

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Respondent,

v.

KEVIN LEE CROSS,

Appellant.

No. 38498-1-II

PUBLISHED OPINION  
AFTER REMAND FROM THE  
WASHINGTON SUPREME COURT

Quinn-Brintnall, J. — Kevin Cross appeals his jury convictions for first degree unlawful possession of a firearm, gross misdemeanor harassment, resisting arrest, and obstructing a law officer, arguing that the search of his car was unlawful under *Arizona v. Gant*, 556 U.S. 332, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009). In our earlier opinion, filed on June 29, 2010, we concluded that Cross did not preserve for review any error related to the vehicle search incident to arrest.<sup>1</sup> But the Washington State Supreme Court held otherwise in *State v. Robinson*, 171 Wn.2d 292, 253 P.3d 84 (2011), and remanded Cross’s appeal to us for further consideration. The parties agree that the proper remedy is to remand this matter back to the superior court for a new suppression hearing.

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<sup>1</sup> Cross also challenged the sufficiency of the evidence and calculation of his offender score, which we affirmed.

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Accepting Cross's agreement with the State's argument that remand is the proper remedy, we remand to the trial court for a suppression hearing and such further proceedings consistent with *Robinson* as may be appropriate.

We concur:

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QUINN-BRINTNALL, J.

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HUNT, P.J.

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VAN DEREN, J.