

No. 45049-6-II

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

STATE OF WASHINGTON,

Respondent,

v.

CHANDRA WITT,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR GRAYS HARBOR COUNTY

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The trial court abused its discretion when admitting testimony regarding Ms. Witt's statement to law enforcement that she obtained the copper pipes in exchange for delivering methamphetamine.

2. At the sentencing hearing, the trial court imposed legal financial obligations without considering Ms. Witt's financial resources and the nature of the burden that payment of costs would impose as required by RCW 10.01.160(3).

3. The trial court failed to comply with the requirements of RCW 9.41.047(1)(a) because it did not notify Ms. Witt at the time of conviction that she had lost her right to possess a firearm.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. In order for evidence of other misconduct to be admissible, the trial court must determine whether the evidence is relevant to a material issue, identify the purpose for which the evidence is being introduced, and balance the probative value of the evidence against the danger of unfair prejudice. At a trial for trafficking in stolen property, the court allowed testimony that Ms. Witt delivered a controlled substance to another person after concluding that this evidence was relevant to whether Ms. Witt knew the copper pipes were stolen. The trial court also determined that this evidence was part of the res gestae of the alleged crime. Did the trial court

abuse its discretion when admitting this evidence of other misconduct?

2. A sentencing court shall not order a defendant to pay legal financial obligations unless the defendant is or will be able to pay them. In determining the amount and method of payment of legal financial obligations, the court must take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose. Does the imposition of legal financial obligations constitute a sentencing error because the trial court failed to make any inquiry into Ms. Witt's individual financial circumstances as required?

3. At the time a person is convicted of an offense making the person ineligible to possess a firearm, the convicting court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. The trial court failed to orally admonish Ms. Witt at any point of her loss of firearm rights and only notified her in writing at the time of sentencing. Did the trial court fail to comply with the statutory requirements to notify a convicted person of the loss of their right to possess firearms?

C. STATEMENT OF THE CASE

Even though Ms. Witt was not charged with possession or delivery of a controlled substance, the trial court permitted the jury to hear

testimony that Ms. Witt delivered methamphetamine, over defense counsel's objection, during her trial for trafficking in stolen property in the first degree. 5/7/13 RP 9-12, 94. Ms. Witt was interviewed by Sergeant Sydney Strong of the Hoquiam Police Department during his investigation into stolen copper pipes that had been sold to Butcher's Scrap Metal. 5/7/13 RP 74, 93. Ms. Witt gave a statement to Sergeant Strong indicating that she received the pipes from an individual in exchange for \$20 worth of methamphetamine. 5/7/13 RP 8.

Defense counsel argued that any testimony regarding methamphetamine would be prejudicial and objected to its admission. 5/7/13 RP 9-10. The trial court ruled that the exchange of methamphetamine was circumstantial evidence of knowledge that the copper pipes were stolen. 5/7/13 RP 11. The trial court also ruled that the methamphetamine was part of the *res gestae* of the trafficking in stolen property charge. 5/7/13 RP 11. Finally, the trial court concluded that the evidence was "very relevant" and not unfairly prejudicial. 5/7/13 RP 11, 14.

The jury heard testimony from Sergeant Strong that Ms. Witt paid for the copper pipes with methamphetamine. 5/7/13 RP 94. The prosecuting attorney emphasized the exchange of methamphetamine in closing and rebuttal arguments five separate times. 5/7/13 129, 130, 136,

137-8. The jury was unable to reach a unanimous verdict on the charge of trafficking in stolen property in the first degree. CP 31. The jury returned a guilty verdict on the lesser included offense of trafficking in stolen property in the second degree. 5/8/13 RP 142; CP 32.

At sentencing, the trial court made no findings with regard to Ms. Witt's past, present, or future ability to pay legal financial obligations. CP 38. There was no discussion at the time of sentencing regarding Ms. Witt's financial resources or the burden of imposing legal financial obligations upon her. 5/20/13 RP 154-60. However, the Judgment and Sentence reflects that the trial court imposed the \$500 victim penalty assessment, \$200 court costs, \$500 fee for a court appointed attorney, and \$100 DNA collection fee. CP 39. Ms. Witt was never orally admonished of her loss of the right to possess a firearm at the time of conviction or sentencing. 5/8/13 RP 142-50; 5/20/13 RP 154-60.

