State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

November 8, 2006

Charles M. Momah, M.D.
Twin Rivers Unit, DOC 888910
16774 170th Drive SE
P. O. Box 888
Monroe, WA 98272-0888

Dear Doctor Momah:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 8, 2006, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, MD

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4339 8736
RETURN RECEIPT REQUESTED

Cc: P. O. Box 5178
Massena, NY 13662
CERTIFIED MAIL NO. 7003 0500 0002 4339 8743
RETURN RECEIPT REQUESTED

Mailed 11-9-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 8, 2006, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Charles M. Momah, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

Lance A. Talmage, M.D.
Secretary

(SEAL)

November 8, 2006
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

CHARLES M. MOMAH, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 8, 2006.

Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED, that:

The certificate of Charles M. Momah, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

Lance A. Talmage, M.D.
Secretary

(SEAL)

November 8, 2006
Date

STATE MEDICAL BOARD

2006 OCT -6 A 8:52

REPORT AND RECOMMENDATION
IN THE MATTER OF CHARLES M. MOMAH, M.D.

The Matter of Charles M. Momah, M.D., was heard by R. Gregory Porter, Hearing Examiner for the State Medical Board of Ohio, on August 30, 2006.

INTRODUCTION

I. Basis for Hearing

A. In a Notice of Automatic Suspension and Opportunity for Hearing dated May 10, 2006, the State Medical Board of Ohio [Board] notified Charles M. Momah, M.D., that, pursuant to Section 4731.22(I), Ohio Revised Code, Dr. Momah's certificate to practice medicine and surgery in the State of Ohio had been automatically suspended. The Board further notified Dr. Momah:

> This automatic suspension is based upon the findings of guilt of one felony count of Rape in the second degree in violation of Section 9A.44.050(1)(d), Revised Code of Washington, which is a criminal offense substantially equivalent to either Rape, Section 2907.02, Ohio Revised Code, or Sexual Battery, Section 2907.03, Ohio Revised Code; and one felony count of Rape in the third degree in violation of Section 9A.44.060(1)(a), Revised Code of Washington, which is a criminal offense substantially equivalent to either Rape, Section 2907.02, Ohio Revised Code, or Sexual Battery, Section 2907.03, Ohio Revised Code.

(State's Exhibit 1A) The Board further advised Dr. Momah that his continued practice as a physician would be considered practicing without a certificate.

Moreover, the Board notified Dr. Momah that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that Dr. Momah had been found guilty of four felony violations, including those noted above. Furthermore, the Board alleged that the judicial findings of guilt constitute "'[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code."

Finally, the Board advised Dr. Momah of his right to request a hearing in this matter. (State's Exhibit 1A)

B. By letter received by the Board on May 30, 2006, Davidson Momah requested a hearing on behalf of Dr. Momah, but asked that it be held in abeyance until Dr. Momah's criminal appeal is resolved. (State's Exhibit 1B)

II. Appearances

A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.

B. Dr. Momah, who is currently incarcerated, did not appear for the hearing in person or by representative.

EVIDENCE EXAMINED

I. Testimony Heard

No witnesses were presented.

II. Exhibits Examined

A. State's Exhibits 1A through 1F: Procedural exhibits. Note that portions of State's Exhibit 1A relating to charges for which Dr. Momah was found "not guilty" were redacted by the Hearing Examiner post hearing.

B. State's Exhibit 2: Not admitted. See Proffered Exhibits, below.

C. State's Exhibit 2A: Redacted version of State's Exhibit 2, which consists of copies of documents maintained by the Superior Court of Washington for King County in *State of Washington v. Charles Momah*, Case No. 04-1-05925-5KNT. Note that portions of this document relating to charges for which Dr. Momah was found "not guilty" were redacted by the Assistant Attorney General post hearing. Additional redactions were made by the Hearing Examiner post hearing with regard to references to those charges contained elsewhere in the exhibit.

D. State's Exhibit 3: Certified copy of the judgment and sentence filed on February 7, 2006, in *State of Washington v. Charles Momah*, Case No. 04-1-05925-5KNT, including four appendices.

III. Proffered Exhibit

The following exhibit was neither admitted to the record nor considered by the Hearing Examiner, but was sealed and held as proffered material:

State's Exhibit 2: Certified, unredacted copy of documents maintained by the Superior Court of Washington for King County in *State of Washington v. Charles Momah*, Case No. 04-1-05925-5KNT.

PROCEDURAL MATTERS

The individual (Davidson Momah) who requested the hearing on behalf of Dr. Momah asked that Dr. Momah's hearing be held in abeyance until Dr. Momah's criminal appeal had been resolved. It has long been this Board's policy that hearings will not be delayed for such a purpose. Nevertheless, if the Board should take action against Dr. Momah, and should Dr. Momah's criminal conviction be overturned on appeal, Section 4731.22(H), Ohio Revised Code, provides an avenue for Dr. Momah to seek reconsideration of the Board's final order in this matter.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. In March 1993, the State of Washington issued a license to Charles M. Momah, M.D., to practice as a physician in that state. Since 1994, Dr. Momah has practiced in Washington as an obstetrician/gynecologist [ob/gyn] in the communities of Issaquah, Federal Way, and Burien. (State's Exhibit [St. Ex.] 2A at 5)

2. On September 15, 2004, an Information was filed in the Superior Court of Washington for King County in Case No. 04-1-05925-5 KNT charging Dr. Momah with several offenses. (St. Ex. 2A) Among these, in Counts I through IV, Dr. Momah was charged as follows:

   - In Count I, Dr. Momah was charged with Rape in the Third Degree, in violation of Revised Code of Washington [RCW] Section 9A.44.060(1)(a). The Information alleged that on or about August 12, 2003, Dr. Momah engaged in sexual intercourse with H.P., who was not married to Dr. Momah, and who "did not consent to sexual intercourse with [Dr. Momah] and such lack of consent was clearly expressed by H.P.'s words or conduct." (St. Ex. 2 at 1)

     A Certificate of Probable Cause attached to the Information states, among other things, that H.P. had been Dr. Momah's patient at the time of the offense. (St. Ex. 2A at 6-8)

   - In Counts II and III, Dr. Momah was charged with Indecent Liberties, in violation of RCW Section 9A.44.100(1)(d). With regard to Count II, the Information alleged that, during the period of time between September 1, 2002, and August 31, 2003, Dr. Momah, "being a health care provider did knowingly have sexual contact with another person named S.S., who was a client or patient of his, during a treatment session, consultation, interview, or examination." (St. Ex. 2A at 1-2)

With regard to Count III, the Information alleged that Dr. Momah had committed the same offense against another individual, C.B., during the period of time between April 30 and June 2, 2003. (St. Ex. 2A at 2)

