

NO. 35346-6-II

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

STATE OF WASHINGTON, Respondent

v.

NICOLE ANDREA TYRER, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN P. WULLE
CLARK COUNTY SUPERIOR COURT CAUSE NO. 06-1-00822-7

BRIEF OF RESPONDENT

Attorneys for Respondent:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

MICHAEL C. KINNIE, WSBA #7869
Senior Deputy Prosecuting Attorney

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TABLE OF CONTENTS

RESPONSE TO ASSIGNMENT OF ERROR.....	1
CONCLUSION.....	2

TABLE OF AUTHORITIES

Cases

<u>State v. Freeman</u> , 153 Wn.2d 765, 770, 108 P.3d 753 (2005).....	1
<u>State v. Michielli</u> , 132, Wn.2d 229, 238-239, 937 P.2d 587 (1997).....	1
<u>State v. Vladovic</u> , 99 Wn.2d 413, 662 P.2d 853 (1983)	1

RESPONSE TO ASSIGNMENT OF ERROR

The assignment of error raised by the defendant in her brief deals with a claim of double jeopardy as it relates to Identity Theft which was charged in Count 1 of the Third Amended Information (CP 9) and Criminal Impersonation as charged in Count 2 of the Third Amended Information. A copy of the Third Amended Information (CP 9) is attached hereto and by this reference incorporated herein.

The State of Washington has no problems with the case law cited by the defense. It is just wrong factually. The Judgment and Sentence that was entered in this case (CP 98) is attached hereto and by this reference incorporated herein. On page 2 of that Judgment and Sentence, it indicates that Count 1 (Identity Theft in the Second Degree) merges with Counts 2, 3, and 4. In other words, there is no double punishments and there is no violation of double jeopardy.

The double jeopardy doctrine does not preclude the State from bringing multiple charges and the jury from convicting on all charged counts. State v. Freeman, 153 Wn.2d 765, 770, 108 P.3d 753 (2005). The State may bring and the jury may consider multiple charges arising from the same criminal conduct in a single proceeding. State v. Michielli, 132, Wn.2d 229, 238-239, 937 P.2d 587 (1997). The trial court used the merger doctrine (State v. Vladovic, 99 Wn.2d 413, 662 P.2d 853 (1983))

because it recognized that elements and issues were nearly identical between the concepts of criminal impersonation and identity theft.

CONCLUSION

The State submits that the defendant was not additionally punished as a result of these convictions because of the use of merger by the trial court. There is nothing here to appeal and the trial court should be affirmed in all respects.

DATED this 20 day of April, 2007.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By:


MICHAEL C. KINNIE, WSBA#7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

THIRD AMENDED INFORMATION

FILED
AUG 09 2006
JoAnne McBride, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

NICOLE ANDREA TYRER
AKA NICHOLE ANDREA TYRER,

Defendant.

THIRD AMENDED INFORMATION

No. 06-1-00822-7

(VPD 06-6043)

COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:

COUNT 01 - IDENTITY THEFT IN THE SECOND DEGREE - 9.35.020(3)

That she, NICOLE ANDREA TYRER AKA NICHOLE ANDREA TYRER, in the County of Clark, State of Washington, between January 9, 2006 and March 22, 2006, did knowingly obtain, possess, use or transfer a means of identification or financial information of another person, to-wit: Meagan Campbell, with the intent to commit or to aid the commission of any crime; contrary to Revised Code of Washington 9.35.020(3).

Further, the defendant has committed multiple current offenses and her offender score results in some of the current offenses going unpunished.

COUNT 02 - CRIMINAL IMPERSONATION IN THE FIRST DEGREE - 9A.60.040(1)

That she, NICOLE ANDREA TYRER AKA NICHOLE ANDREA TYRER, in the County of Clark, State of Washington, on or about March 22, 2006, did assume a false identity, to-wit: Meagan Campbell, and did an act in such assumed character with the intent to defraud another or for any other unlawful purpose; contrary to Revised Code of Washington RCW 9A.60.040(1)(a).

