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A. SUMMARY OF ARGUMENT

An information must contain all the essential elements of the crime charged. Failure to include all the essential elements deprives an individual of the constitutional rights guaranteed by the Sixth Amendment to the United States Constitution and Const. art. I, § 22.

The information does not contain all of the essential elements of vehicular assault. It does not include the essential element of “substantial” bodily harm; the information only charged Corrina Lynch with driving under the influence.

The trial court’s ruling permitting the State to amend the information to include the element of “substantial” deprived Lynch of her constitutional rights under the Sixth Amendment to the United States Constitution and Const. art. I, § 22.

A motion to amend the information after the State closed its case-in-chief was not timely. It violates CrR 2.1(d), as well as the Sixth Amendment and Const. art. I, § 22.

B. ASSIGNMENTS OF ERROR

1. Whether the trial court erred by permitting the State to amend the information to add an additional element of “substantial” to the charge of vehicular assault after the State rested its case-in-chief where the information failed to include all the essential elements of the crime of vehicular assault, under RCW 46.61.522.

2. Whether the mandatory joinder rule under CrR 4.3.1(b) require reversal and dismissal of the charge with prejudice.

3. Alternatively, if this Court finds that CrR 4.3.1(b) does not require dismissal with prejudice, counsel provided ineffective assistance by failing to move for dismissal without prejudice.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. The mandatory joinder rule contained in CrR 4.3.1(b) requires all related charges to have been brought in the original information. Here, the information putatively charges the appellant with vehicular assault, but does not allege that the appellant caused “substantial” bodily harm, but instead alleges that the appellant caused “bodily harm.” The information also charges the appellant with driving under the influence. Is dismissal with prejudice required under CrR 4.3.1(b) where the State failed to charge a crime other than DUI in the information? Assignment of Error No. 1.

2. A charging document in Washington must allege all statutory and nonstatutory elements. Where the information does not allege that the appellant caused “substantial” bodily harm, but instead alleges that the appellant caused “bodily harm,” does the information include the essential elements of the offense of vehicular assault? Assignment of Error No. 2.

3. Where the essential element of causing “substantial” bodily harm is omitted from the information, does the filing of an amended information alleging that the appellant caused “substantial bodily harm” constitute an amendment to a lesser degree or lesser included offense? Assignment of Error No. 2.

4. Where the information fails to allege an offense because it omits an essential element and Washington law bars amending the charge after the State has rested its case-in-chief unless the amendment is to a lesser degree of the same charge or a lesser included offense, may the prosecution circumvent the constitutional rule by reopening its case for the sole purpose of filing an amended information? Assignment of Error No. 2.

5. In the alternative, if CrR 4.3.1(b) does not require dismissal with prejudice, did trial counsel provide ineffective assistance by failing to move for dismissal where the trial court judge stated that he would dismiss the charge of vehicular assault without prejudice if counsel moved for dismissal? Assignment of Error No. 3.

C. STATEMENT OF THE CASE

1. Procedural history:

Corrina Lynch [Lynch] was charged by information filed in Grays Harbor County Superior Court with one count of vehicular assault,

contrary to RCW 46.61.522. Clerk's Papers [CP] at 1-2. The information alleged:

That the said defendant, Corrina A. Lynch, in Grays Harbor County, Washington, on or about May 25, 2007, being the operator of a motor vehicle, did operate said vehicle while under the influence of or affected by intoxicating liquor and did cause bodily harm to Ines L. Ontiveros[.]

CP at 1-2. Appendix A.

Lynch's counsel moved to suppress statements and evidence obtained by law enforcement. CP at 8-10. Report of Proceedings [RP] (August 2, 2007 Suppression Hearing) at 2-54. Superior Court Judge David Foscue admitted statements made by Lynch and evidence obtained in a search of Lynch's car pursuant to her arrest on May 25, 2007. RP (August 2, 2007) at 54. The court entered findings of fact and conclusions of law on February 28, 2008. CP at 24-28.

Lynch was tried by a jury on October 23 and 24, 2007, the Honorable F. Mark McCauley presiding.

After the State rested, defense noted an exception to giving the 'to convict' instruction for vehicular assault. Counsel argued that the essential element of "substantial bodily harm" was not alleged in the information. RP at 188, 195-96. Defense counsel filed a memorandum of law in conjunction with his motion. The State moved to reopen its case-in-chief in order to amend the information. RP at 188, 196.