- In Count IV, Dr. Momah was charged with Rape in the Second Degree, in violation of RCW Section 9A.44.050(1)(d). The Information alleged that, during the period of time between March 25 and April 1, 2003, Dr. Momah, "being a health care provider did engage in sexual intercourse with another person named R.B., who was a client or patient, during a treatment session, consultation, interview, or examination." (St. Ex. 2A at 2)

A Certificate of Probable Cause attached to the Information describes the circumstances underlying the allegations. However, note that this document was signed by a member of the Federal Way Police Department, and appears to have been filed to support the allegations contained in the information. There is no evidence that any of the statements made in the Certificate of Probable Cause were proved at Dr. Momah's trial. (St. Ex. 2A at 5-14)

2. On November 16, 2005, a jury found Dr. Momah guilty of Counts I through IV of the Information. (St. Ex. 3 at 1)

By entry of judgment and sentence filed February 7, 2006, the court sentenced Dr. Momah to determinate terms of confinement of 60 months for Count I, and 12 months each for Counts II and III. Further, for Count IV, the court sentenced Dr. Momah to an indeterminate term of confinement for a minimum of 245 months to a maximum of life. Moreover, the court ordered that Dr. Momah's terms of incarceration be served concurrently. Finally, the court ordered Dr. Momah to: (a) pay restitution in an amount to later be determined and pay a victim penalty assessment of $500, (b) have no contact with seven individuals, including H.P., S.S., R.B., and C.B., for the rest of Dr. Momah's life, (c) provide a biological sample for DNA analysis, (d) undergo HIV testing and counseling, and (e) register as a sex offender wherever Dr. Momah should reside. (St. Ex. 3)

FINDINGS OF FACT

On or about November 16, 2005, in the Superior Court of Washington for King County, Washington, a jury found Charles M. Momah, M.D., guilty of the following offenses:

Count I: Rape in the Third Degree, in violation of Revised Code of Washington [RCW] Section 9A.44.060(1)(a).

Count II: Indecent Liberties, in violation of RCW Section 9A.44.100(1)(d).

Count III: Indecent Liberties, in violation of RCW Section 9A.44.100(1)(d).

Count IV: Rape in the Second Degree, in violation of RCW Section 9A.44.050(1)(d).

By entry of judgment and sentence filed February 7, 2006, the court sentenced Dr. Momah to determinate terms of confinement of 60 months for Count I, and 12 months each for Counts II and III. Further, for Count IV, the court sentenced Dr. Momah to an indeterminate term of confinement for a minimum of 245 months to a maximum of life. Moreover, the court ordered that Dr. Momah's terms of incarceration be served concurrently. Finally, the court ordered Dr. Momah to: (a) pay restitution in an amount to later be determined and pay a victim penalty assessment of $500, (b) have no contact with seven individuals, including H.P., S.S., R.B., and C.B., for the rest of Dr. Momah's life, (c) provide a biological sample for DNA analysis, (d) undergo HIV testing and counseling, and (e) register as a sex offender wherever Dr. Momah should reside.

CONCLUSIONS OF LAW

The judicial findings of guilt of Charles M. Momah, M.D., as set forth in the Findings of Fact, above, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

* * * * *

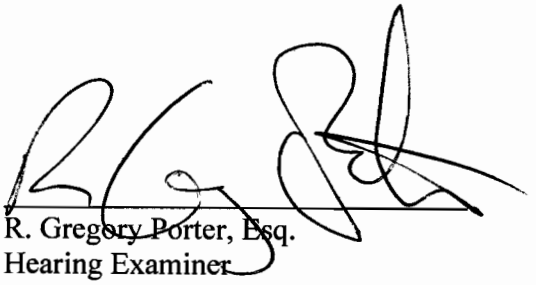
The record reflects that a jury found Dr. Momah guilty of four separate crimes against his patients while they were in his trust and care. His crimes were serious enough for the court to sentence him to a total period of incarceration of over twenty years to life. Given the deplorable nature of Dr. Momah's crimes against his patients, his certificate to practice medicine and surgery in Ohio should be permanently revoked.

PROPOSED ORDER

It is hereby ORDERED, that:

> The certificate of Charles M. Momah, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.



R. Gregory Porter, Esq.
Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 8, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Fred Andrew Brindle, M.D.; Sudheera Kalepu, M.D.; Kimberly Ann Lee, M.T.; Praveen Menon, M.D.; Charles M Momah, M.D.; Kolli Mohan Prasad, M.D.; Mark Robert Rosenberg, M.D.; and Mary Mei-Ling Yun, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further

participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

CHARLES M. MOMAH, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF CHARLES M. MOMAH, M.D. DR. VARYANI SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

NOTICE OF AUTOMATIC SUSPENSION
AND
OPPORTUNITY FOR HEARING

May 10, 2006

Charles M. Momah, M.D.
P.O. Box 5178
Massena, NY 13662

Dear Doctor Momah:

Pursuant to Section 4731.22(I), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio, which is inactive for non-renewal, has been automatically suspended as of November 16, 2005, by operation of law pursuant to Section 4731.22(I), Ohio Revised Code. This automatic suspension is based upon the findings of guilt of one felony count of Rape in the second degree in violation of Section 9A.44.050(1)(d), Revised Code of Washington, which is a criminal offense substantially equivalent to either Rape, Section 2907.02, Ohio Revised Code, or Sexual Battery, Section 2907.03, Ohio Revised Code; and one felony count of Rape in the third degree in violation of Section 9A.44.060(1)(a), Revised Code of Washington, which is a criminal offense substantially equivalent to either Rape, Section 2907.02, Ohio Revised Code, or Sexual Battery, Section 2907.03, Ohio Revised Code.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

(1) On or about November 16, 2005, in the Superior Court of Washington for King County, Washington, you were found guilty of the following crimes:

Count I: Rape in the third degree in violation of Section 9A.44.060(1)(a), Revised Code of Washington.

Count II: Indecent Liberties in violation of Section 9A.44.100(1)(d), Revised Code of Washington.

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Count III: Indecent Liberties in violation of Section 9A.44.100(1)(d), Revised Code of Washington.

Count IV: Rape in the second degree in violation of Section 9A.44.050(1)(d), Revised Code of Washington.

Based upon the findings of guilt of the four felony counts above, you were sentenced to a minimum term of 245 months to a maximum term of life imprisonment and ordered to register as a sex offender wherever you reside. Further, the Court ordered no contact, direct or indirect, in person, in writing, by telephone or through third parties for the period of your lifetime, with, among others, the four patients in your State of Washington obstetrics-gynecology clinical practice, who were the victims of your conduct related to Counts I through IV above.

The conduct underlying the findings of guilt of second and third degree Rape and two counts of Indecent Liberties is described in more detail in the Information and Certificate of Probable Cause. Copies of the Judgment and Sentence Felony and the Information, which includes a Certificate of Probable Cause, are attached hereto and incorporated herein.

