

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In the Matter of the Personal)	No. 66583-9-I
Restraint of:)	
)	
)	
)	
JAMES G. ALEXANDER,)	UNPUBLISHED OPINION
)	
Petitioner.)	FILED: February 21, 2012
)	

Per Curiam. James Alexander filed a personal restraint petition, asserting among other claims, that his conviction for first degree assault violates the constitutional prohibition against double jeopardy in light of his conviction for homicide by abuse based on the same conduct. After dismissing Alexander's other claims, the Acting Chief Judge referred his double jeopardy claim for a determination on the merits. The State concedes that Alexander is entitled to vacation of the assault conviction. We accept the concession. See State v. Womac, 160 Wn.2d 643, 560, 160 P.3d 40 (2007); State v. Hughes, 166 Wn.2d 675, 686 n.13, 212 P.3d 558 (2009) (usual remedy for violations of double jeopardy is to vacate the lesser offense). Petitioner's related conviction for homicide by abuse is not affected. The personal restraint petition is accordingly granted.

We remand for the trial court to vacate petitioner's conviction for assault in the

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first degree in Island County No. 05-1-00023-7 and for further proceedings consistent with this opinion.

FOR THE COURT:

Cox, J.

Edenborn, J.

Schiveller, J.