

STATE OF WISCONSIN

CIRCUIT COURT

FOND DU LAC COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 10-CF- 50

NICOLE OUSLEY,  
(D/O/B: 12/18/1972,  
c/o Taycheedah Correctional Institution,  
751 County Road K,  
Fond du Lac, WI 54936-1947,

Defendant.

**FILED**

FEB 26 2010

MARY L. KARST  
FOND DU LAC COUNTY, WIS.  
Clerk Of Circuit Court

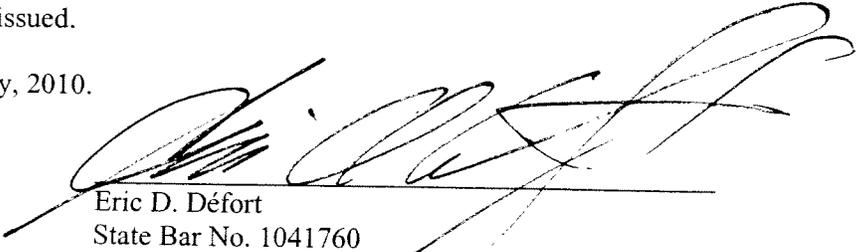
SUMMONS

THE STATE OF WISCONSIN TO SAID DEFENDANT:

The Complaint, a copy of which is attached, having been made before me accusing the defendant, Nicole Ousley, of crimes of fraudulent claims for subchapter VIII tax credit, habitual criminality (two counts), contrary to Wis. Stat. § 71.83(2)(b)(4); false statements related to tax credit claim, habitual criminality (two counts), contrary to Wis. Stat. § 71.83(2)(a)(2); and false swearing, habitual criminality, contrary to Wis. Stat. § 946.32(2).

You, Nicole Ousley, are, therefore, summoned to appear before the Honorable Robert J. Wirtz, Fond du Lac County Courthouse, City-County Government Center, 160 S. Macy Street, Fond du Lac, Wisconsin, to answer said Complaint on Tuesday, March 23, 2010, at 9:00 a.m. In case of your failure to appear, a warrant for your arrest will be issued.

Dated this 24<sup>th</sup> day of February, 2010.

  
Eric D. Défort  
State Bar No. 1041760  
Assistant Attorney General and  
Special Prosecutor for Fond du Lac County

THE STATE OF WISCONSIN,

Plaintiff,

v.

**FILED**

Case No. 10-CF- 50

FEB 26 2010

NICOLE OUSLEY  
(D/O/B: 12/18/1972),

MARY L. KARST  
FOND DU LAC COUNTY WIS.  
Clerk Of Circuit Court

Defendant.

**CRIMINAL COMPLAINT**

**COUNT 1: FRAUDULENT CLAIM FOR SUBCHAPTER VIII  
TAX CREDIT, HABITUAL CRIMINALITY**

Between May 10, 2009, and May 20, 2009, in the county of Fond du Lac, the above-named defendant did, with fraudulent intent, assist in the preparation of a false claim for credit, under subchapter VIII, for herself, contrary to Wis. Stat. § 71.83(2)(b)(4) (2007-2008).

Pursuant to Wis. Stat. § 939.50(3)(h) and § 939.62(1)(b) (2007-2008), upon conviction of this charge, a Class H Felony, the maximum penalty for this crime is a fine not to exceed \$10,000 or imprisonment not to exceed ten (10) years, or both.

**COUNT 2: FRAUDULENT CLAIM FOR SUBCHAPTER VIII  
TAX CREDIT, HABITUAL CRIMINALITY**

Between April 27, 2009, and May 20, 2009, in the county of Fond du Lac, the above-named defendant did, with fraudulent intent, provide information upon which a false claim for credit, under subchapter VIII, was prepared, for herself, contrary to Wis. Stat. § 71.83(2)(b)(4) (2007-2008).

Pursuant to Wis. Stat. § 939.50(3)(h) and § 939.62(1)(b) (2007-2008), upon conviction of this charge, a Class H Felony, the maximum penalty for this crime is a fine not to exceed \$10,000 or imprisonment not to exceed ten (10) years, or both.

**COUNT 3: FALSE STATEMENT RELATED TO TAX CREDIT CLAIM,  
HABITUAL CRIMINALITY**

Between June 23, 2009, and July 21, 2009, in the county of Fond du Lac, the above-named defendant did willfully assist in the preparation of a false statement [to wit: a fraudulent rent certificate] as to a material matter related to a claim for tax credit, under Wisconsin Statutes Chapter 71, for herself, contrary to Wis. Stat. § 71.83(2)(a)(2) (2007-2008).

