

CLERK OF COURT
COURT OF APPEALS
STATE OF WASHINGTON
11:11
SECTION

34282-1

No.

79432-4

**COURT OF APPEALS FOR DIVISION II
STATE OF WASHINGTON**

In re the Sentence of:

YULANDA LEACH,

Petitioner.

POST-SENTENCE
PETITION

The Department of Corrections (Department or DOC), petitions the Court pursuant to RCW 9.94A.585(7) for review of the sentence imposed in State of Washington v. Yulanda Annise Leach, Pierce County Superior Court Cause No. 05-1-02366-1.

The trial court imposed a community custody range in a sentence of over one year for attempted second degree child assault. Although under RCW 9.94A.715(1) a completed second degree child assault is eligible for community custody, a conviction for an attempt is not. The DOC requests that the Court remand the case for resentencing.

I. STATEMENT OF THE CASE

Leach pled guilty to attempted second degree child assault, committed on May 11, 2005. Exhibit 1, Judgment and Sentence. The trial court (the Honorable Stephanie A. Arend) sentenced Leach to 23.25 months confinement and 9 to 18 months community custody. Exhibit 1 at 4 - 5.

In November 2005, the DOC wrote a letter to the trial court, the prosecutor, and defense counsel requesting amendment of Leach's Judgment and Sentence by removing the community custody range. The letter explained that attempted second degree child assault is not an offense eligible for community custody under RCW 9.94A.715(1). Exhibit 2, Letter from the DOC.

The court and prosecutor did not respond. The deputy prosecutor then spoke with DOC by phone and stated that she would not be moving to amend. Declaration of Jacqueline Riley-Noel at ¶ 3. Later, the DOC, through counsel, spoke with the prosecutor by phone again. Again, she said she would not move to amend. Id. She stated that the conviction is a serious offense and the defendant needs to be supervised. Id.

II. ISSUE

Did the trial court err in sentencing Leach to community custody for an attempted violent crime that does not constitute a class A felony?

III. CERTIFICATION

The DOC certifies that it made all reasonable efforts to resolve this dispute at the superior court level. The DOC wrote to the sentencing judge and prosecutor expressing its concerns. Exhibit 2. The deputy prosecutor responded by phone that she would not move to amend. Decl. of Riley-Noel.

Section 9.94A.585(7) RCW does not require formal filing of a petition or motion in the trial court. Sentence of Chatman, 59 Wn. App. 258, 264, 796 P.2d 755 (1990).

IV. ARGUMENT

ATTEMPTED CLASS B VIOLENT CRIMES ARE NOT LISTED IN RCW 9.94A.715 AS ELIGIBLE FOR COMMUNITY CUSTODY.

As with the offense in In re Sentences of Jones, 129 Wn. App. 626, 120 P.3d 84 (2005), Leach’s offense of attempted second degree child assault is not eligible for community custody. Although the relevant statute in Jones is RCW 9.94A.545, while here it is RCW 9.94A.715, the wording of the two statutes is identical—with one striking exception.

In each statute, community custody is allowed for a violent crime, a sex crime, a crime against a person, or a felony drug offense. Id., 129 Wn. App. at ¶ 10. But attempts to commit those crimes are expressly eligible for community custody under RCW 9.94A.545, while RCW 9.94A.715 omits them. See RCW 9.94A.545 (“... or an attempt, conspiracy, or solicitation to commit such a crime . . .”).

The only kind of attempted crime that is eligible for community custody under RCW 9.94A.715(1) is a class A felony. See RCW 9.94A.030(48) (“‘Violent offense’ means: (a) Any of the following felonies: (i) Any felony defined under any law as a class A felony or an

attempt to commit a class A felony”). If the legislature did not intend to limit imposition of RCW 9.94A.715 in this way, it would not have omitted the language that is in RCW 9.94A.545.

If a statute’s language is clear, a court must give its plain meaning effect without resorting to rules of statutory construction. State v. Theilken, 102 Wn.2d 271, 275, 684 P.2d 709 (1984). A statute is ambiguous when it is susceptible to more than one interpretation. State v. Johnson, 119 Wn.2d 167, 172, 829 P.2d 1082 (1992).

The limitation in RCW 9.94A.715 on imposing community custody for certain crimes is unambiguous. A trial court may impose community custody only on sentences for a sex offense, a violent offense, a crime against a person, or a drug offense—these are the eligible offenses. But except for class A felonies, attempts to commit such crimes are not eligible.