After hearing argument, Judge McCauley gave the defense a choice: Lynch could either move for dismissal without prejudice or the court would permit the State to reopen its case in order to amend the charging document to include the word “substantial.” RP at 199. Defense counsel argued that the State could not amend its information to increase the charge and that he was not going to move for dismissal. RP at 199-200. Judge McCauley stated “[s]ince you’re not moving for a dismissal, without prejudice, I’ll grant the State’s request to amend the information.” RP at 200. CP at 51. The amended information included the word “substantial.” CP at 52; RP at 200. Appendix B. Lynch entered a plea of not guilty to the amended information. RP at 201.

The State asked for special verdict that the harm was substantially greater than the harm required to meet the requirements of the statute. RP at 211. CP at 50.

The defense did not strongly contest that Lynch was driving under the influence of alcohol. RP at 216, 218. Defense counsel argued that the rear brakes did not work on the Monte Carlo, and that as a result the car lost 40 percent of its braking power. RP at 216. Counsel argued that the State could not prove that Lynch's intoxication was the proximate cause of Ontiveros' injury, and argued that the car's defective brakes were the cause of its failure to stop. RP at 218.

The jury found Lynch guilty of vehicular assault as charged in the amended information, and found by special verdict that the injuries substantially exceeded the level of bodily harm necessary to satisfy the elements of vehicular assault. RP at 223; CP at 48, 49, 50.

Defense counsel unsuccessfully moved for arrest of judgment pursuant to CrR 7.4 on the grounds that the court allowed the State to reopen its case solely for the purpose of amending the information to add the word “substantial” preceding the phrase “bodily harm.” CP at 55-57.

On January 22, 2008, the court imposed an exceptional sentence of 36 months pursuant to the special verdict. RP at 241; CP at 65.

Timely notice of appeal was filed on January 22, 2008. CP at 70-78. This appeal follows.

2. Trial testimony:

Corrina Lynch drove from the 101 Bar and Grill in Hoquiam to her residence at the Little River Apartments in Hoquiam, Washington on May 25, 2007. RP at 19, 32, 46. Entering the parking lot of the apartments, Lynch’s vehicle hit Ines Ontiveros, breaking his leg between her vehicle and a parked pickup truck. RP at 20.

Lynch worked at the Detour Bar and Grill. RP at 34. On May 25 she left the Little River Apartments at 1:30 p.m. and drove to the Detour to

pick up her paycheck. She and her boss then went to the 101 Bar to drink. RP at 46-47. She left the 101 Bar and drove home at approximately 6:30 p.m. RP at 47, 160. Before she left, she poured a beer into a silver water jug to drink on the way home. RP at 47.

The 101 Bar is located approximately two and one half miles from the apartments. RP at 32, 33. In the apartment parking lot, Lynch's black Chevrolet Monte Carlo hit a Ford Ranger pick up truck, trapping Ines Ontiveros' right leg between the two vehicles. RP at 20, 47. When police arrived Lynch was standing by the passenger side of the Monte Carlo. RP at 21.

Lynch told police that she was the driver and that when she drove into the parking lot she did not see Ontiveros and hit him, pinning him between the front bumper of the Monte Carlo and the rear bumper of the Ford Ranger. RP at 23, 51. Exhibit 10.

Officer Mitchell stated that Lynch was staggering around and that her speech was slurred and repetitive. RP at 23. Lynch told Mitchell that she had consumed two beers and one rum and Coke with her boss at the 101 Bar over the course of several hours. RP at 23, 33. Lynch told Hoquiam police officer Jeff Salstrom "okay, let's play the game" and said that she knew that she was going to prison. RP at 67, 68. She was unable to complete field sobriety tests. RP at 68.

Lynch was placed under arrest and the Monte Carlo was searched. RP at 26, 68. Inside the car, police found a silver water jug that smelled like beer. RP at 27. Exhibit 16.

The cars were separated by police using a floor jack to lift the Ranger and a tow strap to pull the Monte Carlo from the truck. RP at 28. Ontiveros was taken to the hospital. RP at 30, 162. Lynch was transported to a fire station, where she was questioned by police. RP at 31, 35. Lynch's blood was drawn at 7:27 or 7:33 p.m. RP at 35, 37, 165. Lynch was then transported to the Hoquiam Police Station. RP at 38.