Pursuant to Wis. Stat. § 71.83(2)(a)(2) and § 939.62(1)(a) (2007-2008), upon conviction of this charge, an Enhanced Unclassified Misdemeanor, the maximum penalty for this crime is a fine not to exceed \$10,000 or imprisonment not to exceed two (2) years, or both, together with the cost of prosecution.

**COUNT 4: FALSE SWEARING, HABITUAL CRIMINALITY**

On or about June 30, 2009, in the county of Fond du Lac, the above-named defendant did, while under oath, make a false statement which she did not believe was true, contrary to Wis. Stat. § 946.32(2) (2007-2008).

Pursuant to Wis. Stat. § 946.32(2) and § 939.62(1)(a) (2007-2008), upon conviction of this charge, an Enhanced Class A Misdemeanor, the maximum penalty for this crime is a fine not to exceed \$10,000 or imprisonment not to exceed two (2) years, or both, together with the cost of prosecution.

**COUNT 5: FALSE STATEMENT RELATED TO TAX CREDIT CLAIM,  
HABITUAL CRIMINALITY**

Between June 23, 2009, and July 21, 2009, in the county of Fond du Lac, the above-named defendant did willfully assist in the preparation of a false statement [to wit: a fraudulent statement on wages] as to a material matter related to a claim for tax credit, under Wisconsin Statutes Chapter 71, for herself, contrary to Wis. Stat. § 71.83(2)(a)(2) (2007-2008).

Pursuant to Wis. Stat. § 71.83(2)(a)(2) and § 939.62(1)(a) (2007-2008), upon conviction of this charge, an Enhanced Unclassified Misdemeanor, the maximum penalty for this crime is a fine not to exceed \$10,000 or imprisonment not to exceed two (2) years, or both, together with the cost of prosecution.

**FACTUAL BASIS**

- 1.) The complainant is a Wisconsin Department of Revenue (“DOR”) Special Agent and bases this complaint upon his review of the H-EZ Homestead credit forms, prisoner confinement records, and the statement of the following adult witnesses: Mary Wood and Nicole Ousley.
- 2.) The complainant knows from his training and experience that, under ch. 71, a taxpayer may claim what is called a “Homestead Credit Claim.” To obtain the Homestead Credit Claim, an individual who is a renter must obtain a Rent Certificate from the landlord documenting the amount of rent that the person has paid during the course of the preceding tax year. If a taxpayer submits a Homestead Credit Claim, the Homestead Credit Claim reduces the taxpayer’s tax

liability for that tax year. The credit is based upon the amount of rent paid and the individual's income. The earned income and homestead credits are refundable credits. If the credits exceed the tax, a refund is issued. Complainant states that he knows, based upon his training and experience, that it is a felony to submit a fraudulent Homestead Credit Claim.

#### *Fraudulent Homestead Tax Credit Claims*

3.) The complainant spoke with Nicole Ousley. Ousley stated that in April 2009 she gave Kristine Flynn, a fellow inmate, her personal identifying information so that Flynn could do Ousley's taxes. Ousley stated that in May or June of 2009 Flynn approached with a 2007 Homestead tax credit form and that Ousley signed it.

4.) The complainant has reviewed the H-EZ form for Ousley for 2007. The form was filed with DOR on or about May 20, 2009. The rent certificate portion of the form is signed and dated on May 10, 2009. Flynn lists Ousley's income at \$8000.00 and rent paid from January 4, 2007, to December 31, 2007, as \$6,600.00 to Landlord George Burnee. The form claims that Ousley "actually lived" at "638 W. 9th Ave., Oshkosh, WI 54901" from "1/4/2007" to "12/31/2007." Flynn designates "PO Box 3000, Inmate Account, Fond du Lac, WI 54936" in the home address section of the 2007 H-EZ form. Again, Ousley admits that she signed this form.

5.) The complainant has reviewed the H-EZ form for Ousley for 2008. The form was filed with DOR on or about May 20, 2009. The form is signed and dated on April 27, 2009. Flynn lists Ousley's income at \$8000.00 and rent paid from January 1, 2008, to December 31, 2008, as \$6,600.00 to Landlord George Burnee. The form claims that Ousley "actually lived" at "638 W. 9th Ave., Oshkosh, WI 54901" from "1/1/2008" to "12/31/2008." Flynn designates "PO Box 3000, (In) Account, Fond du Lac, WI 54936" in the home address section of the 2008 H-EZ form. Ousley denied signing the 2008 H-EZ form.

