

FILED
COURT OF APPEALS
DIVISION II

2013 SEP 24 AM 9:30

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON
BY _____
DEPUTY

STATE OF WASHINGTON,

Respondent,

v.

JOSHUA M. WILSON,

Appellant.

No. 43770-8-II

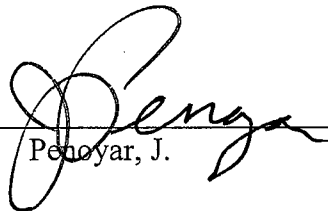
UNPUBLISHED OPINION

PENOYAR, J. — Joshua Michael Wilson appeals his felony conviction for failing to register as a sex offender. The State concedes that when the trial court convicted Wilson, it erred by finding that Wilson had a previous Oregon conviction that was “comparable” to a felony level sex offense in Washington. Accepting the State’s concession, we vacate Wilson’s conviction and remand to the trial court to enter a judgment and sentence for the misdemeanor level of the failure to register offense.

Under RCW 9A.44.132(2), if a person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony, and knowingly fails to comply, failure to register is a gross misdemeanor. Wilson was convicted in 2003 of contributing to the sexual delinquency of a minor. In Oregon this crime is a misdemeanor. The State concedes that the Oregon records provided at trial here are insufficient to show that the Oregon offense would have been a felony in Washington.

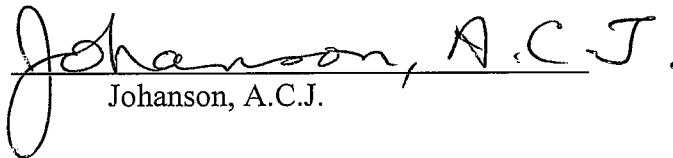
We accept the State's concession and vacate Wilson's sentence and remand to the trial court for resentencing.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.




Penoyar, J.

We concur:



Johanson, A.C.J.



Maxa, J.