

FILED
JUNE 29, 2021
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

STATE OF WASHINGTON,)	No. 37761-0-III
)	
Respondent,)	
)	
v.)	UNPUBLISHED OPINION
)	
MATTHEW TOTTEN,)	
)	
Appellant.)	

LAWRENCE-BERREY, J. — Matthew Totten appeals his August 2020, Whitman County conviction for unlawful possession of a controlled substance. While this appeal was pending, the Washington State Supreme Court struck down the statute Mr. Totten was convicted of violating, former RCW 69.50.4013(1) (2017). *See generally State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021). Following the decision in *Blake*, Mr. Totten filed a motion to amend his brief and assignments of error to seek relief under *Blake*. We granted the motion.

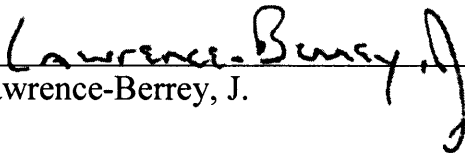
The State now concedes that *Blake* controls the outcome of this appeal. We accept the State’s concession. *See State v. Hanson*, 151 Wn.2d 783, 784, 91 P.3d 888 (2004) (holding that new rules, such as the one announced in *Blake*, apply to all cases not yet final). Because *Blake* requires vacation and dismissal of Mr. Totten’s conviction, we do

No. 37761-0-III
State v. Totten

not reach his other assignments of error.

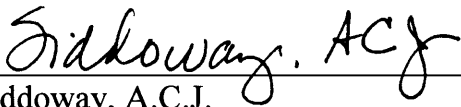
The judgment of the trial court is reversed and the case remanded for further proceedings in accordance with *Blake*.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.




Lawrence-Berrey, J.

WE CONCUR:



Siddoway, A.C.J.



Staab, J.