Your pleas of guilty or the judicial findings of guilt as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board shall, in your absence and upon consideration of this matter, enter a final order permanently revoking your certificate to practice medicine and surgery.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate

an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT/jjv
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4330 8674
RETURN RECEIPT REQUESTED

CC: Charles M. Momah, M.D.
DOC 888910
MCC-TRCC
16774 170th Drive
Monroe, WA 98272-0888

CERTIFIED MAIL # 7003 0500 0002 4330 8667
RETURN RECEIPT REQUESTED

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KING COUNTY
SUPERIOR COURT CLERK
KENT, WA

CERTIFIED COPY

WARRANT ISSUED
CHARGE COUNTY $110.00

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	
vs.	)	No. 04-1-05925-5 KNT
CHARLES MOMAH Defendant,	)	INFORMATION

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse CHARLES MOMAH of the crime of **Rape in the Third Degree**, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington on or about August 12, 2003, did engage in sexual intercourse with another person, named H.P., who was not married to the defendant under circumstances where, H.P. did not consent to sexual intercourse with the defendant and such lack of consent was clearly expressed by H.P.'s words or conduct;

Contrary to RCW 9A.44.060(1)(a), and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Indecent Liberties**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between September 1, 2002 through August 31, 2003, being a health care provider

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312

did knowingly have sexual contact with another person named, S.S., who was a client or patient of his, during a treatment session, consultation, interview or examination;

Contrary to RCW 9A.44.100(1)(d), and against the peace and dignity of the State of Washington.

COUNT III

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Indecent Liberties**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between April 30th, 2003 through June 1st, 2003, being a health care provider did knowingly have sexual contact with another person named, C.B., who was a client or patient of his, during a treatment session, consultation, interview or examination;

Contrary to RCW 9A.44.100(1)(d), and against the peace and dignity of the State of Washington.

COUNT IV

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Rape in the Second Degree**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between March 25, 2003 through April 1, 2003, being a health care provider did engage in sexual intercourse with another person named R.B., who was a client or patient, during a treatment session, consultation, interview or examination;

Contrary to RCW 9A.44.050(1)(d), and against the peace and dignity of the State of Washington.

COUNT V

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Violation Of The Health Care False Claims Act**, a crime of the same or

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312

similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between March 20, 2003 through December 31, 2004, did present to a health care payer a claim for health care payment knowing such claim to be false, and did willfully collect an amount from an insured, R.B., knowing that to be in violation of an agreement or contract with a health care payer to which the provider is a party.

Contrary to RCW 48.80.030(1) & (5) and against the peace and dignity of the State of Washington.

COUNT VI

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Violation Of The Health Care False Claims Act**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between February 1, 2003 through May 31, 2003, did present to a health care payer a claim for health care payment knowing such claim to be false, and did willfully collect an amount from an insured, C.R., knowing that to be in violation of an agreement or contract with a health care payor to which the provider is a party.

Contrary to RCW 48.80.030(1) & (5) and against the peace and dignity of the State of Washington.

COUNT VII

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse CHARLES MOMAH of the crime of **Violation Of The Health Care False Claims Act**, a crime of the same or similar character and based on the same conduct as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were 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 other, committed as follows:

That the defendant CHARLES MOMAH in King County, Washington during a period of time intervening between September 4, 2002 through January 1, 2003, did present to a health care

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312

payer a claim for health care payment knowing such claim to be false, and did willfully collect an amount from an insured, S.A., knowing that to be in violation of an agreement or contract with a health care payer to which the provider is a party.

Contrary to RCW 48.80.030(1) & (5) and against the peace and dignity of the State of Washington.

NORM MALENG
Prosecuting Attorney

By: _____ 28519
Roger Rogoff, WSBA #23362
Jill Otake, WSBA #28298
Scott Fogg, WSBA #28819
Deputy Prosecuting Attorneys

Norm Maleng
Prosecuting Attorney
W 554 King County Courthouse
Seattle, Washington 98104-2312

ORIGINAL

CAUSE NO. 04-1-05925-5 KNT

CERTIFICATE OF PROBABLE CAUSE

That John Everly is a Lieutenant with the Federal Way Police Department and has reviewed the investigation conducted in the Federal Way Police Department's case number 03-11353.

There is probable cause to believe that Charles Momah DOB [redacted] committed the crimes of Rape in the Third Degree RCW 9A.44.060(1)(a), Rape in the Second Degree RCW 9A.44.050(1)(d), Violation of the Health Care False Claims Act RCW 48.80.030(1) & (5), Indecent Liberties RCW 9A.44.100(1)(d). This belief is predicated on the following facts and circumstances

In March of 1993, Charles Momah, an obstetrician/gynecologist was issued a license to practice as a physician by the State of Washington. Momah began practicing in Washington State in 1994. He eventually ran three clinics: one in Issaquah (which he eventually closed), one in Federal Way, and one in Burien. Typically, at most, only one or two employees worked at a clinic the same hours as Momah.

On March 3, 1999, the New York State Department of Health (NYSDOH) censured and reprimanded Momah for, among other things, negligence and incompetence. That same year, a criminal jury acquitted Momah of Medicaid fraud in New York.

In 2000, Momah settled with the state of New York and paid $500,000 for alleged Medicaid fraud, but denied any wrongdoing. That same year, Auburn Regional Medical Center in Washington permanently denied Momah's request for reappointment and

clinical privileges because of, among other things, his repeated unavailability to respond to emergency room back-up calls.

On September 11, 2003, after receiving a report that Momah had raped one of his patients in the course of an exam, the Federal Way Police Department served a search warrant on Momah's Federal Way clinic, seizing his patient files and taking pictures of the clinic. Pursuant to the judicially-authorized search warrant, the Federal Way Police Department also took an oral swab from Charles Momah for DNA analysis.

H.P.

H.P. first visited Momah in May of 2001 for pelvic pain. H.P.'s mother attended H.P.'s first appointment with Momah. They both told Momah that H.P. was just recovering from a prescription painkiller addiction. Momah performed a vaginal ultrasound on H.P. and, despite her previous addiction, provided her with 40 extra-strength pills of Percocet, a painkiller.

H.P. reports that, following her initial visit, she continued to see Momah two to three times per week to satisfy her renewed addiction. This schedule lasted for several months. Momah frequently provided her with prescriptions for Percocet, Xanax (for depression), Valium (a highly addictive drug), and Vicodin (a combination of Hydrocodone and Tylenol). Over time, H.P. became increasingly addicted.

According to H.P., beginning in January 2003, Momah started to flirt with her. During an ultrasound, when there were no chaperones in the room, Momah asked H.P. if she was dating anyone. She jokingly said, "No, do you know any single doctors?" Momah responded seriously, "What about me?" At the end of the appointment, he provided H.P. with his cellular phone number.

H.P. recalls a later visit, where she asked Momah, as usual, about obtaining additional prescriptions. Momah told her, "SHHHHH," and started to write her notes on a pad of paper. According to H.P., Momah indicated in the first note that he would only provide her with more medication if she agreed to meet him outside of work.