Further, the defendant has committed multiple current offenses and her offender score results in some of the current offenses going unpunished.

COUNT 03 - FORGERY - 9A.60.020(1)(a)(b)

That she, NICOLE ANDREA TYRER AKA NICHOLE ANDREA TYRER, in the County of Clark, State of Washington, on or about January 9, 2006, with intent to injure or defraud did falsely make, complete or alter a written instrument described as follows, to-wit: Citation No. 4753438

THIRD AMENDED INFORMATION - 1
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CLARK COUNTY PROSECUTING ATTORNEY
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VANCOUVER, WASHINGTON 98666-5000
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1 purportedly signed by Meagan Campbell, or knowing the same to be forged, did put off as true
2 to Trooper Bettger of the Washington State Patrol, such written instrument, contrary to Revised
3 Code of Washington 9A.60.020 (1)(a) and/or (1)(b).

4 Further, the defendant has committed multiple current offenses and her offender score results in
5 some of the current offenses going unpunished.

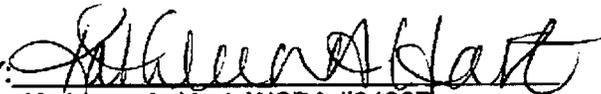
6 **COUNT 04 - FORGERY - 9A.60.020(1)(a)(b)**

7 That she, NICOLE ANDREA TYRER AKA NICHOLE ANDREA TYRER, in the County of Clark,
8 State of Washington, on or about February 4, 2006, with intent to injure or defraud did falsely
9 make, complete or alter a written instrument described as follows, to-wit: Citation No. 90192
purportedly signed by Meagan Campbell, or knowing the same to be forged, did put off as true
to Officer Navine Sharma of the Vancouver Police Department, such written instrument,
contrary to Revised Code of Washington 9A.60.020 (1)(a) and/or (1)(b).

10 Further, the defendant has committed multiple current offenses and her offender score results in
11 some of the current offenses going unpunished.

12 ARTHUR D. CURTIS
13 Prosecuting Attorney in and for
14 Clark County, Washington

15 Date: August 7, 2006

16 BY: 
17 Kathleen A. Hart, WSBA #24207
18 Deputy Prosecuting Attorney

DEFENDANT: NICOLE ANDREA TYRER AKA NICHOLE ANDREA TYRER			
RACE: W	SEX: F	DOB: 6/21/1981	
DOL: TYRER-NA-190L1 WA		SID: WA19897564	
HGT: 504	WGT: 130	EYES: HAZ	HAIR: BLN
WA DOC: 815053		FBI: 502857NB8	
LAST KNOWN ADDRESS(ES):			
O - 3513 NE 52ND ST, VANCOUVER WA			
O - 3207 FAIRMOUNT AVE, VANCOUVER WA			
O - 4800 NE 63RD AVE, VANCOUVER WA			

APPENDIX "B"

FELONY JUDGMENT AND SENTENCE PRISON

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SEP 08 2006

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,
v.
NICOLE ANDREA TYRER, aka NICHOLE ANDREA
TYRER,
Defendant.
SID: WA19897564
DOB: 6/21/1981

No. 06-1-00822-7
**FELONY JUDGMENT AND SENTENCE
(FJS)**
PRISON
Clerk's action required;
 Paragraph 4.5 (SDOSA), 4.15.2,
 5.3, 5.6 and 5.8

I. HEARING 03⁰ 9 05742 1

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 8/9/06
(Date)
by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	IDENTITY THEFT IN THE SECOND DEGREE	9.35.020(3)	1/9/2006 to 3/22/2006
02	CRIMINAL IMPERSONATION IN THE FIRST DEGREE	9A.60.040(1)	3/22/2006
03	FORGERY	9A.60.020(1)(a)(b)	1/9/2006
04	FORGERY	9A.60.020(1)(a)(b)	2/4/2006

(If the crime is a drug offense, include the type of drug in the second column.)
as charged in the Third Amended Information.

