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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

3:16-CR-00318-BR

v.

STATEMENT OF FACTS

NIKA ELISE LARSEN,

Defendant.

The United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, through Pamala R. Holsinger, Assistant United States Attorney, Stephen Gunnels, Special Assistant United States Attorney, defendant Nika Elise Larsen, and her counsel Michael W. Staropoli and Steven L. Myers, agree the following facts are true, can be proved beyond a reasonable doubt, and are sufficient to support guilty pleas by defendant to Counts One and Two of the Information in the above-captioned case. This statement of facts

does not include all facts known to the government, and the government may rely on additional facts in the other phases of this case, including sentencing proceedings.

Factual Basis: Defendant Nika Larsen was a Forensic Scientist I and has been employed by the Oregon State Police Forensic Services Division since May 1, 2007. Defendant Larsen has disciplines in Latent Prints, Drug Chemistry and Crime Scene Processing. Her duties were to analyze submitted evidence for the presence of controlled substances, to analyze and sequentially process evidence submitted to the laboratory for presence of friction ridge detail, and to assist in processing and reconstruction of crime scenes. Her duties included collecting and documenting evidence found at the scene, reporting findings in written laboratory reports and providing expert testimony in court proceedings in all three disciplines.

Relevant to the charges filed in this case, defendant Larsen worked as a Forensic Scientist at the Oregon State Police Forensic Laboratory in Pendleton (hereinafter "Pendleton Lab"), Umatilla County, Oregon, from January 1, 2013, through November 11, 2014, and temporarily from June 8, 2015, through June 26, 2015, to assist in processing a backlog of cases. Defendant Larsen worked as a Forensic Scientist at the Oregon State Police Forensic Laboratory in Bend (hereinafter "Bend Lab"), Deschutes County, Oregon, from November 11, 2014, until August 27, 2015, when she was placed on administrative leave.

In April 2015 an Oregon State Police Forensic Scientist working at the Bend Lab discovered 18 Oxycodone drug standard pills were missing from the laboratory. A drug standard is the term given to a known quantity and type of controlled substance provided by the DEA to the forensic laboratory to be used as a comparison standard in the laboratory for confirmation of chemical testing methods and equipment. The missing Oxycodone pills prompted the initiation

of this investigation into theft and evidence tampering within the Oregon State Forensic Services Division.

As the initial investigation into the missing standard progressed, a number of evidence items were discovered which appeared to have been tampered with and controlled substances in the form of pills, capsules and/or tablets appeared to be missing. The cases which were tampered with were all cases that defendant Larsen had been the primary scientist assigned to process the drug evidence. The Oregon State Police conducted a complete audit of all cases assigned to defendant Larsen while employed as a Forensic Scientist in both the Pendleton and Bend Labs. That audit consisted of a complete review of all cases where defendant Larsen was determined to be the scientist assigned to the primary testing of the drugs or the scientist who was the reviewer of work completed by other scientists between January 2013 and August 2015.

Using the Oregon State Police Lab evidence tracking system to locate cases defendant Larsen handled, investigators located all evidence items that were still available to investigators and personally inspected each evidence item. They compared the evidence sheets created by the seizing officer, the lab report created by defendant Larsen and the current count of pills located in the evidence packaging. Investigators determined that over 700 pill form controlled substances had been stolen from over 50 separate evidence items known to have been handled by defendant Larsen. The stolen pills included the following controlled substances, among others: Morphine, Hydrocodone, Diazepam, Methamphetamine (pill form), Tramadol, Oxycodone and Methadone. In some of the cases the pill evidence had been stolen. In other cases only a portion of the pill evidence was missing. In a few cases the pill evidence was stolen and had been replaced with non-controlled substance pills to hide the fact the pills had been stolen.

Investigators determined that when the defendant was the primary scientist she would conduct the chemical testing in conformance with OSP Policy and Procedures and accurately account for the drugs in her lab report. Prior to packaging the drugs for return to the submitting agency, however, the defendant would steal a quantity of the pills. Because law enforcement agencies rarely go back and recheck the evidence (unless going to trial), this went undetected for a significant period of time.

Defendant Larsen used her official Oregon State Police laboratory access credentials to access the Bend Lab 22 times on her days off between November 4, 2014, and August 17, 2015. Between November 28, 2014, and August 21, 2015, defendant Larsen accessed the Bend Lab 24 times after normal business hours. On 13 of those after business hours visits, the defendant used her credentials to access evidence files.

The investigation ultimately led to evidence that the defendant used her trusted position as an Oregon State Police Forensic Scientist to commit multiple state of Oregon criminal offenses including Official Misconduct I, Theft II, Tampering with Physical Evidence, and Possession of Controlled Substances. Defendant committed these offenses primarily in Umatilla and Deschutes County but potential criminal prosecution exposure exists throughout the state of Oregon. As a Forensic Scientist in the Bend and Pendleton labs, defendant Larsen tested drug exhibits submitted from various law enforcement entities throughout the entire state of Oregon.

Count One: As to Count One, from in or about December 2013 to November 2014, at various times in Umatilla County, in the District of Oregon, the defendant Larsen did knowingly and intentionally obtain and acquire controlled substances including Morphine, Hydrocodone, Methadone, Oxycodone, ~~Tramadol~~, and Hydromorphone, Schedule II Controlled Substances, by

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misrepresentation, fraud and deception, to wit: by using her position as a Forensic Scientist to steal pills from evidence items submitted by law enforcement agencies to the Oregon State Police Crime Lab for analysis and testing; all in violation of Title 21, United States Code, Sections 843(a)(3).