Therefore, the DOC respectfully requests that the Court grant its petition and remand Leach’s case for resentencing.

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V. CONCLUSION

For the reasons stated above, the DOC requests that the Court grant this petition and remand Leach's case for resentencing.

RESPECTFULLY SUBMITTED this 4th day of January, 2006.

ROB MCKENNA
Attorney General



RONDA D. LARSON, WSBA #31833
Assistant Attorney General
Attorneys for Respondent
Criminal Justice Division
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445

CERTIFICATE OF SERVICE

I certify that I served a copy of POST-SENTENCE PETITION and DECLARATION OF JACQUELINE RILEY-NOEL on all parties or their counsel of record on the 5th day of January, 2006, via U.S. Mail, postage prepaid, as follows:

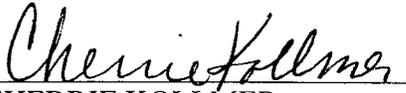
YULANDA LEACH DOC #888188
WASHINGTON CORRECTIONS CENTER FOR WOMEN
9601 BUJUCICH ROAD NW
GIG HARBOR WA 98332

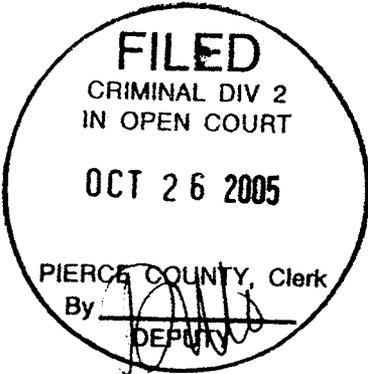
MARK QUIGLEY
949 MARKET STREET STE 334
TACOMA WA 98402-3696

DIONE J. LUDLOW
DEPUTY PROSECUTING ATTORNEY
PIERCE COUNTY PROSECUTING ATTORNEY'S OFFICE
930 TACOMA AVE SOUTH RM 946
TACOMA WA 98402

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 5th day of January, 2006 at Olympia, WA.


CHERRIE KOLLMER



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-02366-1

OCT 26 2005

vs.

JUDGMENT AND SENTENCE (JS)

YULANDA ANNISE LEACH

Defendant.

- Prison
- Jail One Year or Less
- First-Time Offender
- SSOSA
- DOSA
- Breaking The Cycle (BTC)

SID: WA19017829

DOB: 8/9/1974

I HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on ^{October} ~~September~~ 6, 2005 by [X] plea [] jury-verdict [] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	ATTEMPTED ASSAULT OF A CHILD IN THE SECOND DEGREE (152A)	9A.36.021(1)(a) 9A.36.130(1)(a) 9A.28.020 10.99.020		5/11/05	LAKEWOOD PD 051310288

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present.

as charged in the Amended Information

EXHIBIT 1

[X] The crime charged in Count(s) I involve(s) domestic violence.

15 9-12661-3

- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525): NONE KNOWN OR CLAIMED

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	0	IX	23.25 - 30.75 MOS		23.25 - 30.75 MOS	5 YRS/ \$10,000

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence above below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW. Chapter 379, Section 22, Laws of 2003.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows:

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 The court DISMISSES Counts _____ The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTN/RJN \$ 153.43 Restitution to: First Recovery Group
\$ _____ Restitution to: _____

(Name and Address--address may be withheld and provided confidentially to Clerk's Office).

PCV \$ 500.00 Crime Victim assessment
 DNA \$ 100.00 DNA Database Fee
 PUB \$ 400 Court-Appointed Attorney Fees and Defense Costs
 FRC \$ 110 Criminal Filing Fee
 FCM \$ _____ Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____
 \$ _____ Other Costs for: _____
 \$ 126343 TOTAL

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein. Not less than \$ per CCO per month commencing per CCO RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

4.2 RESTITUTION

[] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:
 [] shall be set by the prosecutor.
 [] is scheduled for _____
 [] defendant waives any right to be present at any restitution hearing (defendant's initials): _____

~~X~~ RESTITUTION. Order Attached

4.3 COSTS OF INCARCERATION

[] In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

4.4 COLLECTION COSTS

The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.

