IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	No. 66647-9-I
Respondent,	)	
	)	DIVISION ONE
v.	)	
	)	
DYLAN HARRIS PALMER,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: May 7, 2012

Spearman, A.C.J. — Dylan Palmer appeals his two convictions for possession of a controlled substance, arguing that evidence found in the search of his car was obtained in violation of his constitutional rights.[1] The search was justified by the trial court as a search incident to arrest for evidence pertaining to the crime of arrest. We stayed Palmer's appeal pending our supreme court's

[1] The facts of this case are as follows: On July 6, 2009, state trooper Jason Hicks stopped Palmer for speeding and discovered through a routine check that Palmer's driving status was suspended in the third degree, there was an outstanding non-extraditable warrant for his arrest on that offense, and he had seven priors for the same offense. Hicks placed Palmer under arrest, handcuffed him, put him in the back of the patrol car, and read him his rights under Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Palmer said he understood his rights. Because Palmer appeared nervous, Hicks asked whether there was anything in the car that Hicks needed to be concerned with. Palmer stated that he had spoons in his backpack that he used to ingest heroin. Hicks believed he would find heroin residue on the spoons and advised Palmer that he was also under arrest for possession of heroin. In Palmer's car Hicks found spoons with residue, a knife with residue, several needles loaded with brown liquid, and scales with residue. Some items field-tested positive for heroin and methamphetamine. The State charged Palmer with two counts of possession of a controlled substance and one count of driving while license suspended in the third degree. The trial court denied his motion to suppress the evidence found in the search of his car. After a bench trial on stipulated facts, Palmer was found guilty on all counts. He was sentenced, within the applicable standard range.

decision in State v. Snapp, Nos. 84223-0, 84568-7, 2012 WL 1134130 (April 5, 2012). Snapp has now been decided. The court stated, in pertinent part:

> We hold that the Thornton[2] exception does not apply under article I, section 7 [of the Washington State Constitution]. We also reject the proposed modified version of this exception that is based upon probable cause to believe evidence of the crime of arrest might be found in the vehicle.

Snapp, 2012 WL 1134130 at *9.

The State concedes in supplemental briefing that under Snapp, the search of Palmer's vehicle was unlawful and the evidence must be suppressed. The concession is well taken. Where the evidence formed the basis for the two convictions for possession of a controlled substance, we reverse those convictions and remand for further proceedings.

Reversed and remanded.

Spearman, A.C.J.

WE CONCUR:

Dwyer, J.

[2] The Thornton exception was identified in Arizona v. Gant, 556 U.S. 332, 343, 129 S.Ct. 1710 (2009) (citing Thornton v. United States, 541 U.S. 615, 632, 124 S.Ct. 2127, 158 L.Ed.2d (2004) as permitting a search incident to a lawful arrest when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.