Beginning in January 2003, H.P. visited Momah at his office a minimum of twice a month. During these appointments, in the exam room, while alone, Momah wrote notes on a notepad to her, asking her to meet him at various places for sex, including his home

and at a Holiday Inn. According to H.P., the notepads were used to prevent Momah's staff from hearing any of their conversations. He told her in these notes that the only way she would be able to obtain more painkillers was if she met with him after hours at places such as a Holiday Inn. According to H.P., she wrote notes in which she agreed to meet him and that she wanted to have sex because she was desperate for more pain medication. However, she never intended on actually meeting Momah. As a result, H.P. almost always left her appointments with a prescription, but never once showed up for the planned meetings. Momah and H.P. did not have a platonic or romantic relationship.

On August 12, 2003, H.P., suffering from abdominal pain, called Momah on his cell phone. It was after hours and Momah agreed to meet H.P. at his Federal Way office. They were the only ones in the office.

Momah conducted a vaginal ultrasound on H.P. He then placed his ungloved fingers into her vagina and started to fondle her genitalia, touching her clitoris. H.P. asked Momah what he was doing and told him to stop. He stated, "You've been wanting this for a long time and so have I."

Momah undid his pants and pulled down his underwear. H.P. was still on the exam table when he inserted his penis into her vagina. She told him to stop, but he continued until he ejaculated inside of her. He then told her to get dressed and to meet him in his office.

H.P. got dressed and went to his office as instructed. When she got there, he told her she better not tell anyone what he did, or he would call Child Protective Services and easily have her son taken away from her due to her prescription drug use.

H.P. left the building and went straight to her boyfriend's workplace and told him what happened. He took her to Auburn General Hospital, where she again reported what happened to her. A sexual assault exam and rape kit was completed.

The rape kit and H.P.'s underwear were sent for analysis to the Washington State Patrol Crime Laboratory. The Crime Laboratory concluded that evidence from the rape kit matches the DNA typing profile collected from Momah and that "[t]he estimated probability of selecting an unrelated individual at random from the U.S. population with a matching profile is 1 in 460 quadrillion[.]"

H.P., when interviewed by Federal Way Police Detective Dennis Wilcox, reported that she had bruising on her back due to the rape. A female officer took digital photographs of the bruises.

R.B.

R.B. first saw Momah on March 25, 2003, at his Burien office. She went to him to seek in-vitro fertilization (IVF). Momah questioned her about why she wanted to have IVF. She explained that in November 2001, she had had a diagnostic laparoscopy performed to determine whether a tubal reanastomis (reconstruction of her fallopian tubes) could be completed. She advised Momah that her previous doctor told her that a reconstruction of her fallopian tubes was impossible. Momah informed R.B. that he did not trust any other doctors. She explained to him that she had a VHS tape of her prior laparoscopy, but Momah insisted that he would take care of her fertility problem in his own way.

Momah told R.B. to go to the exam room and take off all her clothes. She did so. Momah did not leave the room while R.B. took off her clothes. He had her lie down on the exam table in stirrups. He advised her that it would help her to relax if he injected her with fentanyl, an opiod analgesic. She recalls that he injected her with a small dose of fentanyl and that she became relaxed. He then conducted a manual exam, first starting with gloves and then taking his gloves off. When she asked why he took his gloves off, he told her that he wanted to see if the lumps he felt on her vagina were cancerous. Momah then, while standing at her side, started to rub R.B.'s clitoris in a circular motion, using two fingers. At the same time, using his other hand, he massaged R.B.'s breasts in a circular motion and squeezed her breasts, asking her if she enjoyed that. R.B. told Momah that she did not like having her breasts touched. Momah claimed that he was checking R.B.'s heart rate.

After rubbing her breasts and vagina simultaneously, Momah moved and sat down, facing R.B.'s vagina. Using one hand's fingers, he pulled her labia apart. With his other hand, he took the vaginal ultrasound wand and repeatedly inserted it into her vagina and then removed it. Meanwhile, he asked R.B. more about what sexual positions she enjoyed, about the size of her husband's penis, and about what her husband does to

her that makes her have an orgasm. R.B. could see from her vantage point that the ultrasound monitor was not turned on.

Momah then turned on the monitor and found what he described as three little cysts on R.B.'s ovaries. He told her, "This is cool, and this is how we'll get your insurance to pay for your reversal."

After the exam, Momah reiterated to R.B. that he could reconstruct her fallopian tubes, saying, "I don't want to discredit any doctor, but I have put tubes back together for women who have nothing left." He told R.B. that he wanted her to go to his Federal Way Office the next day for surgery. R.B. did not appear at the Federal Way office the next day and instead drafted a letter to the Department of Health that day, complaining about Momah's behavior.

For the next few days, Momah called R.B. personally two to three times per day in an effort to persuade her that he could fix her tubes and asking her if she needed pain medication. She repeatedly told Momah that she had already spent $6,000 in an attempt at tubal reconstruction and that she did not need pain medication. Momah assured her that she would not have to pay anything for the surgery. Hoping that she could conceive, R.B. acquiesced and agreed to the surgery.

R.B. went to the Federal Way clinic a few days after the first appointment. Momah told her he needed to conduct an exam again. During this appointment, she was given a gown and Momah did not ask her any sexual questions. R.B. told Momah that she was uncomfortable about the whole situation, but Momah assured her, "You have nothing to lose. I guarantee you this will cost nothing." Momah's examination on this day was similar to the first: he did not wear gloves and he touched her vagina and breasts at the same time. After the exam, once in his office, Momah told R.B. that he was unwilling to even consider IVF without first attempting tubal reconstruction. He then said, "because of the position of your uterus, you probably have painful sex." She denied that sex was painful. Nevertheless, he told her that he could get her a prescription to treat pain during sex and gave her a prescription for 60 tablets of Percocet, which she did not use.

Within the following week, R.B. appeared for the surgery with her husband at the Federal Way clinic. Momah met R.B.'s husband and immediately gave him prescriptions

for pain medication and told him to get them filled for R.B. as she would be "out" for the next two to three days. Momah then left to the back of the clinic, saying that he needed to get ready and that an anesthesiologist would arrive soon to talk to her. R.B. started to cry and told her husband not to leave her there. She told her husband that something wasn't right, that Momah's ultrasounds were "crazy" and that Momah was falsely billing her insurance. She believed that Momah was falsely billing her insurance company because he had repeatedly told her that he could get the insurance company to pay for the entire surgery if he told the company that the surgery was to remove potentially cancerous ovarian cysts. R.B.'s husband asked her if she wanted to leave. Then, a nurse-anesthetist arrived, sat down with R.B., and asked her if she was okay. R.B. told the nurse that she wasn't sure she could go through the surgery and that she knew her tubes could not be reversed. The nurse assured her that the final decision was R.B.'s, but that Momah had done many of these procedures before. The nurse then went back to talk with Momah. Momah came back into the waiting room and told R.B. that she had to have the laparoscopy before she could have IVF.