6.) The complainant has reviewed a June 15, 2009, Department of Revenue letter that was sent to Nicole Ousley. The letter states - DEAR NICOLE OUSLEY: WE ARE REVIEWING YOUR 2008 HOMESTEAD CREDIT CLAIM AND ADDITIONAL INFORMATION IS REQUIRED. The letter goes on to request proof of residence and copies of wage statements for 2007 and 2008, in relation to her tax credit claims. The complainant reviewed this letter with Ousley and Ousley admitted that she did respond to this letter. Ousley's written response to the letter from DOR is detailed below in the sections referring to *Fraudulent Rent Certificate* and *Fraudulent Statement on Wages*.

#### *Fraudulent Rent Certificate and False Swearing*

7.) The complainant has reviewed a handwritten document that is dated June 23, 2009, and notarized on June 30, 2009, and received by the DOR on or about July 21, 2009. The handwritten document purports to be a rent certificate which seeks to prove that Nicole Ousley lived at 638 W. 9th Ave., Oshkosh, Wisconsin in 2007 and 2008. Toward the bottom of the form Ousley writes the following: "These statements are true to my understanding and knowledge." Ousley then signs the document: "Nicole Ousley." The complainant knows that Ousley was in custody during all of 2007 and 2008. As such, the handwritten rent certificate constitutes a false or fraudulent document, related to Ousley's tax credit claims.

8.) The complainant spoke with Ousley and she initially denied signing the rent certificate. However, before the interview was over, Ousley stated that she may have signed the document and asked for a business card of Capitol Police Detective Ed Bardon, so she could call him if she remembered.

9.) The fraudulent rent certificate was notarized by Mary P. Wood. The notary section reflects that the document was: "Sworn and signed before me on June 30, 2009." The notary public signed: "Mary P. Wood." The notary public also indicated the following: "My comm. exp. March 20, 2011." The document contains the official seal of the notary, which sets out Ms. Wood's title as Notary Public, State of Wisconsin.

10.) The complainant spoke with Mary P. Wood. Wood works in the library of the Taycheedah prison. Wood is a Wisconsin Notary Public. The complainant reviewed the fraudulent rent certificate with Ms. Wood. Wood identified her seal and signature on the rent certificate. Wood stated that every person that obtains her notary seal is required to take an oath. The language of the oath is: "Do you solemnly swear the documents you are about to sign are true to the best of your knowledge and ability?" Further, Wood stated that every person that obtains her notary seal is required to sign the document in her presence and present their identification card. Wood also produced a log of all of the prisoners who came to the library on June 30, 2009. The log reflects that Nicole Ousley signed-in and was present in the library, on June 30, 2009, between 1:10PM and 2:05PM.

#### *Fraudulent Statement on Wages*

11.) The complainant has reviewed a typed document, which is dated June 30, 2009, and stamped as received on July 8, 2009, by the DOR. The letter states the following: "I Nicole Ousley am self employed. I do hair out of my residence located at 638 W. 9th Ave. Oshkosh, WI 54901. I make \$750.00 to \$1000.00 a week." The document is signed "Nicole Ousley." The complainant knows that Ousley was in custody from October 5, 2006, until September 29, 2009. As such, the statement on wages constitutes a false or fraudulent document, related to Ousley's tax credit claims.

12.) The complainant spoke with Ousley and she admitted that she signed this document. Ousley also admitted that she was incarcerated from October 5, 2006, to September 29, 2009.

13.) The complainant knows from a combination of Winnebago County Jail information as well as Wisconsin Department of Corrections Prisoner confinement records that Ousley has been in custody since October 5, 2006, until September 29, 2009.

#### *Habitual Criminality Enhancer*

14.) The complainant has reviewed certified judgments of conviction for Nicole Ousley, which are attached and incorporated by reference. In particular, Ousley was convicted of Manufacture/Delivery of Cocaine, a Class F Felony, contrary to § 961.41(1)(cm)(1r) and two separate counts of Manufacture/Delivery of Cocaine, Class G Felonies, contrary to § 961.41(1)(cm)(1g) on November 30, 2006, in Winnebago County Circuit Court. Said convictions remain valid convictions of record and have never been reversed or overturned.

15.) Pursuant to § 939.62(2), an actor is a repeater, if the actor was convicted of a felony during the 5-year period immediately preceding the commission of the current crimes. Therefore, Ousley is properly subject to the habitual criminality/repeater enhancer.

**END OF COMPLAINT**

Dated this 18 day of February, 2010.

