

**District Court of Washington for the
County of Thurston**

Plaintiff,

vs.

Defendant.

No.

Petition for Deferred Prosecution

Charges:

Violation Date:

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05. I make the following statement in support of my petition:

1. The wrongful conduct charged is the result of or caused by
Alcoholism Drug Addiction Mental Problems, for which I need treatment.
2. Unless I receive treatment for my problem, the probability is great that I will offend again
3. I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to RCW 10.05.130.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. If this charge is a violation of Title 46 RCW or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 RCW or similar municipal ordinance violation.
6. I have filed a case history and assessment with this petition as required by RCW 10.05.020.
7. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; an opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.

8. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction. I acknowledge that the above items will be used to support a finding of guilty if the deferred prosecution is revoked. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.
9. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
10. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a 7-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).
11. If the court defers prosecution on any crime that would be a violation of state law or local ordinance relating to motor vehicle traffic control, I will be disqualified from driving a commercial motor vehicle for the period specified in RCW 46.25.090 and, if I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition. RCW 46.25.030. If the court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490. If my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to install an ignition interlock device under RCW 46.20.720. The required periods of interlock use shall be no less than the periods provided for in RCW 46.20.720(3)(a), (b), and (c) and subject to certification from the ignition interlock device vendor. RCW 46.20.720(4). I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of re-offense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all non-prescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism programs shall require a minimum of two (2) self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.
12. If the court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.
13. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock device requirements, then the court will hold a hearing to determine whether I should be removed from the deferred prosecution program. After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment

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14. The court will dismiss the charge(s) against me in this case three years from the end of the 2-year treatment program and following proof to the court that I have complied with the conditions imposed by the court following successful completion of the 2-year treatment program, but no less than five (5) years from the date the deferred prosecution is granted, if the court grants this petition and if I fully comply with all the terms of the court order placing me on deferred prosecution.
15. A filing fee of \$250.00, probation fee of \$1,200.00, and BAC fee of \$250.00 will be paid in accordance with the time payment agreement.

Defendant requests 12 hours of community service in lieu of the \$250.00 filing fee

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at Thurston County, Washington on: _____

Presented by:

Defense Attorney WSBA#

Copy received and agreed to by:

Defendant/Petitioner

**District Court of Washington for the
County of Thurston**

No.

Order for Deferred Prosecution

Plaintiff,

vs.

Defendant.

THIS MATTER having come on for hearing before the Court on petition of the Defendant for deferred prosecution, after reviewing the petition and the report of the state-approved treatment center, the Court makes the following findings:

- a) The Petitioner has stipulated to the admissibility and sufficiency of the facts in the written police report;
- b) The Petitioner has acknowledged that, if this Order granting a deferred prosecution were to be revoked, those facts would be admissible in any criminal hearing on the original offense(s);
- c) The Petitioner has acknowledged and waived the right to a speedy trial, the right to a jury trial, the right to testify, the right to call witnesses, and the right to present evidence for the defense

The Petitioner's statements and waivers were made knowingly and voluntarily.

THEREFORE, the Court finds that deferred prosecution is appropriate under the circumstances; now therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the prosecution of the charge(s) said to have occurred on _____ shall be stayed and deferred by the _____ for a period of five years upon condition that the Petitioner:

1. Abstains completely from alcoholic beverages.
2. Abstains from use of any illicit drugs or any controlled substances without a medical prescription; uses prescribed medications only as instructed by a physician or pharmacist; provides copies of prescriptions to Probation upon request

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3. Does not enter establishments where alcohol is the chief item of sale (bars, taverns, cocktail lounges, liquor stores).
4. Participates in the treatment program as determined by the chemical dependency treatment facility
5. Attends a minimum of two meetings per week of a self-help recovery support group, as determined by the treatment agency, for the duration of the treatment program; provides proof of meeting attendance, including date attended, group attended, and chairperson signature when requested by Probation.
6. Submits to random testing of breath, blood or urine as directed by the treatment agency or Probation.
7. Attends a presentation of the Victim Impact Panel.
8. Does not operate a motor vehicle unless properly licensed and insured; provides evidence of liability insurance to Probation upon request.
9. Has no criminal law violations.
10. Reports to Probation as directed and follows all of Probation's rules.
11. Keeps the Court and Probation informed of the current mailing address and telephone number at all times and does not change residences without first notifying Probation.
12. Pays the following: \$1200 probation supervision, \$250 BAC fee, \$250 filing fee.
13. Signs a waiver of confidentiality that permits the treatment agency to communicate with the Court and Probation; directs the treatment agency to provide monthly status reports to Probation regarding cooperation with the treatment plan and progress in treatment.
14. Does not drive a vehicle not equipped with an ignition interlock device per the requirements of the Washington State Department of Licensing.
15. Other: _____

IT IS FURTHER ORDERED that if the Petitioner fails to abide by any of the conditions set forth above, the Court may rescind this Order and authorize the prosecution to proceed on the original charge(s); that the Petitioner shall be deemed to have waived the specified constitutional rights and shall have guilt or innocence determined by the Court based entirely on the police report, without benefit of jury.

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IT IS FURTHER ORDERED, however, that if the Petitioner complies with all the conditions set forth above, upon notification of the satisfactory completion of the treatment program and subsequent monitored probation for the remainder of the five-year deferral period, the Court shall dismiss the charge(s), and the _____ shall be barred from ever bringing the charge(s) to trial.

DONE IN OPEN COURT on this day: _____

Presented by:

Defense Attorney WSBA#

Copy received and agreed to:

Defendant / Petitioner