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PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY [Signature] DEPUTY

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04905-1

vs.

BYRON JOSEPH FRYBERG,

INFORMATION

Defendant.

80A 25670

DOB: 11/9/1958  
PCN#: 538241971

SEX : MALE  
SID#: 11097006

RACE: AMER INDIAN/ALASKAN  
DOL#: UNKNOWN

~~CO-DEF: GUILLERMO RAMIREZ-GARCIA 04-1-04906-9~~  
~~CO-DEF: VICTOR-JULIAN DIOSADO TURNER 04-1-04907-7~~  
~~CO-DEF: JACKLYN MARIE RUSSELL 04-1-04908-5~~

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse BYRON JOSEPH FRYBERG of the crime of CONSPIRACY TO COMMIT ASSAULT IN THE FIRST DEGREE, committed as follows:

That BYRON JOSEPH FRYBERG, acting as an accomplice, in the State of Washington, on or about the 18th day of October, 2004, with intent that conduct constituting the crime of ASSAULT IN THE FIRST DEGREE, as prohibited by RCW 9A.36.011(1)(c), be performed, agree with one or more persons, to engage in or cause the performance of such conduct, and any one of the persons involved in the agreement did take a substantial step in pursuance of the agreement,, and in the commission thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a handgun and/or a rifle, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and adding additional time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, contrary to RCW 9A.28.040, and against the peace and dignity of the State of Washington.

ORIGINAL

INFORMATION- 1

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930 Tacoma Avenue South, Room 946  
Tacoma, WA 98402-2171  
Main Office (253) 798-7400

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse BYRON JOSEPH FRYBERG of the crime of UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:


That BYRON JOSEPH FRYBERG, acting as an accomplice, in the State of Washington, on or about the 18th day of October, 2004, did unlawfully, feloniously, and knowingly own, have in his possession, or under his control a firearm, having been previously convicted in the State of Washington or elsewhere of a felony that is not a serious offense as defined in RCW 9.41.010(12)., contrary to RCW 9.41.040(2)(a)(i), and against the peace and dignity of the State of Washington.

DATED this 19th day of October, 2004.

TACOMA POLICE DEPARTMENT  
WA02703

GERALD A. HORNE  
Pierce County Prosecuting Attorney

tfj

By:   
TIMOTHY F. JONES  
Deputy Prosecuting Attorney  
WSB#: 15928

1 NO. 04-1-04905-1  
2 DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

3 TIMOTHY F. JONES, declares under penalty of perjury:

4 That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police  
5 report and/or investigation conducted by the TACOMA POLICE DEPARTMENT, incident number  
6 042921271;

7 That the police report and/or investigation provided me the following information;

8 That in Pierce County, Washington, on or about the 18th day of October, 2004, the defendants,  
9 BYRON JOSEPH FRYBERG, GUILLERMO RAMIREZ-GARCIA, VICTOR-JULIAN DIOSADO  
10 TURNER and JACKLYN MARIE RUSSELL, did commit the crimes of Conspiracy to Commit Assault  
11 in the First Degree (while armed with firearms), Unlawful Possession of Firearm in the Second Degree,  
12 and Attempting to Elude a Pursuing Police Vehicle (while armed with firearms).

13 On the above listed date at approximately 8:30 p.m. there were 911 calls reporting a drive-by  
14 shooting in the area of East 43<sup>rd</sup> and East "G" St., Tacoma. Both calls reported that a red Jeep Cherokee  
15 was involved.

16 At approximately 9:30 p.m., while on routine patrol in the area of East 43<sup>rd</sup> and McKinley a  
17 Tacoma Police Officer noticed a red Jeep Cherokee turn northbound onto McKinley in the same area as  
18 the earlier shooting. The officer turned around and pulled in behind the red Cherokee at 38<sup>th</sup> and  
19 McKinley. The officer followed the vehicle and requested back up. At 38<sup>th</sup> and Pacific, the officer  
20 activated his emergency lights on his marked patrol car. The Cherokee continued westbound on 38<sup>th</sup> with  
21 no indication of attempting to yield or pull over. The officer then activated his siren.

22 The Cherokee continued west bound at speeds of 30 to 35 miles per hour, weaving through other  
23 vehicles which stopped to yield to the lights and siren. At the intersection of S. Thompson and 38<sup>th</sup>, the  
24 light was red as the vehicles approached and the Cherokee proceeded through the red light turning  
northbound on Thompson. The vehicle continued to S. 34<sup>th</sup>, where it suddenly turned right onto S. 34<sup>th</sup>.  
The red Cherokee then pulled into a driveway at 868 S. 34<sup>th</sup> St. The driver and driver's side passenger  
immediately jumped from the vehicle. Officers immediately detained the driver (RAMIREZ-GARCIA)  
and the two passenger side occupants (RUSSELL in front seat and TURNER in the back seat). Officers  
chased the fleeing passenger (FRYBERG) and after a brief foot pursuit FRYBERG ended up in some  
blackberry brambles. After a brief struggle with officers, FRYBERG was taken into custody. He later  
told officers that he ran because he had a warrant for his arrest.

When asked what was going on, TURNER told officers that earlier in the week RUSSELL'S  
house had been burglarized. They contacted the suspect and arranged to go to McKinley Park and fight it  
out. When they got to the park to fight, the opponents started to shoot at them from a black Honda  
automobile. TURNER said they fled the area and went to get some guns of their own. Once armed, they  
went back to the area to find the individuals and "take care of business." TURNER stated he was a  
member of the "East Side Pyro" gang and that FRYBERG was his father. When asked where the guns  
were, TURNER said there was a .45 under the front passenger seat and an AK47 with three magazines in  
the back seat. Officers recovered both weapons from the vehicle (a .45 Llama semi-automatic handgun,  
loaded, and a SKS Assault Rifle with three 30 round magazines). A check of TURNER'S criminal  
history revealed him to have prior felony convictions for Assault in the Third Degree and Malicious  
Mischief in the Second Degree.

RAMIREZ-GARCIA, the driver, told officers the same story as TURNER, adding that he was  
shot at earlier in the day by a car load of "ELS" gang members. He said he was driving the car looking  
for them. When asked what he was going to do if he found them he replied "we was going to take them

DECLARATION FOR DETERMINATION  
OF PROBABLE CAUSE -1

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1 out." When asked why he refused to yield to the pursuing police car RAMIREZ-GARCIA stated he was  
2 just trying to get home. He added that he knew he was supposed to pull over when signaled to do so. A  
records check revealed a felony conviction for Possession of Stolen Property in the Second Degree.

3 RUSSELL also told officer the same story about the planned meeting to fight. She added that  
4 after they got shot at she went to get some of her family because she was not going to be disrespected like  
5 that. She said that the guns in the car belonged to "the boys."

6 FRYBERG told officers that he also was involved in the plan to go to McKinley Park and fight  
7 with the burglary suspect. However, when they got shot at, they went and got some guns for protection.  
8 FRYBERG said he knew about the pistol but denied knowing about the assault rifle. The Assault rifle  
9 was found on a speaker box directly behind the back seat. A records check reveals FRYBERG to have a  
10 felony conviction for Assault in the Third Degree as well as a gross misdemeanor conviction for Assault  
11 in the Fourth Degree- Domestic Violence.

12 The investigation into the initial report of shots fired in the area of East 43<sup>rd</sup> and East "G" is  
13 ongoing and additional charges may be filed against these defendants.

14 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF  
15 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

16 DATED: October 19, 2004  
17 PLACE: TACOMA, WA

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TIMOTHY F. JONES, WSB# J5928