R.B. went into the exam room and was placed on an IV. The next thing she recalls, she was in a wheelchair, being wheeled out of the room. The surgery was completed.

On March 31, 2003, R.B. returned to Momah to have the staples from the surgery removed. It was only then that Momah informed her then that he could not reconstruct her tubes. R.B. then asked when they could start IVF. Despite previously intimating that he could perform IVF, Momah informed her that he did not perform IVF procedures.

R.B. never again returned to Momah, although Momah repeatedly called her cellular phone for a month after the surgery and told her she could get her painkillers through him. R.B. has never had an addiction to painkillers and never accepted Momah's offer. R.B. wrote a second letter to the Department of Health, in September 2003, complaining of Momah's behavior. (A copy of this letter has been placed in evidence.)

An obstetrician/gynecologist with 16 years of practical experience has reviewed R.B.'s medical records and statements. Upon review, this doctor has concluded that there would be no medical reason to perform a breast examination and a vaginal exam simultaneously.

Momah billed R.B.'s insurance company four different times for the same surgery, despite the fact that he performed the surgery once and saw R.B. only once later. He used the same insurance codes for each billing and each billing reflected the same date. He billed and collected a total of approximately $14,000 for the surgery, not including billing for the office visit and diagnostic procedures.

S.S.

In September 2002, S.S. went to the emergency room suffering from severe bleeding and pelvic pain. The emergency room doctor told her that she needed to find a specialist in gynecology. S.S. called three different offices she found in the phone book, but each gynecologists' staff informed her that a doctor could not see her for two to three months. S.S. then found Momah in the phone book. His staff told S.S. that Momah could see her at the Burien office in a couple of days.

S.S. saw Momah five or six times at both his Burien and Federal Way offices beginning in October 2002. At the first appointment, on October 1, 2002, no one but Momah was at the Burien office. Momah did not ask S.S. anything about her medical history, nor did he have her fill out any paperwork. He only asked her for her insurance card. Momah conducted both a routine pelvic examination and vaginal ultrasound and immediately diagnosed S.S. as having multiple ovarian cysts. Momah prescribed Tylenol with codeine and Percocet to S.S. In the prescription, he allowed for three refills.

Within two days, on October 3, 2002, a staff member at Momah's office called S.S. and informed her that she needed immediate surgery. That day, S.S. went, as instructed, to an appointment at Momah's Federal Way office. Momah asked how the Tylenol with codeine was working. S.S. explained that she had gotten "used to it" and that it wasn't as powerful anymore. Momah then prescribed her Percocet. A laparoscopic surgery to examine the cysts was scheduled for later that month.

S.S. asked Momah if he would have a blood supply on hand during the surgery and explained to him that she had a rare blood type (RH negative blood). She told him that, in the past, doctors had asked her to give blood prior to a surgery because her blood type was so rare. Momah assured her that he would have an ample supply of blood on hand. S.S. also asked why the surgery was not going to be performed at a hospital.

Momah told her that it was cheaper for him to perform the surgery at his clinic. Momah did not disclose that he had lost hospital privileges as a reason for performing the surgery at his clinic.

S.S. recalls arriving at her appointment for the surgery with a male friend. Momah gave the friend a prescription for Percocet and told him to fill it for S.S. while she was in surgery. S.S. then went into the examination room, was anesthetized, and awoke later.

S.S. quickly became addicted to the Percocet in the following days. She visited Momah for a post- surgery appointment two days after the surgery. During this appointment, in mid-October, Momah told her that the surgery was going to cost twice what he had originally expected, or between $6000 and $7000. He quizzed her for a half-hour regarding how much of the surgery she could pay herself (they had both been informed that her insurance would only cover 70%). She told him that she was a single mother and paid him $200 cash that day.

Momah also started S.S. on injections of a drug to accelerate S.S.'s menopause to alleviate her menstrual cramps. Momah told S.S. that she had to receive three injections. Momah also told S.S. that he needed to conduct a pelvic exam and vaginal ultrasound before each of the injections.

At this first appointment post-surgery, Momah advised S.S. that she could go back to work in a couple of days. S.S. told Momah that her job required lifting heavy weights. Momah nevertheless told her she was fine to return to work, which S.S. did. S.S. then went to work in November 2002 and, while lifting an item, felt something tear in her abdomen. She could hardly walk and called Momah, who agreed to see her.

The next day, during a pelvic exam, while S.S.'s feet were in stirrups and while she was naked from the waist-down, Momah, standing at S.S.'s side, wrapped one of his arms around her leg. He then inserted two fingers into her vagina and, using his thumb, massaged her clitoris in a circular motion, asking, "Can you feel this?" S.S. jumped back immediately. Momah became upset with her, telling her to get dressed and that he would no longer prescribe her Percocet. S.S. visited Momah two more times, once in December 2002 and once in January 2003 to complete the injection cycle, but had a chaperone with her on one occasion and had her daughter accompany her into the exam room on another

occasion. The chaperone, however, walked in and out of the room. During that appointment, Momah commented to S.S. that it might hurt her for him to insert his fingers into her vagina because she was so "tight."

The same obstetrician/gynecologist with 16 years of practical experience also reviewed S.S.'s case. She stated that at no time in a normal pelvic exam would there be purposeful contact with a patient's clitoris. She explained that if a patient complained of feeling numb in that area, it would be appropriate for a doctor to determine what part of the vaginal area was numb. However, without such a complaint (S.S. had never made such a complaint), there would be no medical reason for the palpation of the clitoris. The reviewing doctor also stated that the comments attributed to Momah by the patient would be wholly inappropriate. Finally, she found Momah's liberal use of narcotics inappropriate, both in the initial amount prescribed and the lack of follow-up care provided.

S.S. reported the matter to the police after seeing the news coverage of the Medical Quality Assurance Commission's investigation of Momah.

C.B.

C.B. first saw Momah at the end of 2001 because she had was having difficulty conceiving, and was also suffering from irregular menstrual cycles. She found Momah in the Yellow Pages and chose him because he was the only doctor who would accept her medical coupons. C.B.'s first few visits to Momah were not unusual. Momah diagnosed her as having ovarian cysts. He prescribed Prevarin and Comafine to regulate her menstrual and ovulation cycles. He also prescribed Percocet.

After the first few visits, Momah began to "flirt" with C.B., asking her what kind of men she dated, and inquiring about what positions she performed during intercourse, how often she had sex, etc. He told her that, although she is a big woman, she is proportionate, and he liked her curves and the softness of her body. He also called her several times on her cell phone, asking her out to dinner.

