

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	No. 62568-3-I
Respondent,)	(consolidated w/63123-3-I)
)	
v.)	DIVISION ONE
)	
CHRISTOPHER EUGENE GREGORY,)	
and TINA MARIE BOTTROFF, and)	UNPUBLISHED OPINION
each of them,)	
)	FILED: September 27, 2010
Appellants.)	
_____)	

BECKER, J. -- Christopher Gregory and Tina Bottroff appeal convictions for possession with intent to deliver methamphetamine, arguing that the court erred in denying their motions to suppress evidence obtained from a search of Bottroff's car. They contend, and the State concedes, that the search was unlawful under Arizona v. Gant, ___ U.S. ___, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009) (restricting vehicle searches incident to arrest under the Fourth Amendment to the United States Constitution), and State v. Patton, 167 Wn.2d 379, 219 P.3d 651 (2009) (restricting vehicle searches incident to arrest under article I, section 7 of the Washington State Constitution). The State argued in briefing that suppression is not required because officers were acting in good faith reliance on pre-Gant law. After the filing of the

briefing in this case, the Washington Supreme Court rejected the good faith exception to the exclusionary rule under article I, section 7 of the Washington Constitution. State v. Afana, 169 Wn.2d 169, 233 P.3d 879 (2010). The State filed a motion acknowledging Afana and conceding that there were no other grounds on which the vehicle search could be upheld. In light of Patton and Afana, we accept the State's concession.

Reversed and dismissed.

For the Court:

Becker, J.

Grosse, J.

Schieweller, J.