4.7 [] HIV TESTING

The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.8 [X] DNA TESTING

The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

4.9 NO CONTACT

The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

[] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

Contact with the victim Savante N. Leach (dob 7-8-1992) shall be controlled by dependency court.

4.10 OTHER:

<i>Appendix F</i>
<i>BV eval. and treatment per CEO</i>

4.11 BOND IS HEREBY EXONERATED

4.12 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

23.25 months on Count I _____ months on Count _____

_____ months on Count _____ months on Count _____

_____ months on Count _____ months on Count _____

Actual number of months of total confinement ordered is: 23.25 mos.

(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced. _____

Confinement shall commence immediately unless otherwise set forth here: _____

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 25 days

4.13 COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

COMMUNITY CUSTODY is ordered as follows:

Count I for a range from: 9 to 18 Months;

Count _____ for a range from: _____ to _____ Months;

Count _____ for a range from: _____ to _____ Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: contact with Lavante Hicks shall be as set forth by dependency court

Defendant shall remain within outside of a specified geographical boundary, to wit:

The defendant shall participate in the following crime-related treatment or counseling services: per CD court

The defendant shall undergo an evaluation for treatment for domestic violence substance abuse

mental health anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

Appendix F

4.14 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.

4.15 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.

5.4 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.

5.5 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A

5.7 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 10/26/05

JUDGE
Print name

Stephanie A. Arend

STEPHANIE A. AREND

Bione J. Rudlow

Deputy Prosecuting Attorney

Print name:

WSB # 25104

Attorney for Defendant

Print name:

Mark Quisley

WSB #

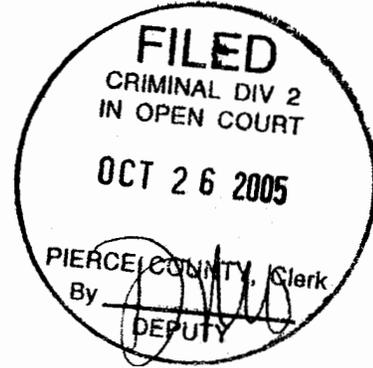
14496

v Yulonda Leach

Defendant

Print name:

Yulonda Leach



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CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 05-1-02366-1

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

OCT 26 2003

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: Melissa Engler, Deputy Clerk

APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a:

- sex offense
- serious violent offense
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52 committed after July 1, 1988 is also sentenced to one (1) year term of community placement on these conditions:

The offender shall report to and be available for contact with the assigned community corrections officer as directed;

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC;

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

(I) The offender shall remain within, or outside of, a specified geographical boundary: per CCD

(II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: contact with Savante Hicks shall be as set forth by dependency court

(III) The offender shall participate in crime-related treatment or counseling services; per CCD

(IV) The offender shall not consume alcohol; _____

(V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections, or _____

(VI) The offender shall comply with any crime-related prohibitions.

(VII) Other: BV eval. and treatment per CCD

IDENTIFICATION OF DEFENDANT

SID No. WA19017829
(If no SID take fingerprint card for State Patrol)

Date of Birth 8/9/1974

FBI No. 97490JC2

Local ID No. PCSO#268760

PCN No. 538426555

Other

Alias name, SSN, DOB:

Race:				Ethnicity:		Sex:
<input type="checkbox"/> Asian/Pacific Islander	<input checked="" type="checkbox"/> Black/African-American	<input type="checkbox"/> Caucasian	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Male		
<input type="checkbox"/> Native American	<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> Non-Hispanic	<input checked="" type="checkbox"/> Female			

FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb

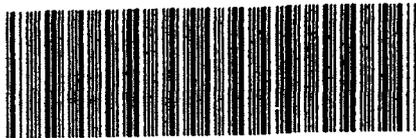
Right Thumb

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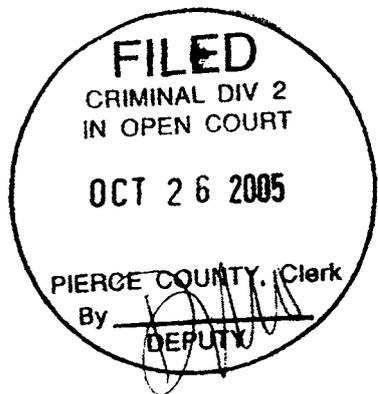
I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, Wendy Dechule Dated: 10/26/05

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: _____



05-1-02366-1 23950237 ACAT 10-26-05



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

OCT 26 2005

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-02366-1

vs.