D. ARGUMENT

1. The trial court's admission of Ms. Witt's statement to law enforcement that she delivered methamphetamine in exchange for the copper pipes was manifestly unreasonable.

Evidence that is not relevant is not admissible. ER 402. "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. ER 401. Although

relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. ER 403. Relevant evidence may also be excluded by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. *Id.*

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show propensity. ER 404(b). Evidence of other misconduct may be admissible for other purposes, such as proof of motive, intent, knowledge, identity, or absence of mistake or accident. *Id.* Evidence of prior crimes, wrongs, or acts is presumptively inadmissible. *State v. Gresham*, 173 Wn.2d 405, 421, 269 P.3d 207 (2012). A defendant's statement regarding previous criminal activity is not admissible unless it also satisfies the standards of ER 404(b). *State v. Thamert*, 45 Wn. App. 143, 150-51, 723 P.2d 1204 (1986) (abrogated on other grounds by *State v. Atsbeha*, 142 Wn.2d 904, 913-14, 16 P.3d 626 (2001); *State v. Ellis*, 136 Wn.2d 498, 504, 963 P.2d 843 (1998)).

Before a trial court may admit evidence of other crimes or misconduct, it must (1) find by a preponderance of the evidence that the misconduct occurred; (2) determine whether the evidence is relevant to a material issue; (3) state on the record the purpose for which the evidence is being introduced; and (4) balance the probative value of the evidence

against the danger of unfair prejudice. *State v. Dennison*, 115 Wn.2d 609, 628, 801 P.2d 193 (1990). In doubtful cases, the evidence should be excluded. *State v. Smith*, 106 Wn.2d 772, 776, 725 P.2d 951 (1986).

A trial court's decision to admit evidence is reviewed for abuse of discretion. *State v. Swan*, 114 Wn.2d 613, 658, 790 P.2d 610 (1990). Discretion is abused if it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). Failure to adhere to the requirements of an evidentiary rule can be considered an abuse of discretion. *State v. Foxhaven*, 161 Wn.2d 168, 174, 163 P.3d 786 (2007). As explained below, the trial court's admission of evidence that Ms. Witt delivered a controlled substance was manifestly unreasonable because it was irrelevant and substantially more prejudicial than probative. The error is prejudicial and merits reversal.

- a. Ms. Witt's statement that she delivered methamphetamine in exchange for the copper pipes was not relevant.

The trial court determined that Ms. Witt's statement was admissible to establish knowledge of “what's going on as far as this being an illegal transaction and a possession of something that was stolen.” 5/7/13 RP 11. The trial court further reasoned that normal transactions of selling property, such as at a garage sale, do not involve the sale of

methamphetamine. 5/7/13 RP 11. The trial court concluded that Ms. Witt's statement that she traded methamphetamine for the copper pipes was circumstantial evidence of knowledge that the pipes were stolen. 5/7/13 RP 11.

The trial court erred with regard to the second prong of the ER 404(b) analysis, which requires the evidence to be relevant to a material issue. *Dennison*, 115 Wn.2d at 628. The nature of the consideration exchanged for the copper pipes is not relevant to whether or not Ms. Witt knew that the copper pipes were stolen. Whether Ms. Witt paid cash, drugs, or received the copper pipes as a gift does not make the fact of consequence (i.e., knowledge that the pipes were stolen) more or less probable.

ER 404(b) is designed to prevent the suggestion that a defendant is guilty because he or she is a criminal type person who would be likely to commit the crime charged. *Foxhaven*, 161 Wn.2d at 175. Evidence of a criminal defendant's previous misconduct is not admissible for any of the purposes set forth in ER 404(b) if the matter which the evidence tends to prove is not a disputed issue. *State v. Saltarelli*, 98 Wn.2d 358, 362-63, 655 P.2d 697 (1982). Evidence of another crime is not relevant to the crime charged unless the fact for which the evidence is to be admitted is of consequence to the outcome of the prosecution and the evidence tends to

make the existence of that fact more or less probable. *Id.* at 363.