Momah frequently performed vaginal ultrasounds on C.B., eventually using the ultrasound wand, as she described it, as though it was a sex toy, sliding it in and out of

her vagina. He also once performed a manual exam without a glove and, when asked by C.B. why he was gloveless, stated that he couldn't feel things as well with the glove on.

In May 2003, during a vaginal exam, Momah told C.B. that she had the "prettiest pussy" he had ever seen. C.B. got off the exam table, got dressed, and was about to leave the office when Momah reached out, as if to give her a hug, but instead touched her on the sides of her breasts with his open palms. C.B. walked away from him, then turned around and scolded him for his behavior, telling him she was going to report what he had done. Momah said that it would be her word against his, and that no one would believe her because she was a "nobody" and he was a doctor.

C.B. contacted the police after seeing the news coverage of Momah's case.

C.R.

C.R. began seeing Momah in February of 2003 because she was experiencing menstrual pain and because she wanted a tubal reversal, in the hopes of being able to get pregnant. Momah agreed to perform the tubal reversal, but wanted $3,000 paid in advance. C.R. could afford only $1000, which Momah accepted. Momah performed the surgery while C.R.'s husband waited for her in the office.

Following the procedure, Momah confronted C.R.'s husband and told him that he could not see his wife unless he paid an additional $500. C.R.'s husband immediately wrote Momah a check for $500. However, insurance records show that Momah also received a $2937 payment from C.R.'s insurance company – payment in full for the tubal reversal. In essence, Momah billed for the same procedure twice.

On March 30, 2003, Momah performed a laparotomy on C.R. He produced two separate operative reports from this one surgery. The two reports are dated on the same day, but describe different surgeries.

S.A.

S.A. saw Momah a number of times from 1999 through September 2002. Momah scheduled S.A. for a laparoscopy on September 18, 2002, telling her he needed to examine supposed ovarian cysts. On the day of the surgery, Momah appeared in street clothes and S.A. became uncomfortable with the uncleanliness of both the surgical suite

and Momah. Prior to the surgery, S.A. walked out and never returned. Momah billed S.A. and her insurance company and collected from the insurance company for the surgery even though it never occurred.

Similarly, Momah billed S.A.'s insurance company twice for a September 4, 2002 ultrasound. The billing records reflect a bill for the same date, same procedure and same price. On another date, September 18, 2002, Momah only performed one ultrasound for a regular office visit and again billed the insurance company twice. He collected twice for each ultrasound he performed on S.A. This double billing violates the Health Care False Claims Act.

Additional Witnesses / Victims

Many of the women who reported abuse at the hands of Momah, including those who cannot be charged as victims due to the Statute of Limitations, corroborate Momah's bedside manner, his sexualized conduct, fraudulent billing practices, and his general practice as described by the charged victims. Many patients report inappropriate sexual advances from Momah and several alleged that they were propositioned outright for dates. Several others report Momah offered to impregnate them.

Additionally, former members of Momah's office staff verify victim accounts that exams were often conducted without assistants or chaperones present. One staff member recalled that Momah told her that several patients (including H.P.) were not comfortable with having an assistant in the room, and would instruct her to leave. Several former staff members also corroborate sexualized behavior by Momah, including attempts to kiss staff, slapping staff's buttocks, and offers to "make beautiful babies."

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 13 day of September 2004 at King County, Washington.

Lieutenant John Everly
Federal Way Police Department

ORIGINAL

CAUSE NO. 04-1-05925-5 KNT

PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR CONDITIONS OF RELEASE

The State incorporates by reference the Certification for Determination of Probable Cause for Federal Way Police Department incident #03-11353, signed by Lt. John Everly of the Federal Way Police Department on September 13th, 2004.

REQUEST FOR BAIL

The State requests bail in the amount of $250,000. In addition to the description of the charges contained in the Certification, there are a number of factors that should give the court concern in setting an appropriate bail amount.

As noted in the Certification, the charged offenses are part of a pattern of inappropriate behavior and fraudulent business practices that span several years. For instance, when the defendant was practicing medicine in New York, he was civilly accused of Medicaid fraud in a lawsuit brought by the Medicaid Fraud Control Unit of the New York State Attorney General's Office. He ultimately settled with New York State for $500,000.

Since moving to Washington, and during this investigation, numerous former patients of the defendant have come forward and accused him of sexual and medical misconduct. While the statute of limitations has barred the prosecution of many of those claims, their existence should not be overlooked.

In addition, the defendant's ties to this community are also of concern, including the fact that the defendant has dual citizenship in the United States and Nigeria. It should be noted, however, that the defendant voluntarily surrendered his passport to police during this investigation, and has not made any attempt to flee since his clinics were shut down by the authorities and over a year ago. His license to practice medicine in Washington State is currently suspended.

Finally, the court should also consider the fact that the Washington State Department of Health Medical Quality Assurance Commission has charged the defendant with, among other things, unprofessional conduct stemming from the willful misrepresentation of facts in his re-credentialing application. This fact alone should give the court some hesitation when evaluating the defendant's sole promise to appear.

Norm Maleng,
Prosecuting Attorney
Regional Justice Center
401 Fourth Avenue North
Kent, Washington 98032-4429

For all these reasons, and given the serious nature and number of charges, the court should set bail in the amount requested. The court should also require the defendant to not make any additional applications for passports, restrict him from leaving the State of Washington and set other appropriate conditions, including a no-contact order with charged and uncharged victims.

Scott Fogg, WSBA #28819

Norm Maleng,
Prosecuting Attorney
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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	No. 04-1-05925-5 KNT
Vs.	)	**JUDGMENT AND SENTENCE FELONY**
CHARLES MOMAH, Defendant,	)	

STATE MEDICAL BOARD OF OHIO
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I. HEARING

I.1 The defendant, the defendant's lawyer, DAVID ALLEN, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: _____

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 11/16/2005 by jury verdict of:

Count No.: I Crime: RAPE IN THE THIRD DEGREE
RCW 9A.44.060 (1) (a) Crime Code: 00764
Date of Crime: 08/12/2003 Incident No. _____

Count No.: II Crime: INDECENT LIBERTIES
RCW 9A.44.100 (1) (d) Crime Code: 00868
Date of Crime: 04/30/2002 - 06/01/2003 Incident No. _____

Count No.: III Crime: INDECENT LIBERTIES
RCW 9A.44.100 (1) (d) Crime Code: 00868
Date of Crime: 04/30/2002 - 06/01/2003 Incident No. _____

Count No.: IV Crime: RAPE IN THE SECOND DEGREE
RCW 9A.44.050 (1) (d) Crime Code: 00748
Date of Crime: 03/01/2003 - 04/01/2003 Incident No. _____

[ ] Additional current offenses are attached in **Appendix A**

OHIO STATE MEDICAL BOARD
APR 12 2006

SPECIAL VERDICT or FINDING(S):

