

**FILED**

**DEC 06, 2012**

**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. 28407-7-III

Respondent,

v.

KIM ANN SCHARNHORST,

Appellant.

UNPUBLISHED OPINION

Korsmo, C.J. — The State concedes that the search of Kim Scharnhorst’s purse violated article I, section 7 of the Washington Constitution. We accept the concession and reverse Ms. Scharnhorst’s conviction for possession of methamphetamine.

**FACTS**

Ms. Scharnhorst was a passenger in a car stopped for a traffic violation. The driver was arrested and the trooper decided to search the vehicle pursuant to that arrest. He picked up Ms. Scharnhorst’s purse to give to her and noticed a set of brass knuckles in the purse. He arrested Ms. Scharnhorst for possessing a dangerous weapon and searched her pursuant to the arrest. A bag of methamphetamine was discovered.

The defense moved to suppress the evidence as being the fruit of an unlawful vehicle search. The trial court denied the motion to suppress and Ms. Scharnhorst was convicted of unlawful possession of methamphetamine.

She timely appealed to this court, which subsequently stayed the case pending the decision in *State v. Snapp*, 174 Wn.2d 177, 275 P.3d 289 (2012). After the decision in *Snapp*, this court lifted its stay and directed the parties to file supplemental briefs addressing the decision. Both parties agreed that *Snapp* required reversal of the conviction.

#### ANALYSIS

Little needs to be said. In *Snapp*, the Washington Supreme Court determined that vehicle searches incident to the arrest of the driver are not proper under article I, section 7. The parties agree that the trooper conducted the vehicle search pursuant to pre-*Snapp* authority that is no longer valid and that Ms. Scharnhorst has standing to assert the constitutional violation. *State v. Jones*, 146 Wn.2d 328, 45 P.3d 1062 (2002).

The evidence supports the parties' joint view that the purse was searched during the vehicle search. While not improper prior to *Snapp*, the search is now recognized as improper under our constitution. The evidence must be suppressed.

The conviction is reversed.

No. 28407-7-III  
State v. Scharnhorst

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.

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Korsmo, C.J.

WE CONCUR:

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Sweeney, J.

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Siddoway, J.