Lynch's blood test showed that she had an ethanol concentration of .31 grams per 100 milliliters of blood. RP at 183.

Ontiveros' right tibia was fractured with bone protruding through the skin, requiring emergency surgery. RP at 69-70, 73-77. Following surgery, Ontiveros was transported to Harborview Medical Center in Bellevue, Washington for further treatment. RP at 76, 100. He remained at Harborview for 17 days and had approximately six surgeries. RP at 78-80, 100.

There were tire skid marks in the parking lot left from the Monte Carlo; the right skid mark was almost 51 feet in length, and the left was 46 feet. RP at 115. Joseph Strong of the Hoquiam Police Department opined that the car's back brakes were not functioning, or had limited functioning.

RP at 115. Officer Strong tested the car at 18 miles per hour, which left a skid mark of 37 feet. At 31 miles per hour the car left a skid mark of 77 feet. RP at 123. He calculated the car's minimum speed at 26 and 29 miles per hour at the time of the incident. RP at 126.

During an inspection of the Monte Carlo, David Temple determined that both rear brake cylinders had "frozen" and were not operable. RP at 149, 157, 158.

Lynch did not testify at trial. RP at 202.

D. ARGUMENT

1. **CrR 2.1(d) AND MANDATORY JOINDER RULES BAR THE STATE FROM AMENDING THE INFORMATION TO CHARGE LYNCH WITH VEHICULAR ASSAULT WHERE SHE WAS CHARGED WITH DRIVING UNDER THE INFLUENCE FROM THE SAME INCIDENT**

The language of CrR 2.1(d) is clear:

The court may permit any information or bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

"CrR 2.1(e) [now CrR 2.1(d)] necessarily operates within the confines of article 1, section 22." *State v. Pelkey*, 109 Wn.2d 484, 490, 745 P.2d 854 (1987).

The State's motion to amend the information was highly prejudicial. Lynch submits that the amendment of the information to

include the essential elements of vehicular assault is subject to mandatory joinder under CrR 4.3. Mandatory joinder rules bar the State from charging Lynch with vehicular assault—an offense that was required to be charged at the time she was charged with driving under the influence—because both offenses were related.

CrR 4.3(a) states in part:

Two or more offenses may be joined in one charging document . . . when the offenses . . .

- (1) Have the same or similar character, even if not part of a single scheme or plan; or
- (2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.

Additionally, CrR 4.3.1(b) provides in relevant part:

(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for related offense unless a motion for joinder of these offenses was previously denied or the right of joinder was waived as provided in this rule. A motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting attorney was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.

The mandatory joinder rule is applicable to the facts and circumstances of Lynch's case. Under CrR 4.3.1(b)(3), the State cannot charge a defendant with a related offense after it first tried the defendant

for one offense and elected not to include the related offense in the original information. *State v. Dallas*, 126 Wn.2d 324, 328-29, 892 P.2d 1082 (1995); *State v. Anderson*, 96 Wn.2d 739, 740-41, 638 P.2d 1205, *cert. denied*, 459 U.S. 842 (1982); *State v. Pelkey*, 109 Wn.2d 484, 491, 745 P.2d 854 (1987).

Mandatory joinder applies to “conduct involving a single criminal incident or episode.” *State v. Lee*, 132 Wn.2d 498, 503, 939 P.2d 1223 (1997) (“[W]e hold that same conduct ‘for purposes of deciding what offenses are related offenses’ and, therefore, subject to mandatory joinder is conduct involving a single criminal incident or episode.”) According to *Lee*, this conduct includes all offenses based on the same series of physical acts, or a series of acts constituting the same criminal episode. *Id.*

The rationale behind the mandatory joinder rule is

To protect defendants from “successive prosecutions based upon essentially the same conduct, whether the purpose in so doing is to hedge against the risk of an unsympathetic jury at the first trial, to place a ‘hold’ upon a person after he has been sentenced to imprisonment, or simply to harass by multiplicity of trials.” When multiple charges stem from the same criminal episode, the State must prosecute all related charges within the speedy trial time limits.

State v. Harris, 130 Wn.2d 35, 43-44, 921 P.2d 1052 (1996), quoting *State v. McNeil*, 20 Wn.App. 527, 532, 582 P.2d 524 (1978).