(a) [ ] While armed with a **firearm** in count(s) _____ RCW 9.94A.510(3).
(b) [ ] While armed with a **deadly weapon** other than a firearm in count(s) _____ RCW 9.94A.510(4).
(c) [ ] With a **sexual motivation** in count(s) _____ RCW 9.94A.835.
(d) [ ] A V.U.C.S.A offense committed in a **protected zone** in count(s) _____ RCW 69.50.435.
(e) [ ] **Vehicular homicide** [ ]Violent traffic offense [ ]DUI [ ] Reckless [ ]Disregard.
(f) [ ] **Vehicular homicide** by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
(g) [ ] **Non-parental kidnapping** or unlawful imprisonment with a minor victim. RCW 9A.44.130.
(h) [ ] **Domestic violence** offense as defined in RCW 10.99.020 for count(s)_____.
(i) [ ] Current offenses **encompassing the same criminal conduct** in this cause are count(s)_____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):
[ ] Criminal history is attached in **Appendix B.**
[ ] One point added for offense(s) committed while under community placement for count(s) _____

2.4 **SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I	9	V	60 MONTHS		60 MONTHS	5 YRS AND/OR $10,000
Count II	N/A	UNRNKD	0 TO 12		0 TO 12 MONTHS	10 YRS AND/OR $20,000
Count III	N/A	UNRNKD	0 TO 12		0 TO 12 MONTHS	10 YRS AND/OR $20,000
Count IV	9	XI	210 TO 280		210 TO 280 MONTHS	LIFE AND/OR $50,000

[ ] Additional current offense sentencing data is attached in **Appendix C.**

2.5 ***EXCEPTIONAL SENTENCE*** *(RCW 9.94A.535):*
[ ] Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____. Findings of Fact and Conclusions of Law are attached in **Appendix D.** The State [ ] did [ ] did not recommend a similar sentence.

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III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and **Appendix A.**
[ ] The Court DISMISSES Count(s) _____.

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 **RESTITUTION AND VICTIM ASSESSMENT:**

[ ] Defendant shall pay restitution to the Clerk of this Court as set forth in attached **Appendix E.**

[ ] Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.

[X] Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.

[X] Date to be set.

[ ] Defendant waives presence at future restitution hearing(s).

[ ] Restitution is not ordered.

Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of $500.

4.2 **OTHER FINANCIAL OBLIGATIONS:** Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

(a) [ ] $_____, Court costs; [ ] Court costs are waived; (RCW 9.94A.030, 10.01.160)

(b) [ ] $100 DNA collection fee; [ ] DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);

(c) [ ] $_____, Recoupment for attorney's fees to King County Public Defense Programs; [ ] Recoupment is waived (RCW 9.94A.030);

(d) [ ] $_____, Fine; [ ]$1,000, Fine for VUCSA; [ ]$2,000, Fine for subsequent VUCSA; [ ]VUCSA fine waived (RCW 69.50.430);

(e) [ ] $_____, King County Interlocal Drug Fund; [ ] Drug Fund payment is waived; (RCW 9.94A.030)

(f) [ ] $_____, State Crime Laboratory Fee; [ ] Laboratory fee waived (RCW 43.43.690);

(g) [ ] $_____, Incarceration costs; [ ] Incarceration costs waived (RCW 9.94A.760(2));

(h) [ ] $_____, Other costs for: _____.

4.3 **PAYMENT SCHEDULE:** Defendant's **TOTAL FINANCIAL OBLIGATION** is: $ 500 + Restitution. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: [ ]Not less than $_____ per month; [X] On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. **The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied.** Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

[X] Court Clerk's trust fees are waived.

[X] Interest is waived except with respect to restitution.

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4.4 The defendant, having been convicted of a **FELONY SEX OFFENSE**, is sentenced to the following:

(a) **DETERMINATE SENTENCE :** Defendant is sentenced to a term of confinement in the custody of the [ ] King County ***Jail*** [ ] King County ***Work/Education Release*** (subject to conditions of conduct ordered this date) [X] ***Department of Corrections***, as follows, commencing: [X] immediately; [ ] Date: _____ by _____ a.m. / p.m.

60 months/days on count I; _____ months/days on count _____; _____ months/days on count _____;

12 months/days on count II; _____ months/days on count _____; _____ months/days on count _____;

12 months/days on count III; _____ months/days on count _____; _____ months/days on count _____.

ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):
_____ days of total confinement are hereby converted to:
[ ] _____ days of partial confinement to be served subject to the requirements of the King County Jail.
[ ] _____ days/hours community service under the supervision of the Department of Corrections to be completed as follows: [ ] on a schedule established by the defendant's Community Corrections Officer;
[ ] _____.
[ ] Alternative conversion was not used because: [ ] Defendant's criminal history, [ ] Defendant's failure to appear, [ ] Other: _____.

[ ] **CONFINEMENT LESS THAN ONE YEAR : COMMUNITY** [ ] **SUPERVISION,** for crimes committed before 7-1-2000, [ ] ***CUSTODY,*** for crimes committed on or after 7-1-2000, is ordered pursuant to RCW 9.94A.545 for a period of 12 months. The defendant shall report to the Department of Corrections within 72 hours of this date or of his/her release if now in custody; shall comply with all the rules, regulations and conditions of the Department for supervision of offenders (RCW 9.94A.720); shall comply with all affirmative acts required to monitor compliance; and shall otherwise comply with terms set forth in this sentence.
[ ] **APPENDIX** ____: **Additional Conditions** are attached and incorporated herein.

[ ] **COMMUNITY PLACEMENT / CONFINEMENT OVER ONE YEAR**: pursuant to RCW 9.94A.700, for **qualifying crimes committed before 6-6-1996,** is ordered for _____ months or for the period of earned early release awarded pursuant to RCW 9.94A.728, whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or sex offense prior to 6-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW 69.50/52, any crime against person defined in RCW 9.94A.440 not otherwise described above.]
[ ] **APPENDIX H: Community Placement conditions** are attached and incorporated herein.

[ ] **COMMUNITY CUSTODY / CONFINEMENT OVER ONE YEAR:** pursuant to RCW 9.94A.710 for any **SEX OFFENSE committed after 6-6-96 but before 7-1-2000,** is ordered for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728 whichever is longer.
[ ]**APPENDIX H: Community Custody conditions** are attached and incorporated herein.

[X] **COMMUNITY CUSTODY / CONFINEMENT OVER ONE YEAR:** pursuant to RCW 9.94A.715 **for qualifying crimes (non RCW 9.94A.712 offenses) committed after 6-30-2000** is ordered for the following established range:
[X] Sex Offense, RCW 9.94A.030(38) - 36 to 48 months
[ ] Serious Violent Offense, RCW 9.94A.030(37) - 24 to 48 months
[ ] Violent Offense, RCW 9.94A.030(45) - 18 to 36 months
[ ] Crime Against Person, RCW 9.94A.411 - 9 to 18 months
[ ] Felony Violation of RCW 69.50/52 - 9 to 12 months
or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.
[X]**APPENDIX H: Community Custody conditions** are attached and incorporated herein.