YULANDA ANNISE LEACH

Defendant.

ADVICE OF RIGHT TO APPEAL

RIGHT TO APPEAL

Judgment and Sentence having been entered, you are now advised that:

1.1 You have the right to appeal:

a determination of guilt after a trial.

a sentencing determination relating to offender score, sentencing range, and/or exceptional sentence unless you have waived this right as part of a plea agreement.

other post convictions motions listed in Rules of Appellate Procedure 2.2.

1.2 Unless a notice of appeal is filed with the clerk of the court within thirty (30) days from the entry of judgment or the order appealed from, you have irrevocably waived your right of appeal.

1.3 The clerk of the Superior Court will, if requested by you, file a notice of appeal on your behalf.

1.4 If you cannot afford the cost of an appeal, you have the right to have a lawyer appointed to represent you on appeal and to have such parts of the trial record as are necessary for review of errors assigned transcribed for you, both at public expense.

ACKNOWLEDGMENT



Regarding the foregoing advice of my "Right to Appeal":

- 1. I understand these rights, and
- 2. I waive formal reading of these rights, and
- 3. I acknowledge receipt of a true copy of these rights.

DATE: 10/26/05

DEFENDANT: [Signature]

DEFENDANT'S ATTORNEY: [Signature] 14496

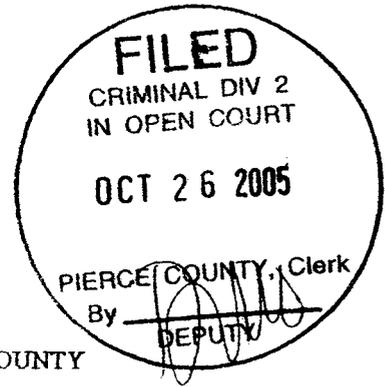
DATE: 10/26/05

JUDGE: [Signature]

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05-1-02366-1 23950239 ORBS 10-26-05



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-02366-1

vs.

YULANDA ANNISE LEACH

Defendant.

ORDER FOR BIOLOGICAL SAMPLE DRAW FOR DNA IDENTIFICATION ANALYSIS

OCT 26 2005

THIS MATTER having come on regularly before the undersigned Judge for sentencing following defendant's conviction for:

[] A felony sex offense, which occurred after July 1, 1990, as defined by RCW 9.94A.030(33), to wit: _____, and/or

[] A violent offense, which occurred after July 1, 1990, as defined by RCW 9.94A.030(38), to wit: _____, and/or

X Any felony offense for which a conviction was obtained after July 1, 2002, to wit: ATTEMPTED ASSAULT OF A CHLD. IN THE SECOND DEGREE.

Pursuant to RCW 43.43.754, therefore, it is hereby ordered that the defendant provide a biological sample to be used for DNA identification analysis as follows:

PLACE TO BE TESTED

[] (Out-of-Custody) Report immediately to the Pierce County Sheriff's Office located on the 1st Floor of the County City Building, 930 Tacoma Ave S, Tacoma, Washington for a biological sample draw.

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3 [] (Out-of-Custody) Contact your CCO or other DOC representative to make an appointment to submit a DNA sample. Your sample must be submitted within 60 days of today's date or the date you are released from jail, whichever comes later.

4 (In-Custody DOC) Submit to the biological sample draw by the Department of Corrections.

5
6 [] (In-Custody PC Jail) Submit to biological sample draw by the Pierce County Jail.

7 DONE IN OPEN COURT this ~~21st~~^{26th} day of October, 2005.

8 ~~Julia~~ Stephanie [Signature]
JUDGE

9
10 Presented by:

11 [Signature]

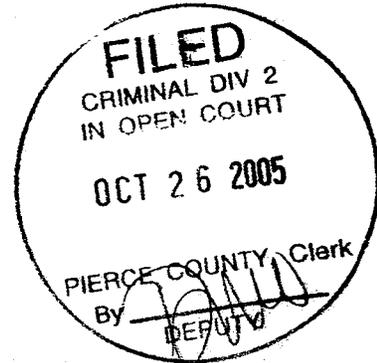
12 BRIAN WASANKARI
Deputy Prosecuting Attorney
WSB# 28945

13 Approved as to form:

14 [Signature]