In one case, the defendant was originally convicted of first degree

murder based upon “extreme indifference,” which was later dismissed by the Supreme Court as inapplicable to the defendant’s conduct. *State v. Anderson (Anderson I)*, 94 Wn.2d 176, 192, 616 P.2d 612 (1980). On remand, the State filed first degree premeditated murder charges against Anderson. *State v. Anderson (Anderson II)*, 96 Wn.2d 739, 743, 638 P.2d 1205 (1982). The Supreme Court dismissed the first degree murder charge because it violated the mandatory joinder rule. *Anderson II*, 96 Wn.2d at 740-41.

In *State v. Dallas*, the Court reviewed the *Anderson II* decision, noting the mandatory joinder rule prevents the State from filing new charges based upon alternative means of committing the crime that were not charged in the original information. 126 Wn.2d at 239. The Court said that lesser included offenses, however, could be charged on remand because such charges do not need to be charged at all in the original information. *Dallas*, 126 Wn.2d at 329 (citing RCW 10.61.006).

Recognizing Supreme Court precedent, the *Dallas* Court similarly dismissed a related offense the State chose not to charge in the original information as required under the mandatory joinder rule. *Dallas*, 126 Wn.2d at 332. The Court concluded,

Thus, CrR 4.3(c) was intended as a limit on the prosecutor. As such, it does not differentiate based upon the prosecutor’s intent. Whether the prosecutor intends to

harass or is simply negligent in charging the wrong crime, CrR4.3(c) applies to require a dismissal of the second prosecution.

126 Wn.2d at 332, citing *State v. Russell*, 101 Wn.2d 349, 353 n.1, 678 P.2d 332 (1984) (Emphasis added.) The *Dallas* Court dismissed the State's case with prejudice. *Id.* Thus, the State cannot retry a defendant on a related charge under the mandatory joinder rule.

Applying the mandatory joinder rule to Lynch's case, there was a single event which resulted in Ontiveros' injury. The State successfully charged Lynch with driving under the influence in its information, but failed to charge any other crimes arising out of this single event. The State's failure to charge any other potential offenses bars it from charging Lynch with any other offense arising out of Ontiveros' injury.

Accordingly, the only remedy in this case is to reverse Lynch's conviction and dismiss the charge of vehicular assault with prejudice. *Dallas*, 126 Wn.2d at 332; *Pelkey*, 109 Wn.2d at 491.

2. **ALTERNATIVELY, THE LOWER COURT ABUSED ITS DISCRETION BY PERMITTING THE STATE TO AMEND ITS INFORMATION AFTER RESTING ITS CASE-IN-CHIEF, IN VIOLATION OF PELKEY AND VANGERPEN.**

After the prosecution presented its case-in-chief and rested, Lynch's counsel took exception to giving the "to convict" instruction to the jury on the basis that the information failed to allege that the bodily

harm was “substantial.” RP at 187-88. The trial court agreed to dismiss without prejudice and “grant a new trial.” RP at 199. Counsel chose not to move for dismissal. RP at 199-200. The court then permitted the State to reopen its case to amend the information. RP at 200.

Article 1, § 22 of our state constitution and the Sixth Amendment to the federal constitution prohibit the State from trying an accused person for an offense not charged. *Pelkey*, 109 Wn.2d at 487. An offense is not properly charged unless the information sets forth every essential element of the crime, both statutory and nonstatutory. *State v. Kjorsvik*, 117 Wn.2d 93, 97, 812 P.2d 86 (1991). The charging document must contain: (1) the elements of the crime charged, and (2) a description of the specific conduct of the defendant which allegedly constituted that crime. *Auburn v. Brooke*, 119 Wn.2d 623, 630, 836 P.2d 212 (1992). “This doctrine is elementary and of universal application, and is founded on the plainest principle of justice.” *Pelkey*, 109 Wn.2d at 488 (quoting *State v. Ackles*, 8 Wash. 462, 464-65, 36 P. 597 (1894)).