Here, the consideration given in exchange for the copper pipes does not establish any fact or disputed issue in the prosecution. Rather, admission of this evidence informed the jury that not only was Ms. Witt accused of trafficking in stolen property, but she was also an admitted drug dealer. The admission of this evidence was susceptible to misuse by the jury to reach the conclusion that Ms. Witt is a criminal type person and thus more likely to have committed the charge submitted to the jury for verdict. This evidence failed to meet the requirements of ER 401 and the second prong of the ER 404(b) analysis and therefore the trial court erred in allowing its admission.

b. Even if the statement concerning delivery of methamphetamine had some minimal probative value, it was greatly outweighed by the unfair prejudicial effect.

The admission of this evidence also violates the fourth prong of the ER 404(b) test, which requires the probative value of the evidence to outweigh its prejudicial effect. *Dennison*, 115 Wn.2d at 628. This is an ER 403 analysis built into the ER 404(b) test. Unfair prejudice is that which is more likely to arouse an emotional response than a rational decision by the jury and which creates an undue tendency to suggest a decision on an improper basis. *State v. Cronin*, 142 Wn.2d 568, 584, 14 P.3d 752 (2000).

In doubtful cases the scale should be tipped in favor of the defendant and exclusion of evidence. *Smith*, 106 Wn.2d at 776 (citing *State v. Bennett*, 36 Wn. App. 176, 180, 672 P.2d 772 (1983)). If the evidence is overly inflammatory in comparison with alternative methods of proving the same facts, a trial court's decision to admit such evidence may be overturned. *State v. Bouchard*, 31 Wn. App. 381, 386, 639 P.2d 761 (1982) (abrogated on other grounds by *State v. Sutherby*, 165 Wn.2d 870, 886, 204 P.3d 916 (2009)).

Here, in balancing the probative value against the prejudicial effect, the trial court stated:

I recognize I have to do somewhat of a balancing, but the balancing is whether it's relevant. I believe it's very relevant as to what was going on on this particular day in question by her own statement, according to this Number 21, and she signed it.

5/7/13 RP 11-12. The trial court later went on to conclude:

I just think it's – the relevance is not outweighed by unfair prejudice. It's a situation where this is relevant material in the statement and the rule talks only about matters that are unfairly prejudicial. And I recognize there's always some prejudice when you engage in criminal conduct, but this was part of the actual transaction by the defendant's own statements to the officer.

5/7/13 RP 14.

The probative value of the evidence that Ms. Witt delivered methamphetamine has been previously discussed. For purposes of

balancing the prejudicial effect against this minimal value, the trial court failed to consider the alternative methods of proving knowledge to avoid the overly inflammatory impact of informing the jury that Ms. Witt delivered a controlled substance. During trial, the State elicited testimony that Ms. Witt explained to law enforcement that she assumed the copper pipes were stolen. 5/7/13 RP 94. Specifically, the testimony of Sergeant Strong was as follows:

- Q. Did you ask her whether or not she knew or believe that she knew it was stolen?
- A. She said that she figured it did, because he does that sort of thing.

5/7/13 RP 94. The trial court failed to account for this alternative method of proving the same fact (i.e., knowledge) when conducting its balancing test. Additionally, while the trial court makes a conclusory statement that the unfair prejudice from allowing the evidence does not outweigh its relevance, the trial court undertakes no meaningful analysis of the prejudicial effect created by informing the jury that Ms. Witt was an admitted drug dealer.

Because the delivery of methamphetamine had minimal probative value, especially in light of the other evidence presented at trial, and because this evidence is particularly susceptible to misuse, the potential for unfair prejudice significantly outweighed its probative value and thus

the trial court should have excluded it.

- c. Ms. Witt's statement does not fall within the res gestae of the trafficking charge because it does not give immediate context or complete a necessary part of the story.

Under the res gestae or “same transaction” exception to ER 404(b), evidence of other crimes or bad acts is admissible to complete the story or provide the immediate context for events close in both time and place to the charged crime. *State v. Warren*, 134 Wn. App. 44, 62, 138 P.3d 1081 (2006); *State v. Lilliard*, 122 Wn. App. 422, 432, 93 P.3d 969 (2004). Evidence of other activity constituting an unbroken sequence of events leading to the crime charged is admissible if it is necessary to provide the jury with the entire story of what transpired. *State v. Tharp*, 96 Wn.2d 591, 594, 637 P.2d 961 (1982). Each crime must be a link in the chain and each must be like a piece in a mosaic, which is necessarily admitted in order that a complete picture be depicted for the jury. *Id.* Like other ER 404(b) evidence, res gestae evidence must be relevant for a purpose other than showing propensity and must not be unduly prejudicial. *State v. Lane*, 125 Wn.2d 825, 834, 889 P.2d 929 (1995).