15 MARK T. QUIGLEY
Attorney for Defendant
WSB# 14496

16
17 [Signature]
18 YULANDA ANNISE LEACH
Defendant

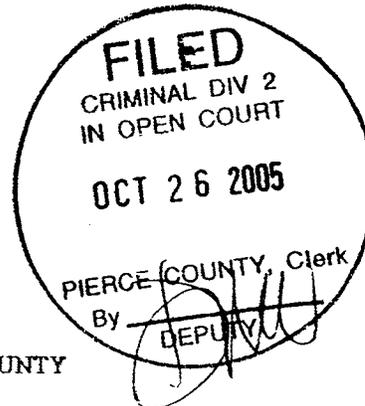


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23 STATE OF WASHINGTON, County of Pierce
24 ss: I, Kevin Stock, Clerk of the above
entitled Court, do hereby certify that this
25 foregoing instrument is a true and correct
copy of the original now on file in my office.
26 IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of said Court this
day of OCT 26 2005, 20
By [Signature] Deputy
Kevin Stock, Clerk



05-1-02366-1 23950238 JDSWCD 10-26-05

888188
EXTRA COPY



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 05-1-02366-1

vs.

YULANDA ANNISE LEACH,

Defendant.

WARRANT OF COMMITMENT

- 1) County Jail
- 2) Dept. of Corrections
- 3) Other Custody

OCT 26 2005

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

X 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

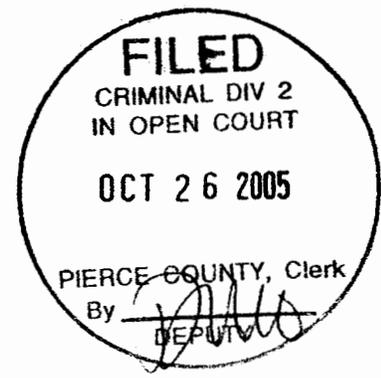
Dated: 10/26/05

By direction of the Honorable
Stephanie [Signature]
JUDGE

KEVIN STOCK
CLERK
By: Chris Hutton
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date OCT 26 2005 By Chris Hutton Deputy



STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this

_____ day of OCT 26 2005

KEVIN STOCK, Clerk
By: Melba Engler Deputy

pas



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
WASHINGTON CORRECTIONS CENTER FOR WOMEN
• 9601 Bujacich Rd. N.W. • Gig Harbor, WA 98332

November 1, 2005

The Honorable Stephanie A. Arend
Pierce County Superior Court
930 Tacoma Ave South RM 534
Tacoma, WA 98402-2108

Mr. Mark T. Quigley
Attorney for Defendant
949 Market Street STE 334
Tacoma, WA 98402-3696

Ms. Dione J. Ludlow, Deputy Prosecuting Attorney
Pierce County Prosecuting Attorney's Office
930 Tacoma Ave South RM 946
Tacoma, WA 98402

RE: State v. Yulanda Annise Leach DOC 888188
Pierce County Superior Court Cause No. 05-1-02366-1

Dear Judge Arend, Ms. Ludlow, and Mr. Quigley:

Upon the Department of Corrections' review of the Judgment and Sentence (enclosed) it appears that a Community Custody Range of 9 to 18 months was ordered on Count I: Attempted Assault of a Child in the Second Degree. While Assault of a Child in the Second Degree is a listed crime under RCW 9.94A.411(2), crimes against persons, the statute does not refer to the categorization of attempts, solicitation or conspiracy to commit these crimes as crimes against a person. Moreover, RCW 9.94A.715, states only that "crimes against a person under RCW 9.94A.411(2)" shall be sentenced to community custody for the community custody range. RCW 9.94A.715 does not include language that would permit community custody to be ordered for attempts to commit these crimes. If statutory language does not indicate that attempts are included, then the assumption is that the legislature intended NOT to include this category.

Please review this case, and if you agree with the finding, cause a correction to be issued and forward a copy to us. In the interest of judicial economy, the Department of Corrections respectfully requests this Court to amend the Judgment and Sentence by deleting the Community Custody Range of 9 to 18 months ordered in Section 4.13

The Department of Corrections greatly appreciates your assistance with this matter.

Sincerely,

Rannie G. Vickers
Correctional Records Manager, WCCW

"Working Together for SAFE Communities"

EXHIBIT 2