If the State fails to meet this “essential elements” rule, it may move to amend the information to correct the error at any time prior to resting its case-in-chief. *Pelkey*, 109 Wn.2d at 490; *State v. Schaffer*, 120 Wn.2d 616, 621, 845 P.2d 281 (1993). Timely motions to amend are liberally granted. *See, Pelkey*, 109 Wn.2d at 490; CrR 2.1(d). In turn, a defendant

may move to continue the case to meet the new charge. *Id.* Indeed, if the State has waited until the day trial has begun (or later) to amend the information, the court must grant a continuance if the defendant requests one. *State v. Purdom*, 106 Wn.2d 745, 749, 725 P.2d 622 (1986). Once the State rests its case, however, it may not amend the information to correct its failure to charge a crime. *State v. Vangerpen*, 125 Wn.2d 782, 790-91, 888 P.2d 1177 (1995). This is a *per se* prohibition:

A criminal charge may not be amended after the State has rested its case in chief unless the amendment is to a lesser degree of the same charge or a lesser included offense. Anything else is a violation of the defendant's article 1, section 22 right to demand the nature and cause of the accusation against him or her.

Pelkey, 109 Wn.2d at 491.

In Lynch's case, the prosecutor asserted that the State was not intending to amend to a greater or lesser charge, but to "merely [correct] the clerical error in the original information." RP at 192. The trial court found that dismissal was merited because "the information does not contain the essential element of substantial bodily harm." RP at 195-96. Rather than dismiss the charge outright, however, the court gave defense counsel the option of moving to dismiss, or the court would grant the motion to reopen its case-in-chief and to file an amended information adding the previously omitted element. RP at 196. Defense counsel did

not move to dismiss, arguing that it was improper for the State to be permitted to amend the information. RP at 200.

Permitting the state to reopen to file an amended information was an abuse of discretion. CrR 2.1(d) permitting amendment of the information is limited by the application of Washington Const. Art. I, §22, requiring the defendant be adequately informed of a charge he is to meet at trial. *Pelkey*, 109 Wn.2d at 487-90. The *Pelkey* Court articulated a bright-line rule: “A criminal charge may not be amended after the State has rested its case in chief unless the amendment is to a lesser degree of the same charge or a lesser included offense.” 109 Wn.2d at 491; *State v. Hull*, 83 Wn.App. 786, 800, 924 P.2d 375 (1996), *rev.den.*, 131 Wn.2d 1016 (1997).

In Lynch’s case, the amended information did not seek to allege a lesser degree or included offense. Instead, the amended information charged an offense where only driving under the influence was charged in the information upon which the trial had been conducted.

The prohibition against amendment of an information after resting applies regardless of whether the omission of an element was simply a clerical error. *Vangerpen*, 125 Wn.2d at 790. Nor does it matter that the defendant was aware of the element despite its absence from the charging document. *Id.* Because the defect is constitutional, CrR 2.1’s prejudice

analysis does not apply. *Pelkey*, 109 Wn.2d at 490. Allowing the prosecutor to amend the information to meet the essential elements rule after the State has rested its case constitutes “reversible error per se even without a defense showing of prejudice.” *State v. Markle*, 118 Wn.2d 424, 437, 823 P.2d 1101 (1992).

Under *Pelkey*, allowing amendment of a constitutionally defective information after the State rests is prejudicial per se. *Pelkey*, 109 Wn.2d at 491; *Vangerpen*, 125 Wn.2d at 791. Thus, allowing the State to reopen its case to amend a constitutionally defective information is always an abuse of discretion.

Where the trial court erroneously allowed the State to amend a constitutionally defective information after resting its case, the remedy is reversal and dismissal of the charge without prejudice to the State’s ability to refile the charge. *Vangerpen*, 125 Wn.2d at 792-93. As a matter of law, the State may not amend a constitutionally defective information after it rests its case. *Pelkey*, 109 Wn.2d at 491. The proper remedy is dismissal without prejudice. *Vangerpen*, 125 Wn.2d at 792-93.

Lynch asks this Court to reaffirm *Pelkey* and *Vangerpen*, reverse the conviction for untimely amendment of the constitutionally defective information, and dismiss without prejudice to the State’s ability to refile the charge.

3. **IN THE EVENT THIS COURT FINDS THAT MANDATORY JOINDER DOES NOT REQUIRE REVERSAL AND DISMISSAL WITH PREJUDICE, LYNCH'S TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE BY FAILING TO MOVE FOR DISMISSAL.**

a. **A criminal defendant is guaranteed the effective assistance of counsel.**

The Sixth Amendment to the United States Constitution guarantees that “In all criminal prosecutions, the accused shall enjoy the Right ... to have the Assistance of Counsel for his defense.” U.S. Const. amend. VI. Similarly, Article I, § 22 of the Washington State Constitution declares that “In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel...” Wash. Const. art. I, § 22.