In *State v. Tickler*, 106 Wn. App. 727, 25 P.3d 445 (2001), the defendant's conviction was reversed because the prejudicial effect of evidence admitted pursuant to ER 404(b) outweighed its probative value. *Id.* at 734-35. The defendant was prosecuted for possession of a stolen

credit card and the trial court allowed admission of other stolen items found on the defendant at the time of the arrest that belonged to individuals other than the owner of the stolen credit card. *Id.* at 733. The State argued that this evidence was admissible under *res gestae* because it was so connected in time, place, and circumstances that it was necessary for the jury's understanding. *Id.* In rejecting this argument, the Court reasoned that the defendant's possession of other allegedly stolen items was not an inseparable part of his possession of the stolen credit card and concluded that permitting the jury to hear this superfluous information was highly prejudicial and merited reversal. *Id.* at 734.

Similarly, it was superfluous for the trial court to inform the jury that the consideration given by Ms. Witt to obtain the copper pipes was an illegal controlled substance. The exchange of methamphetamine is not an inseparable part of the transaction and was not necessary to provide context of the charged crime of trafficking in stolen property. Evidence admitted under the *res gestae* exception must be relevant and must not be unduly prejudicial. *Lane*, 125 Wn.2d at 834. As previously discussed, this evidence had minimal if any probative value and was extremely prejudicial in its nature. The jury could understand the context of the crime charged without hearing this evidence. The delivery of methamphetamine is not a "piece in the mosaic" necessary for the

complete picture and therefore the trial court erred in admitting this evidence under the res gestae exception of ER 404(b).

d. The admission of Ms. Witt's statement that she delivered methamphetamine constituted abuse of discretion and prejudicial error.

The admission of evidence informing the jury that Ms. Witt delivered methamphetamine was manifestly unreasonable and constitutes prejudicial error. Error is prejudicial if there is a reasonable probability that the outcome of the trial would have been materially affected had the error not occurred. *Tharp*, 96 Wn.2d at 599. Where there is a risk of prejudice and no way to know what value the jury placed upon the improperly admitted evidence, a new trial is required. *Salas v. Hi-Tech Erectors*, 168 Wn.2d 664, 673, 230 P.3d 583 (2010).

In closing and rebuttal argument, the prosecuting attorney continually emphasized the exchange of methamphetamine. 5/7/13 129, 130, 136, 137-8. At one point, the prosecuting attorney argued, "Look at how they do their business. It's not cash. Paid for it with drugs, \$20 sack of meth for the pipe." 5/7/13 RP 130. It can be easy for jurors to slide across ER 404(b)'s slippery boundary between proper consideration of evidence and improper consideration of propensity. *See U.S. v. Powell*, 652 F.3d 702, 707 (7th Cir. 2011). Evidence of drug dealing was not minor in its significance, as evidenced by the prosecutor's repeated

reference to the methamphetamine in his closing arguments. Admission of this evidence constitutes prejudicial error requiring reversal of Ms. Witt's conviction.

2. The trial court's imposition of legal financial obligations without considering Ms. Witt's ability to pay as required constitutes a sentencing error.¹

A trial court may impose costs “authorized by law” when sentencing an offender for a felony. RCW 9.94A.760. However, the sentencing court must consider an individual's financial circumstances and conclude that he has the ability or likely future ability to pay before imposing legal financial obligations (LFOs). RCW 10.01.160(3).