- Additional current offenses are attached in Appendix 2.1.
- The Court finds that the defendant is subject to sentencing under **RCW 9.94A.712.**

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- A special verdict/finding for use of **firearm** was returned on Count(s) _____ RCW 9.94A.602, .533.
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on Count(s) _____ RCW 9.94A.602, .533.
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.835.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020:
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) 1 (merges with counts 2,3,4) RCW 9.94A.589 counts 2,3,4 do not merge.
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- 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):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
See Attached Criminal History					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: _____

- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____
- The State has moved to dismiss count(s) _____
- The defendant is found NOT GUILTY of Counts _____

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS-NESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	10	II	43 MONTHS to 57 MONTHS		43 MONTHS to 57 MONTHS	5 YEARS \$10000
02	12	0	0 DAYS to 365 DAYS		0 DAYS to 365 DAYS	5 YEARS \$10000
03	12	I	22 MONTHS to 29 MONTHS		22 MONTHS to 29 MONTHS	5 YEARS \$10000
04	12	I	22 MONTHS to 29 MONTHS		22 MONTHS to 29 MONTHS	5 YEARS \$10000

* (F) Firearm, (D) other Deadly Weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present.

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) 1, 2, 3 & 4.

The defendant and the State stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the Sentencing Reform Act.

Aggravating factors were stipulated to by the defendant, admitted by the defendant in the Guilty Plea, found by the court ~~after the defendant waived jury trial~~, found by jury by special interrogatory.

The defendant waives his right to have a jury determine any issues regarding the imposition of an exceptional sentence upward. *Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct 2348, 147 L. Ed 2d 435 (2000), Blakely v. Washington, ___ U.S. ___, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).*

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 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A750/753.

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

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

2.7 If no formal written plea agreement exists, the agreement is as set forth in the Defendant's Statement on Plea of Guilty.

III. JUDGMENT

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

3.2 The Court DISMISSES Counts

The defendant is found NOT GUILTY of Counts _____.

3.3 There do do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RTN/RJN	\$ none	Restitution to be paid to: <input type="checkbox"/> Victim(s) and amounts to be set by separate court order		RCW 9.94A.750/.753
PCV	\$500.00	Victim Assessment		RCW 7.68.035
	\$ _____	DV Penalty Assessment		RCW 10.99.080
CRC		Court Costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190		
	\$ 200.00	Criminal filing fee	FRC	RCW 9.94A.505
	\$ <u>370.²⁰</u>	Witness costs (<u>\$106.⁰⁰ = motel; \$40.- per diem; \$223.⁰⁰ = air fare.</u>)	WFR	RCW 10.01.160 and RCW 2.40.010
	\$ _____	Sheriff Service Fees	SFR/SFS/SFW/WRF	RCW 10.01.160 and 36.18.040
	\$ 250.00	Jury Demand Fee \$ 250.00	JFR	RCW 10.01.160 and 10.46.190
	\$ _____	Extradition costs	EXT	RCW 9.94A.505
	\$ _____	Other Costs _____		RCW 9.94A.760
PUB	\$700.00 \$ 425.00	Fees for court appointed attorney Trial per diem if applicable		RCW 9.94A.505/.760/.030
WFR	\$ _____	Court appointed defense expert and other defense costs		RCW 9.94A.505, .760, 9.94A.030
FCM/MTH	\$500.00	Fine		RCW 9A.20.021
CDF/LDI/FCD/NTF/SAD/SDI	\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)		RCW 9.94A.760
CLF	\$ _____	Crime lab fee - <input type="checkbox"/> Suspended due to Indigency		RCW 43.43.690
	\$100.00	Felony DNA Collection fee (for crimes committed on or after July 1, 2002)		RCW 43.43.7541

RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) To: _____ (List Law Enforcement Agency)	RCW 38.52.430
	\$ _____	Other Costs for: _____	RCW 9.94A.760

The above financial obligations do not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.750/753. A restitution hearing:

shall be set by the prosecutor

is scheduled for _____

Restitution ordered above shall be joint and several with the co-defendants listed in the Information or identified below: _____

The Department of Corrections/Superior Court Clerk Collections Unit shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the Superior Court Clerk and on a schedule established by the Department of Corrections/Superior Court Clerk Collections Unit, commencing immediately, unless the court specifically sets forth the rate here:

Not less than \$ _____ per month commencing _____
RCW 9.94A.760.

The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit, 500 West 8th Street, Suite 50, Vancouver, Washington. The defendant must report any changes in address and phone numbers to the Collections Unit within 72 hours of moving.

In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____. (JRL) RCW 9.94A.760.

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. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190.

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

HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24.340.

Failure to provide the DNA/HIV testing sample is a violation of this Judgment and Sentence and a warrant may be issued to compel compliance.

4.3 The defendant shall not have contact with Meagan Laurel Campbell including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 5 years (not to exceed the maximum statutory sentence).

Supplemental Domestic Violence Protection Order or Antiharassment Order attached as Form 4.3.

4.4 OTHER: _____

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

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

57 months on Count 01 (concurrent w/counts 2,3,4)

12 months on Count 02

29 months on Count 03

29 months on Count 04

Actual number of months of total confinement ordered is: 70 months
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

The Confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

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: Count 2 is consecutive to counts 3+4. Count 3 is consecutive to counts 2+4. Count 4 consecutive to counts 2+3.
The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein: concurrent w/PO's: 91-1-02211-5 + 00-1-00733-0.
Confinement shall commence immediately unless otherwise set forth here: _____.

(b) CONFINEMENT. RCW 9.94A.712 (Sex Offense, only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count	minimum term	maximum term
01		
02		
03		
04		

(c) The defendant shall receive credit for time served of 141 days that confinement being solely under this cause number. RCW 9.94A.505.

4.6 COMMUNITY CUSTODY does not apply.

4.7 WORK ETHIC CAMP does not apply.

4.8 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 Department of Corrections:

4.9 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).

4.10 This case shall not be placed on inactive or mail-in status until all financial obligations are paid in full.

4.11 When there is a reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purposes of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.

4.12 If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the community custody time is tolled during that time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections for supervision.

4.13 Other:

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 ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes 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 9.94A505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

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.7606.

5.4 **RESTITUTION HEARING.**

Defendant waives any right to be present at any restitution hearing (sign initials): _____

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **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

Cross off if not applicable:

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington state, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing a residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order. RCW 9A.44.130(7).

5.8 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately punch the defendant's Washington Driver's license or permit to drive with a "C" as directed by the Department of Licensing pursuant to RCW 46.20.270.

5.9 If the defendant is or becomes subject to a court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

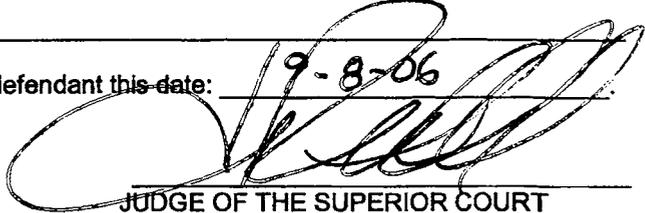
5.10 Persistent Offense Notice

The crime(s) in count(s) _____ is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 (28 & 32(a)), 9.94A.505

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

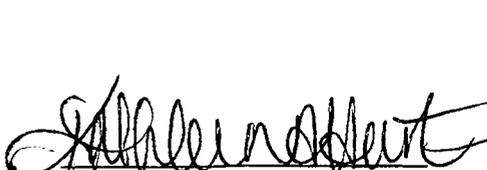
5.11 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 9-8-06