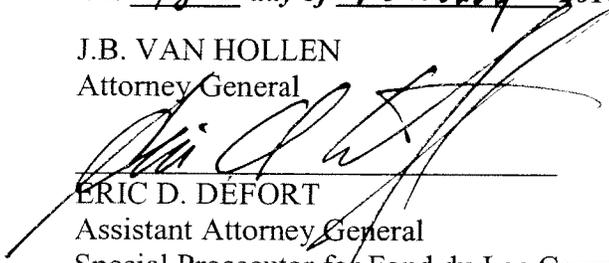
Complaining Witness:



ALAN KURTH  
Special Agent  
Wisconsin Department of Revenue

*Subscribed and sworn to before me and approved for filing  
this 18<sup>th</sup> day of February, 2010.*

J.B. VAN HOLLEN  
Attorney General



ERIC D. DEFORT  
Assistant Attorney General  
Special Prosecutor for Fond du Lac County  
State Bar No. 1041760  
Wisconsin Department of Justice  
17 W. Main Street  
Madison, Wisconsin 53707-7857  
(608) 266-8514

State of Wisconsin vs. Nicole I Ousley

**Judgment of Conviction**

Amended

Sentence to Wisconsin State  
Prisons and Extended Supervision

Date of Birth: 12-18-1972

Case No.: 2006CF000775

MAY - 2 2007

WINNEBAGO COUNTY  
CIRCUIT COURT BRANCH 6

The defendant was found guilty of the following crime(s):

Ct.	Description	Violation	Plea	Severity	Date(s) Committed	Trial To	Date(s) Convicted
1	Manufacture/Deliver Cocaine (> 1-5g) [939.62(1)(b) Repeater]	961.41(1)(cm)1r	No Contest	Felony F	09-06-2006		11-30-2006
8	Manufacture/Deliver Cocaine (<=1g) [939.62(1)(b) Repeater]	961.41(1)(cm)1g	No Contest	Felony G	09-15-2006		11-30-2006
9	Manufacture/Deliver Cocaine (<=1g) [939.62(1)(b) Repeater]	961.41(1)(cm)1g	No Contest	Felony G	09-22-2006		11-30-2006

**IT IS ADJUDGED** that the defendant is guilty as convicted and sentenced as follows:

04-12-2007 : On count 1 defendant is confined to prison for 3 years followed by a period of 5 years extended supervision for a total length of sentence of 8 years.

Concurrent with/Consecutive to/Comments: 190 days credit for time served. The defendant IS eligible for the Challenge Incarceration Program and Earned Release Program. Counts 3 - 7 and 10 were dismissed and readin.

04-12-2007 : On count 8 defendant is confined to prison for 2 years followed by a period of 2 years extended supervision for a total length of sentence of 4 years.

Concurrent with/Consecutive to/Comments: concurrent

04-12-2007 : On count 9 defendant is confined to prison for 2 years followed by a period of 2 years extended supervision for a total length of sentence of 4 years.

Concurrent with/Consecutive to/Comments: concurrent

Ct.	Sent. Date	Sentence	Length	Concurrent with/Consecutive to/Comments	Agency
1	04-12-2007	License suspended	6 MO	concurrent	
8	04-12-2007	License suspended	6 MO	concurrent	
9		License suspended	6 MO	concurrent	

State of Wisconsin vs. Nicole I Ousley

Judgment of Conviction

Amended

Sentence to Wisconsin State Prisons and Extended Supervision

Date of Birth: 12-18-1972

Case No.: 2006CF000775

Conditions of Extended Supervision:

Obligations: (Total amounts only)

Fine	Court Costs	Attorney Fees	Restitution	Other	Mandatory Victim/Wit. Surcharge	5% Rest. Surcharge	DNA Anal. Surcharge
	32.00			324.00	255.00		250.00

Ct.	Condition	Agency/Program	Comments
1	Costs		The District Attorney shall have 30 days to determine "buy money", if any. 10 days for objections.
1	Employment / School		Obtain GED/HSED.
1	Alcohol treatment		AODA assessment and followup.
1	Drug Treatment		AODA assessment and followup.
1	Prohibitions		No use or possession of controlled substances, unless prescribed by a physician. No possession of drug paraphernalia. No use or consumption of intoxicants. No affiliation with gang members.
1	Other		Counseling, evaluations and assessments as appropriate and followup. Pay supervision fees as determined by the Department of Corrections. Submit DNA sample if not previously submitted. DOC to remove \$250 DNA cost upon proof of previous payment.
1	Other fees		May 2, 2007: Motion and Order for Determination of Costs filed by DA. No objections. Therefore, \$300 buy money payable to Lake Winnebago Area MEG Unit, P O Box 719, Neenah, WI 54957-0719.
8	Costs		
9	Costs		

IT IS ADJUDGED that 190 days sentence credit are due pursuant to § 973.155, Wisconsin Statutes

IT IS ORDERED that the Sheriff execute this sentence.

BY THE COURT:

Bruce K. Schmidt, Judge  
John Jorgensen, District Attorney  
Thomas J Fink, Defense Attorney  
Defendant  
Probation and Parole (2)  
Taycheedah Correctional (2)

Court Official Jan Fink Be 6

May 2, 2007  
Date