The sentencing court made no findings in the Judgment and Sentence regarding Ms. Witt's ability to pay. CP 38. The record here establishes that the court did not make any inquiry into Ms. Witt's finances and thus did not make any individualized determination regarding Ms. Witt's financial circumstances before it imposed LFOs. 5/20/13 RP 154-60. The sentencing court imposed the following LFOs: \$500 victim penalty assessment, \$200 court costs, \$500 fee for a court appointed

¹ On February 11, 2014 the Washington Supreme Court heard oral argument in *State v. Blazina*, Supreme Court No. 89028-5, which was consolidated with *State v. Colter*, Supreme Court No. 89109-5. The Supreme Court's opinion in *Blazina* will likely be dispositive here. In its ruling, this Court acknowledged that it had previously allowed an appellant to raise imposition of legal financial obligations for the first time on appeal. *State v. Blazina*, 174 Wn. App. 906, 911, 301 P.3d 492 (2013). However, this Court held that RAP 2.5(a) did not compel it to allow the issue to be raised in every case and declined to allow Mr. Blazina to raise imposition of LFOs for the first time on appeal. *Id.*

attorney, \$100 DNA collection fee, and \$72 in restitution.² CP 39-40. Because consideration of a defendant's financial resources is statutorily required as a condition precedent to imposing LFOs, the trial court's imposition of LFOs was erroneous and the validity of the order may be raised for the first time on appeal.

a. A defendant may raise the issue of imposition of legal financial obligations for the first time on appeal.

Although the general rule under RAP 2.5 is that issues not objected to in the trial court may not be raised for the first time on appeal, it is well established that illegal or erroneous sentences may be challenged for the first time on appeal. *State v. Ford*, 137 Wn.2d 427, 477-78, 973 P.2d 452 (1999); *see also, State v. Bahl*, 164 Wn.2d 739, 744, 193 P.3d 678 (2008) (holding erroneous condition of community custody could be challenged for the first time on appeal). A defendant may challenge for the first time on appeal the imposition of a criminal penalty on the ground that the sentencing court failed to comply with the authorizing statute. *State v. Moen*, 129 Wn.2d 535, 543-48, 919 P.2d 69 (1996).

RCW 10.01.160(3) provides:

The court shall not order a defendant to pay costs unless the

² Ms. Witt does not challenge imposition of the following legal financial obligations: the \$500 victim penalty assessment pursuant to RCW 7.68.035; the \$100 DNA collection fee pursuant to RCW 43.43.7241; and \$72 in restitution pursuant to RCW 9.94A.753. The victim penalty assessment and DNA collection fee are statutorily mandated and courts are not required to consider defendant's past, present, or future ability to pay. *State v. Kustler*, 175 Wn. App. 420, 424, 306 P.3d 1022 (2013).

defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

RCW 10.01.160(3). The word “shall” establishes that the requirement is mandatory. *State v. Claypool*, 111 Wn. App. 473, 475-76, 45 P.3d 609 (2002). Before imposing discretionary LFOs, the sentencing court has an affirmative duty to make an inquiry into the defendant's individual situation to determine his or her ability to pay. *State v. Lundy*, 176 Wn. App. 96, 103, 308 P.3d 755 (2013). Therefore, the trial court was without authority to impose LFOs as a condition of Ms. Witt's sentence because it did not first take into account her financial resources and the burden of payments.

While formal findings supporting the trial court's decision to impose LFOs under RCW 10.01.160(3) are not required, the record must minimally establish the sentencing judge did in fact consider the defendant's individualized financial circumstances and made an individualized determination that he or she has the ability or likely future ability to pay. *State v. Curry*, 118 Wn.2d 911, 916, 829 P.2d 166 (1992); *State v. Bertrand*, 165 Wn. App. 393, 403-04, 267 P.3d 511 (2011). Here, the record does not establish that the trial court considered Ms. Witt's financial resources at any point. The trial court's LFO order is not in

compliance with RCW 10.01.160(3) and thus exceeds the trial court's authority.

- b. The challenge to the imposition of legal financial obligations is ripe for review.