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(b) **INDETERMINATE SENTENCE – QUALIFYING SEX OFFENSES occurring after 9/1/01:** The Court having found that the defendant is subject to sentencing under RCW 9.94A.712, the defendant is sentenced to a term of total confinement in the custody of the **Department of Corrections** as follows, commencing: [X] immediately; [ ](Date): _____ by _____.m.

Count IV: **Minimum Term:** 245 months/days; **Maximum Term:** Life years/life; MSV

Count _____: **Minimum Term:** _____ months/days; **Maximum Term:** _____ years/life;

Count _____: **Minimum Term:** _____ months/days; **Maximum Term:** _____ years/life;

Count _____: **Minimum Term:** _____ months/days; **Maximum Term:** _____ years/life.

[X] **COMMUNITY CUSTODY** – pursuant to RCW 9.94A.712 **for qualifying SEX OFFENSES committed on or after September 1, 2001**, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence as set forth above. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.713, 9.94A.737.

[X] **APPENDIX H: Community Custody conditions** are attached and incorporated herein.

4.5 **ADDITIONAL CONDITIONS OF SENTENCE**

The above terms for counts I-IV are consecutive / concurrent.

The above terms shall run [ ] CONSECUTIVE [ ] CONCURRENT to cause No.(s) _____

The above terms shall run [ ] CONSECUTIVE [ ] CONCURRENT to any previously imposed sentence not referred to in this order.

[ ] In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: _____

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98.)

[ ] The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 245 months.

Credit is given for [X] 85 days served [ ] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A505(6). [ ] Jail term is satisfied – defendant shall be released under this cause.

4.4 4.6 **NO CONTACT**: For the maximum term of Life years, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties with: H.P., S.S., R.B., C.B., C.R., S.W., K.T.

[ ] Any minors without supervision of a responsible adult who has knowledge of this conviction.

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4.7 **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, as ordered in **APPENDIX G.**

[X] **HIV TESTING:** For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in **APPENDIX G.**

4.8 **SEX OFFENDER REGISTRATION:**
The defendant shall register as a sex offender as ordered in **APPENDIX J.**

4.9 [ ] **ARMED CRIME COMPLIANCE, RCW 9.94A.475,.480.** The State's plea/sentencing agreement is [ ]attached [ ]as follows:

_____

_____

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: 2/6/06

JUDGE
Print Name: Judge M. Trickey

Presented by:

Deputy Prosecuting Attorney, WSBA# 23362
Print Name: R. Kogoff

Approved as to form:

Attorney for Defendant, WSBA#
Print Name: David Allen

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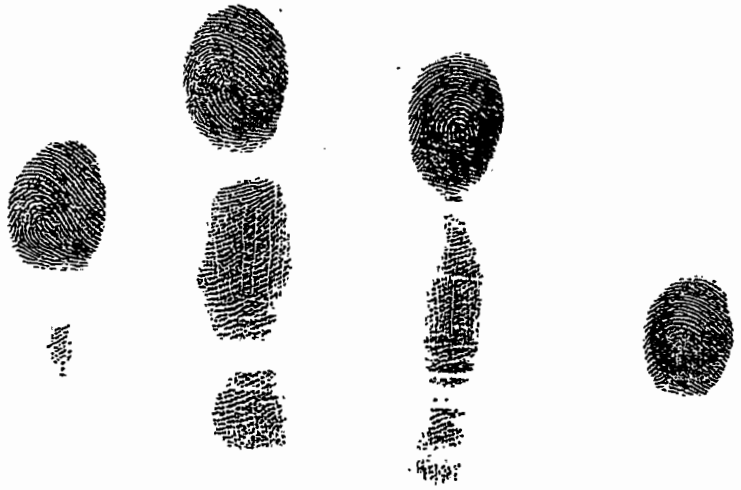
BEST AVAILABLE IMAGE POSSIBLE

F I N G E R P R I N T S



RIGHT HAND
FINGERPRINTS OF:

CHARLES M MOMAH

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS: DOC

DATED: 2-6-06

JUDGE, KING COUNTY SUPERIOR COURT
Michael J. Fox

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
BY: Jon Schroeder
DEPUTY CLERK

CERTIFICATE

I, _____,
CLERK OF THIS COURT, CERTIFY THAT THE ABOVE IS A TRUE COPY OF THE JUDGEMENT AND SENTENCE IN THIS ACTION ON RECORD IN MY OFFICE.
DATED: _____

_____
CLERK

BY: _____
DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO.

DOB: [redacted]

SEX: M

RACE: W

STATE MEDICAL BOARD OF OHIO
2006 APR 12 A 10: 55

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	No. 04-1-05925-5 KNT
vs.	)	APPENDIX G
CHARLES MOMAH	)	ORDER FOR BIOLOGICAL TESTING AND COUNSELING
Defendant,	)	

FAX COPY TO COUNTY JAIL FEB - 7 2008

(1) **DNA IDENTIFICATION (RCW 43.43.754):**

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

(2) ☒ **HIV TESTING AND COUNSELING (RCW 70.24.340):**

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: 2/6/07

JUDGE, King County Superior Court
Michael J. Fox

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON	Plaintiff	No. 04-1-05925-5 KNT
v.		
MOMAH, Charles Madu	Defendant	**JUDGMENT AND SENTENCE (FELONY) – APPENDIX H COMMUNITY CUSTODY**

CRIME-RELATED PROHIBITIONS

1. Follow any conditions imposed by the Department of Corrections based on risk and need.
2. Obey all laws.
3. Do not have direct or indirect contact with the victims under this cause, as noted in J&S.

~~4. Sexual Deviancy evaluation & all recommended follow-up treatment~~

ISRB or ADC or successor to determine if sexual deviancy evaluation & treatment is appropriate.

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Date: 2/6/05

JUDGE, KING COUNTY SUPERIOR COURT

Mimi J. Tang

pursuant to RCW 4.24.550.
Further dissemination is prohibited.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff,	)	No. 04-1-05925-5 KNT
vs.	)	APPENDIX J
Charles Momah	)	JUDGMENT AND SENTENCE
Defendant,	)	SEX OFFENDER NOTICE OF REGISTRATION REQUIREMENTS

FILED KING COUNTY WASHINGTON FEB - 6 2006

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, 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 the 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, work, carry on a vocation, or attend school out of Washington State, you must send written notice within 10 days of establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state, 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.

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 in person to the sheriff of the county where you registered on a weekly basis. 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 may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an 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.

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Copy Received:

Defendant — Date 2/6/06

JUDGE Michael T. Finkle

APPENDIX J
Rev. 11/03 Distribution:
Original/White - Clerk
Yellow - Defendant
Pink - King County Jail