The right to counsel is the right to the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 686, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984) (quoting *McMann v. Richardson* 397 U.S. 759, 771 n. 14, 90 S. Ct. 1441, 25 L. Ed. 2d 763 (1970)).

Under *Strickland*, a defendant must satisfy a two-pronged test to sustain a claim of ineffective assistance of counsel: first, a defendant must show that counsel’s performance was deficient, and second, a defendant must show that the deficient performance prejudiced the defense. *Id.*

Defense counsel must employ “such skill and knowledge as will

render the trial a reliable adversarial testing process.” *State v. Lopez*, 107 Wn. App. 270, 275, 27 P.2d 237 (2001). Counsel’s performance is evaluated against the entire record. *Lopez*, 107 Wn. App. at 275.

Here, the trial court judge agreed with defense counsel that the information omitted an essential element and that it would grant a motion to dismiss without prejudice if counsel moved for dismissal. RP at 199. The court also stated that it would permit the state to reopen its case to amend the information to add the essential element of “substantial” bodily harm if defense counsel did not move for dismissal. RP at 196. Without articulating a specific reason to support dismissal with prejudice, counsel stated that he would not move for dismissal. RP at 200. The court granted the State’s motion to reopen and to file an amended information. RP at 200. Defense counsel was ineffective in failing to obtain a dismissal without prejudice.

b. Lynch was prejudiced as a result of her trial counsel’s failure to move for dismissal.

The record does not reveal any tactical or strategic reason why trial counsel would have failed to move for dismissal. Counsel argued in response to the cases cited by the State for dismissal without prejudice, “I bet that these cases are cases where the information is found to be defective and not alleging a charge at all, which isn’t the case here because

DUI has been alleged.” RP at 193. Counsel failed to produce, however, compelling authority why dismissal should be with prejudice.

As previously noted, to establish prejudice a defendant must show a reasonable probability that but for counsel’s deficient performance, the result would have been different. *Leavitt*, 49 Wn. App. at 359. The prejudice here is self evident: the trial court judge explicitly and unambiguously stated that he would grant a motion to dismiss without prejudice if requested. RP at 199. Defense counsel presented no authority why the dismissal should be with prejudice. Moreover, defense counsel **knew** that the State would be permitted to amend the information if he did not move for dismissal.

Counsel’s performance was thus deficient. Moreover, counsel’s decision not to move for dismissal was highly prejudicial to Lynch; she was deprived of her constitutional right to effective assistance of counsel, and is entitled to reversal of her conviction.

F. CONCLUSION

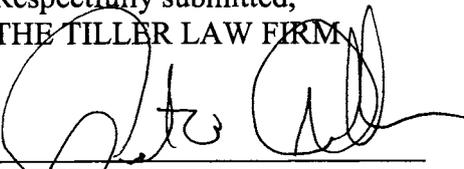
For the reasons set forth above, Corrina Lynch respectfully requests this Court to reverse her conviction and remand to the superior court with the direction that the charge be dismissed with prejudice.

In the alternative, if this court finds that mandatory joinder does not require reversal and dismissal with prejudice, Lynch requests that the conviction be reversed and dismissed without prejudice pursuant to

violation of CrR 2.1(d). Lynch also submits that trial counsel was ineffective in failing to move for dismissal when the trial court judge specifically stated that he would grant such a motion, and that this matter should be reversed on that basis.

DATED: August 29, 2008.

Respectfully submitted,
THE TILLER LAW FIRM

A handwritten signature in black ink, appearing to read 'P. B. Tiller', is written over the printed name of Peter B. Tiller.

PETER B. TILLER-WSBA 20835
Of Attorneys for Corrina Lynch

A

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OF COUNTY CLERK
GRAYS HARBOR CO. WA.

'07 MAY 29 P3 59

CHERYL BROWN
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR GRAYS HARBOR COUNTY

STATE OF WASHINGTON,

Plaintiff,

No.: 07-1-312-9

INFORMATION

v.

CORRINA A. LYNCH,
DOB: 04-20-67

Defendant.