Count Two: As to Count Two, from in or about November 2014 to August 27, 2015, at various times in Deschutes County, in the District of Oregon, the defendant Larsen did knowingly and intentionally obtain and acquire controlled substances including Morphine, Oxycodone, Hydrocodone, ~~Tramadol~~^{#elt SR m B}, and Hydromorphone, Schedule II Controlled Substances, by misrepresentation, fraud and deception, to wit: by using her position as a Forensic Scientist to steal pills from evidence items submitted by law enforcement agencies to the Oregon State Police Crime Lab for analysis and testing; all in violation of Title 21, United States Code, Sections 843(a)(3).

Affect on the Administration of Justice Statewide as Reported by Oregon District

Attorneys: Defendant does not have first-hand knowledge of the affect on the criminal justice system that her conduct has caused but agrees the government could establish the following:

As a result of the defendant's criminal conduct involving the tampering with and theft of evidence in criminal prosecutions, every district attorney in the state of Oregon immediately ceased prosecution of any case involving evidence tested by defendant Larsen at the Pendleton and Bend Labs. Every district attorney had to review every pending case where defendant Larsen was the Forensic Scientist on the case. As of today, the district attorneys in the state of Oregon have reviewed over 2500 cases expending over 2000 attorney and support staff hours.

All pending cases which relied on defendant Larsen's analysis were dismissed outright or a continuance was sought to retest evidence. If the continuance was denied, the case was dismissed. In Umatilla County alone 70 cases were dismissed and it is anticipated another 40 cases will be dismissed for same reasons. Numerous drug prosecutions have been declined where the testing was done at the Pendleton or Bend Labs during the time defendant Larsen was working at the lab and the district attorney could not prove defendant Larsen did not have access to the evidence.

As a result of defendant Larsen's criminal conduct, in cases where the defendants plead guilty and are on a conditional discharge, the district attorneys have agreed to set aside the previous guilty pleas and start the cases over hoping to retest or salvage cases on other non-drug charges if they exist. Many cases in which defendants were convicted of drug crimes have had either probations terminated or judgments of conviction set-aside after district attorneys have agreed that this course of action is the only way to ensure defendant Larsen's criminal conduct did not lead to unjust convictions and sentences. Without district attorneys proactively initiating this review process, the only remedy for the hundreds of closed cases with evidence tested by defendant Larsen is for post-conviction relief.

Based upon defendant Larsen's criminal conduct while working as Forensic Scientist for the Oregon State Police, defense attorneys statewide have sought to compel production of all investigative reports pertaining to this investigation, in addition to policies, procedures and protocols of the Oregon State Police Forensic Services Division. In August 2015, the Pendleton Lab suspended forensic testing of controlled substances. Shortly thereafter, on September 3, 2015, the Bend Lab suspended forensic testing of controlled substances. As a consequence, all

controlled substances are currently being sent to the Oregon State Police Crime Laboratories in Clackamas and Springfield, Oregon. This requires Forensic Scientists to travel to Central and Eastern Oregon to testify.

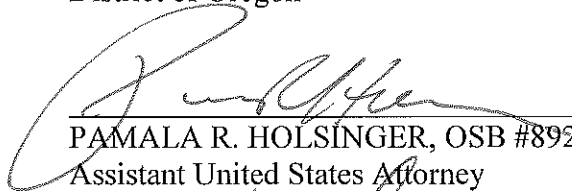
Post Offense Conduct of Defendant: In an effort to assist the Oregon State Police in identifying the scope of her criminal conduct, defendant met with investigators on four separate occasions and submitted to extensive interviews with law enforcement and state and federal prosecutors. Defendant admitted her criminal conduct and offered to assist law enforcement. Defendant described her history and background and her employment as a Forensic Scientist with the Oregon State Police since May 2007. Defendant Larsen walked investigators through both the Pendleton and Bend Laboratory facilities and described the method and manner whereby she took drugs from drug evidence over a significant period of time. Defendant Larsen made her best efforts to describe the thefts of drug standards at the Pendleton and Bend Labs and attempted to assist investigators in identifying cases assigned to other Forensic Scientists that she stole drug evidence from. Defendant Larsen described the efforts she took to conceal her misconduct both inside and outside the Oregon State Police Forensic Services Division. Defendant informed investigators that all of the controlled substances that she took were limited to the Pendleton and Bend Labs and were for her personal use, in that she did not share or otherwise distribute any of the drugs to anyone else. The investigation revealed no evidence contradicting defendant's statement. Defendant voluntarily submitted to two separate polygraphs, covering her disclosures to the investigators, each of which found her to be truthful. Defendant paid the costs associated with both polygraphs.

Additionally, defendant shared with prosecutors medical records that documented defendant's history of substance abuse and addiction that, according to defendant, resulted from defendant's misguided attempt to cope with a number of existing health conditions. Shortly after defendant was placed on paid administrative leave by OSP, defendant entered and successfully completed a comprehensive drug alcohol treatment program and she continues to attend regular AA/NA meetings. She has been clean and sober since September 22, 2015. Throughout defendant's contact with prosecutors and investigators, defendant has shown sincere remorse for her criminal conduct and has come to understand the resulting derivative and collateral effects of her conduct.


Dated this 15th day of August 2016.

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney
District of Oregon


PAMALA R. HOLSINGER, OSB #892638
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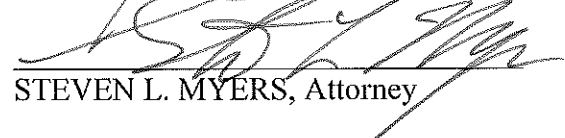
DATE: 8.15.16


NIKA LARSEN, Defendant

DATE: 8/15/16


MICHAEL W. STAROPOLI, Attorney

DATE: 8/15/16


STEVEN L. MYERS, Attorney