This case involves a direct challenge to the legal validity of the LFO order on the ground that the trial court failed to comply with RCW 10.01.160(3). Thus it is distinguishable from the line of cases that establish that the time to challenge LFOs is after the State seeks to enforce them; these cases address challenges based on an assertion of financial hardship or procedural due process principles that arise in the collection of LFOs.³

A claim is fit for judicial determination if the issues raised are primarily legal, do not require further factual development, and the challenged action is final. *Bahl*, 164 Wn.2d at 751. The legal validity of a LFO order based on non-compliance with RCW 10.01.160 is primarily a legal issue. The issue of whether the trial court failed to comply with the statute will not be changed by time or future circumstances. As such, it

³ See, e.g., *Lundy*, 176 Wn. App. at 109 (any challenge to the order requiring payment of legal financial obligations on hardship grounds is not ripe for review until the State attempts to collect); *State v. Ziegenfuss*, 118 Wn. App. 110, 113, 74 P.3d 1205 (2003) (determining defendant's constitutional challenge to the LFO violation process is not ripe for review until the State attempts to enforce); *State v. Phillips*, 65 Wn. App. 239, 243-44, 828 P.2d 42 (1992) (defendant's constitutional objection to the LFO order based on the fact of his indigence was not ripe until the State sought to enforce the order); *State v. Baldwin*, 63 Wn. App. 303, 310, 818 P.2d 1116 (1991) (the meaningful time to review a constitutional challenge to the LFO order on financial hardship grounds is when the State enforces the order).

requires no further factual development. LFOs become enforceable at the time the judgment is rendered and begin to accrue interest immediately. RCW 10.82.090. The challenged action is final because the original sentencing order imposing LFOs is final. While a defendant's obligation to pay can be modified or forgiven in a subsequent hearing pursuant to RCW 10.01.160(4), the order authorizing the debt in the first place does not change. Therefore, the imposition of LFOs is ripe for review.

c. Remand for resentencing is the proper remedy.

Because the imposition of LFOs without inquiring into Ms. Witt's ability to pay constitutes a sentencing error, this Court should vacate the order imposing LFOs and remand for resentencing.

3. The trial court failed to orally admonish Ms. Witt that she had lost her right to possess a firearm as required.

At the time a person is convicted of an offense making the person ineligible to possess a firearm, the convicting court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license. RCW 9.41.047(1)(a). The convicting court must also admonish the person, orally and in writing, that he or she may not possess a firearm unless his or her right to do so is restored by a court of record. *Id.* A person loses their right to possess a firearm if convicted in this state or elsewhere of any felony. RCW 9.41.040(2)(i). “Felony”

means any felony offense under Washington law or any federal or out-of-state offense comparable to a felony offense under Washington law. RCW 9.41.010(6). Trafficking stolen property in the second degree is a Class C felony. RCW 9A.82.055(2).

Here, the trial court did not notify Ms. Witt, either orally or in writing, that she had lost her right to possess a firearm at time that the jury returned a verdict of guilty. 5/8/13 RP 142-50. The Judgment and Sentence contained a loss of firearm rights notification. CP 41. However, at the time of sentencing the court again failed to orally admonish Ms. Witt regarding her loss of firearm rights and thus failed to comply with RCW 9.41.047(1)(a). 5/20/13 RP 154-60. This Court should remand to the trial court for a hearing in compliance with the statutory firearm notifications.

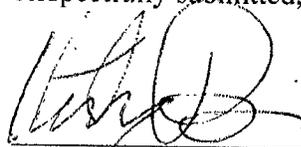
E. CONCLUSION

The trial court should reverse Ms. Witt's conviction and remand for a new trial because the manifestly unreasonable admission of evidence regarding Ms. Witt's delivery of a controlled substance was prejudicial error. Alternatively, the imposition of legal financial obligations without complying with the dictates of RCW 10.01.160(3) constitutes a sentencing error and this Court should remand for resentencing. Lastly, the trial court failed to comply with the notification requirements regarding Ms. Witt's

loss of firearm rights and therefore this Court should remand for a hearing that complies with these statutory requirements.

DATED this 27th day of February, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Whitney Rivera', written over a horizontal line.

WHITNEY RIVERA, WSBA #38139
Washington Appellate Project
Attorney for Appellant

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

| | | |
|----------------------|---|----------------|
| STATE OF WASHINGTON, |) | |
| |) | |
| RESPONDENT, |) | |
| |) | |
| v. |) | NO. 45049-6-II |
| |) | |
| CHANDRA WITT, |) | |
| |) | |
| APPELLANT. |) | |

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SIGNED IN SEATTLE, WASHINGTON THIS 28TH DAY OF FEBRUARY, 2014.

x _____ 

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WASHINGTON APPELLATE PROJECT

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