P.A. No.: CR 07-0315

P.R. No.: HPD 07-H05859

I, H. Steward Menefee, Prosecuting Attorney for Grays Harbor County, in the name and by the authority of the State of Washington, by this Information do accuse the defendant of the crime of VEHICULAR ASSAULT, committed as follows:

That the said defendant, Corrina A. Lynch, in Grays Harbor County, Washington, on or about May 25, 2007, being the operator of a motor vehicle, did operate said vehicle while under the influence of or affected by intoxicating liquor and did cause bodily harm to Ines L. Ontiveros;

CONTRARY TO RCW 46.61.522 and against the peace and dignity of the State of Washington.

DATED this 29th day of May, 2007.

H. STEWARD MENEFEE
Prosecuting Attorney
for Grays Harbor County

BY: [Signature]
MEGAN M. VALENTINE
Deputy Prosecuting Attorney
WSBA #35570

GRF/jab

INFORMATION -1-

H. STEWARD MENEFEE
PROSECUTING ATTORNEY
GRAYS HARBOR COUNTY COURTHOUSE
102 WEST BROADWAY, ROOM 102
MONTESANO, WASHINGTON 98563

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GRAYS HARBOR CO. WA

'07 OCT 24 P3:58

CHERYL BROWN
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR GRAYS HARBOR COUNTY

STATE OF WASHINGTON,

Plaintiff,

No.: 07-1-312-4

AMENDED INFORMATION

v.

CORRINA A. LYNCH,

Defendant.

I, H. Steward Menefee, Prosecuting Attorney for Grays Harbor County, in the name and by the authority of the State of Washington, by this Amended Information do accuse the defendant of the crime of VEHICULAR ASSAULT, committed as follows:

That the said defendant, Corrina A. Lynch, in Grays Harbor County, Washington, on or about May 25, 2007, being the operator of a motor vehicle, did operate said vehicle while under the influence of or affected by intoxicating liquor and did cause substantial bodily harm to Ines L. Ontiveros;

CONTRARY TO RCW 46.61.522 and against the peace and dignity of the State of Washington.

DATED this 24th day of October, 2007.

H. STEWARD MENEFEE
Prosecuting Attorney
for Grays Harbor County

BY: [Signature]
MEGAN M. VALENTINE
Deputy Prosecuting Attorney
WSBA #35570

GRF/jab

[Handwritten initials]

H. STEWARD MENEFEE
PROSECUTING ATTORNEY
GRAYS HARBOR COUNTY COURTHOUSE
102 WEST BROADWAY, ROOM 102
MONTESANO, WASHINGTON 98563

FILED
COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
BY _____
DEPUTY

IN THE COURT OF APPEALS
STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,		COURT OF APPEALS NO.
	Respondent,	37277-1-II
vs.		GRAYS HARBOR NO.
		07-1-00312-9
CORRINA LYNCH,		CERTIFICATE OF HAND
	Appellant.	DELIVERY AND MAILING

The undersigned attorney for the Appellant hereby certifies that one original Brief of Appellant was mailed by first class mail to the Court of Appeals, Division 2, and copies were mailed to Appellant, Corrina Lynch., and Harold S. Menefee deputy prosecuting attorney, by first class mail, postage pre-paid on August 29, 2008, at the Centralia, Washington post office addressed as follows:

Mr. Harold S. Menefee
Grays Harbor County
Prosecuting Attorney
102 W. Broadway Ave., Rm. 102
Montesano, WA 98563-3621

Mr. David Ponzoha
Clerk of the Court
Court of Appeals
950 Broadway, Ste.300
Tacoma, WA 98402-4454

CERTIFICATE OF
HAND DELIVERY
AND MAILING

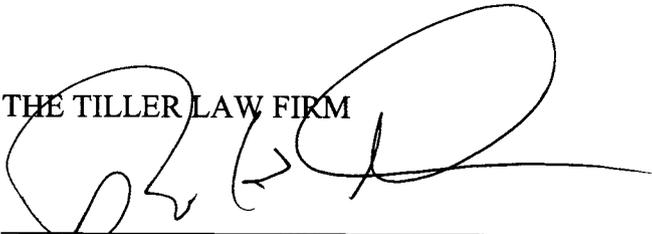
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FACSIMILE (360) 736-5828

Ms. Corrina Lynch
DOC#314586
Mission Creek Corrections Center
for Women
3420 NE Sand Hill Road
Belfair, WA 98528

Dated: August 29, 2008.

THE TILLER LAW FIRM



PETER B. TILLER – WSBA #20835
Of Attorneys for Appellant

CERTIFICATE OF
HAND DELIVERY
AND MAILING

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