JUDGE OF THE SUPERIOR COURT

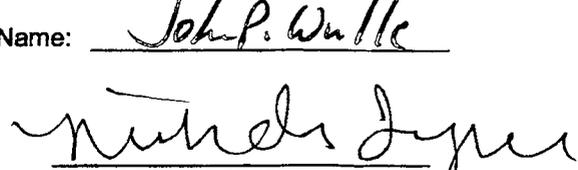
Print Name: John P. Wulle



Kathleen A. Hart, WSBA #24207
Deputy Prosecuting Attorney



Paul R Bruce, WSBA #08861
Attorney for Defendant



NICOLE ANDREA TYRER
Defendant

SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK
STATE OF WASHINGTON, Plaintiff,

NO. 06-1-00822-7

v.

NICOLE ANDREA TYRER, aka NICHOLE ANDREA
TYRER,

**WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS**

Defendant.

SID: WA19897564
DOB: 6/21/1981

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
01	IDENTITY THEFT IN THE SECOND DEGREE	9.35.020(3)	1/9/2006 to 3/22/2006
02	CRIMINAL IMPERSONATION IN THE FIRST DEGREE	9A.60.040(1)	3/22/2006
03	FORGERY	9A.60.020(1)(a)(b)	1/9/2006
04	FORGERY	9A.60.020(1)(a)(b)	2/4/2006

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of :

COUNT	CRIME	TERM
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01	IDENTITY THEFT IN THE SECOND DEGREE	57 months
02	CRIMINAL IMPERSONATION IN THE FIRST DEGREE	12 months
03	FORGERY	29 months
04	FORGERY	29 months

These terms shall be served concurrently to each other unless specified herein: *Count 1 concurrent w/lets 2,3,4*
Count 2 is consecutive to counts 3+4; count 3 is consecutive to counts 2+4,
 The defendant has credit for 141 days served. *Count 4 is consecutive to counts 2+3.*

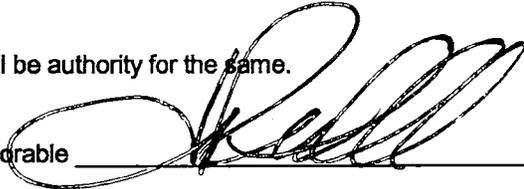
The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

concurrent w/pv's: 00-1-00933-0 + 97-1-02116-5

And these presents shall be authority for the same.

HEREIN FAIL NOT.

WITNESS, Honorable



John P. Walle

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 9/8/06

JOANNE McBRIDE, Clerk of the
Clark County Superior Court

By: *Sherry W. Paul*
Deputy



VOTING RIGHTS STATEMENT: RCW 10.64.____. I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the Indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: Nichole Tyrer 2005 Wash. Laws 246 § 1.

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, JOANNE McBRIDE, 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.

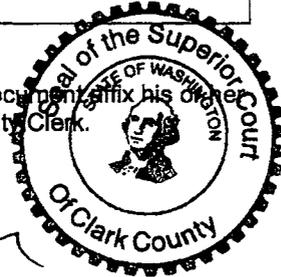
WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT NICOLE ANDREA TYRER	
Alias name, DOB: NICHOLE ANDREA TYRER	
SID No. WA19897564 (If no SID take fingerprint card for State Patrol)	Date of Birth 6/21/1981
Race: W	Sex: F
Driver License No. TYRER-NA-190L1	Driver License State: WA
FBI No. 502857NB8	Local ID No. (CFN): 153526
	Corrections No. 815053
Other _____	

FINGERPRINTS 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 Cherry Walker, Deputy Clerk.
Dated: 9/8/06

DEFENDANT'S SIGNATURE: Nichole Tyrer



Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
NICOLE ANDREA TYRER,
Defendant

No. 06-1-00822-7

APPENDIX 2.2

DECLARATION OF CRIMINAL HISTORY

COME NOW the parties, and do hereby declare, pursuant to RCW 9.94A.100 that to the best of the knowledge of the defendant and his/her attorney, and the Prosecuting Attorney's Office, the defendant has the following undisputed prior criminal convictions:

CRIME	COUNTY/STATE CAUSE NO.	DATE OF CRIME	DATE OF SENTENCE	PTS.
FORGERY	CLARK/WA 99-1-02216-5	12/17/1999	8/21/2000	1
PSP 2	CLARK/WA 00-1-00933-0	5/15/2000	8/21/2000	1
BAIL JUMP	CLARK/WA 99-1-02216-5	6/7/2000	8/21/2000	1
PSP 2	CLARK/WA 00-1-01961-1	10/27/2000	11/30/2000	1
FORGERY	CLARK/WA 01-1-01527-3	8/30/2001	1/10/2002	1
PSP 2 (2 COUNTS)	CLARK/WA 01-1-01527-3	9/30/2001	1/10/2002	2
PSP 2	CLARK/WA 03-1-01587-3	8/5/2003	10/15/2003	1
IDENTITY THEFT AND PCS	HILLSBORO/OR C001854CR	7/6/2000	7/20/2000	2

The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

DECLARATION OF CRIMINAL HISTORY
Revised 9/14/2000

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET
PO BOX 5000
VANCOUVER WA 98666-5000
(360) 397-2261

DATED this 8th day of Sept. ~~August~~, 2006.

[Signature]
Defendant

[Signature]
Attorney for Defendant

[Signature]
Kathleen A. Hart, WSBA#24207
Deputy Prosecuting Attorney

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SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

NICOLE ANDREA TYRER, Defendant.

No. 06-1-00822-7

**FINDINGS OF FACT AND CONCLUSIONS OF
LAW FOR AN EXCEPTIONAL SENTENCE**

APPENDIX 2.4 JUDGMENT AND SENTENCE

An exceptional sentence above within below the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law:

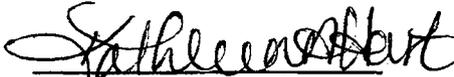
I. FINDINGS OF FACT

1. Defendant has committed multiple current offenses.
2. Defendant has an offender score of 10 when scoring the crime of Identity Theft in the Second Degree; Defendant has an offender score of 12 when scoring the crime of Criminal Impersonation in the First Degree; Defendant has an offender score of 12 when scoring each crime of Forgery.
3. Defendant's high offender score results in some of the current offenses going unpunished if defendant were sentenced within the standard range.

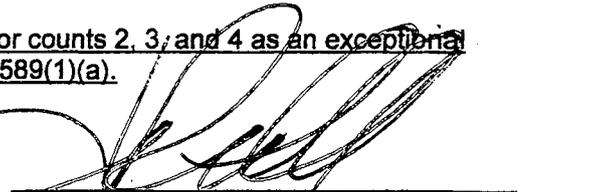
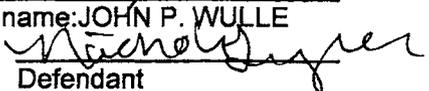
II. CONCLUSIONS OF LAW

1. The defendant's prior criminal history, high offender score, and multiple current offenses provide substantial and compelling reasons justifying an exceptional sentence in this case.
2. The court imposes an exceptional sentence for the purpose of punishing the defendant for committing multiple current offenses that would otherwise go unpunished due to her high offender score.
3. The court has authority to impose consecutive sentences for counts 2, 3, and 4 as an exceptional sentence, pursuant to RCW 9.94A.535(2)(c) and RCW 9.94A.589(1)(a).

Dated: Sept. 8, 2006


Deputy Prosecuting Attorney
WSBA # 24207
Print name: Kathleen A. Hart


Attorney for Defendant
WSBA #
Print name: Paul Bruce


JUDGE Print name: JOHN P. WULLE

Defendant

Findings of Fact/Conclusions Exceptional Sentence
RCW 9.94A.110., .120)(WPF CR 84.0400 (8/1999))

CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

