis of article I, section 7 of the Washington Constitution is unnecessary because established Fourth Amendment jurisprudence clearly and unequivocally addresses and answers the matter. On the basis of *Gant*, I concur in the result of the majority's decision.

AUTHOR:

Justice James M. Johnson

WE CONCUR:

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