

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,            )  
  )  
      Plaintiff,                            )  
  )  
-vs-                                        ) No. CR-16-189-002-F  
  )  
SUMMER THYME CREEL,                )  
  )  
      Defendant.                         )

**FINDINGS AT SENTENCING**

The court makes the following findings with respect to the sentencing of the defendant, Summer Thyme Creel.

Ms. Creel stands convicted of passing a counterfeit check, drawn on an account at Tinker Federal Credit Union. The account was the account of an innocent victim whose identity was stolen by Ms. Creel. In determining the sentence in this case, the court is required by federal law to consider, among other things, the nature and circumstances of the offense, the history and characteristics of the defendant, the need for the sentence to reflect the seriousness of the offense, the need to protect the public from further crimes of the defendant and the need to afford adequate deterrence to criminal conduct. These are the predominant sentencing considerations in this case. The court’s findings relevant to these sentencing considerations are set forth below.

**I. Ms. Creel’s criminal history before her arrest in this case.**

Ms. Creel’s criminal career began in 2011, at the age of 28, with a larceny conviction in Oklahoma City. This was followed by another larceny conviction in 2012 and a conviction for embezzlement in 2013. In 2014, Ms. Creel graduated to

grand larceny, with convictions in Cleveland County for, among other things, grand larceny and concealing stolen property. In the same year, 2014, Ms. Creel was also convicted in Oklahoma County for conspiracy to commit a felony, forgery in the second degree and obstructing an officer.

In 2015, Ms. Creel was convicted of false personation in an incident in which the defendant identified herself by three different names.

In March, 2016, Ms. Creel was convicted in McIntosh County of passing a fraudulent check, based on the identity of an innocent victim. In that case, Ms. Creel admitted to investigators that she had (apparently in the recent past) passed approximately 20 fraudulent checks in various places in the State of Oklahoma.

In March, 2017, in Oklahoma County, Ms. Creel was convicted of forgery for having passed a fraudulent check at a Hobby Lobby store. She committed that offense in October 12, 2016, about a month before she was arrested in this case.

## **II. Ms. Creel's offense conduct and other relevant conduct in this case.**

The investigation in this case began in April, 2013. Ms. Creel, acting in concert with others, stole mail, which included checks, and used software to manufacture counterfeit checks bearing the bank information from the stolen checks, including bank names, account numbers, and routing numbers. Ms. Creel and co-defendant Amber Perkins acted in concert to manufacture and negotiate counterfeit checks. Theirs was a systematic and successful identity theft scheme.

In October, 2014, Oklahoma City police officers encountered Ms. Perkins and Ms. Creel in a pickup in a parking lot in southwest Oklahoma City. A search of the truck revealed numerous blank payroll checks, social security numbers, personal checks, check stubs, a car title, and other individual mail (belonging to others).

Investigators determined that the total amount of the prepared checks in the possession of Ms. Perkins and Ms. Creel exceeded \$24,000.

Shortly after Ms. Creel was arrested for her activity in October, 2014, Ms. Creel passed two fraudulent checks at a Walmart in Chickasha, Oklahoma, using stolen bank account information relating to the Tinker Federal Credit Union account of another innocent victim. The count to which Ms. Creel entered a plea of guilty in this case is a count charging that, in December, 2014, she passed a fraudulent check at the Walmart store in Moore, Oklahoma.

### **III. Ms. Creel's continuing criminal conduct after her arrest in this case.**

Ms. Creel's criminal activity continued after her arrest in this case. In yet another case in Oklahoma County in 2017, Ms. Creel was convicted of forgery for having passed another fraudulent check, again at a Hobby Lobby store, drawn on the account of an innocent victim from Blanchard, Oklahoma. She committed this crime in early February, 2017, about ten weeks after she was arrested in this case.

### **IV. Ms. Creel's personal history.**

By virtue of a series of relationships over approximately the last fourteen years, Ms. Creel has given birth to seven children out of wedlock. Comparing the dates of Ms. Creel's periods of habitual use of crack cocaine and methamphetamine (as disclosed in the Presentence Report) with the dates of birth of her seven children, it appears highly likely that some of Ms. Creel's children were conceived, carried and born while Ms. Creel was a habitual user of these illicit substances. It comes as no surprise, therefore, that, in 2012, Ms. Creel relinquished her parental rights with respect to six of her seven children after an Oklahoma Department of Human

Services investigation for “failure to protect the children from harm.”<sup>1</sup> Her seventh child was born in 2016. Ms. Creel has tested positive for methamphetamine twice in the last year, the most recent such instance having been in December, 2017, which led to the revocation of her bond and her incarceration pending sentencing.

**V. The sentence to be imposed and the reasons for that sentence.**

Under 18 U.S.C. § 3661, “[n]o limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.”

By order entered last June, the court advised Ms. Creel that, at sentencing, she may, if (and only if) she chooses to do so, present medical evidence to the court establishing that she has been rendered incapable of procreation. Last November, while awaiting sentencing, Ms. Creel was surgically rendered incapable of procreation. Accordingly, among other factors which Ms. Creel asks the court to consider in determining her punishment, Ms. Creel states that she “has voluntarily relinquished her ability to have children.” Doc. no. 91, at 3.

Although the government allows, in passing and rather tepidly, that it understands the court’s “concern that Creel’s extensive drug use negatively impacted the lives of her 7 children,” the government specifically urges the court not to “consider Creel’s voluntary sterilization procedure in determining a sentence.” Doc. no. 92, at 12. The government cites what it calls Ms. Creel’s “fundamental constitutional right to procreate.” *Id.* This is rather curious. In support of this proposition, the government cites the Supreme Court’s decision in Skinner v. Oklahoma, 316 U.S. 535 (1942), apparently overlooking the fact that the Skinner

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<sup>1</sup> Presentence Report, ¶ 62.

case involved *involuntary* sterilization which was compelled by the state law that the Supreme Court held to be unconstitutional.

If anything was clear from the court's June order, it was that the decision as to whether to be sterilized would be for Ms. Creel and Ms. Creel alone to make. The short of the matter is that Ms. Creel will get the benefit of her decision to be sterilized. She will receive a shorter sentence because she made that decision. But a decision not to be sterilized would not have counted against Ms. Creel for sentencing purposes – she would have come before the court in the same posture as any other habitual criminal. Her fertility status would have been a nonissue. Moreover, if we assume, as the government urges, that the court's approach to sentencing in this case might raise a constitutional issue, the court will note that the Supreme Court has yet to recognize a constitutional right to bring crack or methamphetamine addicted babies into this world.

Accordingly, in determining the sentence to be imposed upon Ms. Creel, the court will take into account all of the factors spelled out in 18 U.S.C. § 3553, a determination which will give Ms. Creel the benefit of her decision to be sterilized.

DATED February 8, 2018.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE