

**ISLAND COUNTY DISTRICT AND MUNICIPAL
COURT, STATE OF WASHINGTON**

- ☐ STATE OF WASHINGTON
- ☐ CITY OF OAK HARBOR
- ☐ CITY OF COUPEVILLE
- ☐ CITY OF LANGLEY

Plaintiff,

Vs.

Defendant.

CASE NUMBER(S):

**FINDINGS OF FACTS,
CONCLUSIONS OF LAW AND
ORDER GRANTING DEFERRED
PROSECUTION**

This matter coming on for hearing on defendant/petitioner's Petition for Deferred Prosecution, the plaintiff represented by the Prosecuting Attorney, and the petitioner represented [] by his/her attorney, _____, [] pro se, and the court being fully informed, makes the following:

FINDINGS OF FACT

1. Petitioner has filed with this court an assessment by an approved substance use disorder, mental health, or domestic violence behavior program;
2. The offense for which petitioner stands charged in this cause of action was the direct result of, or was caused by [] substance use disorder, and/or [] mental problems, and/or [] domestic violence behavior;
3. If not treated for his/her [] substance use disorder, and/or [] mental problems, and/or domestic violence behavior, there is a great probability that the petitioner may commit similar offenses in the future;
4. Extensive long term treatment for petitioner's problem is required and available to the petitioner through _____ [] a state-approved substance use disorder treatment program, [] a state-approved mental health provider, [] a state-certified domestic violence intervention treatment program;
5. Petitioner is amendable to treatment;
6. Petitioner has agreed to complete, and to pay all costs associated with, the treatment program as set forth in the assessment and filed with the Petition for Deferred Prosecution;
7. Petitioner has filed copies of all reports, witness statements and test results relating to the offense(s) with which (s)he is charged; has stipulated that the facts set forth therein are

sufficient to prove the crime(s) beyond a reasonable doubt, and has agreed to their admissibility to support a finding of guilty in any criminal hearing on the underlying offense(s) held if the Order Granting Deferred Prosecution is revoked;

8. Petitioner's statements contained in the stipulated police reports were made knowingly and voluntarily;
9. Petitioner has been advised of, has acknowledged, and has voluntarily and knowingly waived the right to testify, the right to a speedy trial, the right to trial by jury, the right to call witnesses to testify, the right to present evidence and any defense, and the right to confront, hear and question the witnesses who testify against the petitioner; and,
10. That the Petitioner has not made petition for, nor been previously granted a Deferred Prosecution for a Title 46 RCW violation or similar municipal ordinance violation.

FROM THE FOREGOING FINDINGS OF FACT, THE COURT DRAWS THE FOLLOWING:

CONCLUSIONS OF LAW

1. That the above-entitled Court has jurisdiction over the subject matter and Petitioner in this case;
2. That Petitioner's Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq;
3. That the assessment and commitment to treatment meets the requirements of RCW 10.05.150; and,
4. That Petitioner is eligible for Deferred Prosecution.

ORDER

Having made and entered the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that prosecution is deferred pursuant to RCW 10.05 et seq. and for a term of years as set forth in RCW 10.05.120 upon the following terms and conditions:

1. Petitioner shall complete the two-year treatment program recommended by _____, according to the terms and conditions of that plan as outlined in the evaluation, a true copy of which is attached to the Petition and incorporated herein by this reference, and shall not change treatment providers without prior court approval;

2. Petitioner shall maintain total abstinence from alcohol, cannabis, and mood-altering drugs, and shall not possess, consume or use alcohol, cannabis or drugs/controlled substances, except as prescribed by a physician or as otherwise specifically permitted by the court, and (s)he shall immediately notify his/her counselor and probation officer to the use of such substances;
3. Petitioner shall submit to testing of his/her breath, blood, or urine at the request of a law enforcement officer who has reasonable grounds to believe the petitioner possessed or has used alcohol, cannabis, or controlled substances, or at the request of the petitioner's substance-abuse counselor or probation officer;
4. Petitioner shall maintain law abiding behavior and not violate any criminal laws or commit any alcohol related infractions;
5. Petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance sufficient to comply with the state laws on financial responsibility;
6. Petitioner shall be on supervised probation during the period of deferral and shall abide by all the terms, conditions, rules, and regulations of the probation department for the term of this probation;
7. Petitioner shall check in monthly with probation and show proof of two weekly support meetings for the duration of their treatment program to their probation officer;
8. The treatment program shall file with the court status reports every month describing Petitioner's cooperation and progress in treatment. The Court may increase the frequency of these reports at its discretion;
9. Upon receiving notice that petitioner has failed to fulfill any term or condition of this order, the court will hold a hearing to determine whether the petitioner should be removed from the Deferred Prosecution Program;
10. If petitioner is convicted of an offense that is the same or similar to the one that is the basis for the deferred prosecution, the court shall remove the petitioner from the deferred prosecution program;
11. If the court revokes the deferred prosecution and removes the petitioner from the deferred prosecution program, the stipulated police reports and statements of the petitioner and test results will be admitted into evidence; the court will enter judgment based thereon, and, if appropriate, sentence petitioner according to the law;
12. Petitioner's waiver of his/her right to a speedy trial pursuant to CrRLJ 3.3 is accepted;
13. Petitioner shall pay a \$250.00 fee pursuant to RCW 46.61.505(4);

14. Petitioner shall pay a \$35 probation set up fee, probation monitoring costs of _____ per month while being monitored by probation, and _____ per month while being monitored by the court;

15. Petitioner shall keep the probation department and clerk of Court advised of any changes in address. Petitioner's current contact information is:

Address: _____

City, State, Zip: _____

Email: _____ Phone Number: _____

16. Petitioner shall surrender his or her Washington State driver's license (RCW 46.20.355);

17. Petitioner shall drive only with an ignition interlock device as required by Dept. of Licensing for periods established under RCW 46.20.720;

18. The court shall notify the Department of Licensing of petitioner's acceptance for deferred prosecution;

19. Petitioner shall be subject to the conditions of the Interstate Compact, if it is applicable in this matter.

20. Upon successful completion of the two-year treatment program, the underlying charge will be dismissed three years from the date of completion if petitioner is in full compliance with the conditions of this order, but no earlier than five years from the date of entry of this order.

ADDITIONAL TERMS AND CONDITIONS:

☐ Petitioner shall pay restitution to _____ in the amount of \$_____, no later than_____.

☐ Petitioner shall pay \$_____ for the costs of an emergency response (up to \$2,500) (RCW 38.52.430).

☐ Petitioner shall pay court costs of \$_____ (not to exceed \$250.00 under RCW 10.01.160).

- ☐ Petitioner shall attend a DUI Victim's Panel and file proof of completion with probation by _____.
- ☐ Petitioner shall install and maintain the ignition interlock device until _____ in addition to any mandatory term of the ignition interlock device under RCW 46.20.720.
- ☐ Petitioner shall be on 24/7 portable alcohol monitoring until further court order. Probation will monitor compliance with this condition.
- ☐ Petitioner shall be on transdermal alcohol monitoring until further court order. Probation will monitor compliance with this condition.
- ☐ Other: _____

Done in open court this _____ day of _____, 2024.

 Judge/Commissioner

Presented by:

 Attorney for Petitioner

 WSBA No.

Approved for Entry:

 Prosecuting Attorney

 WSBA No.

I do hereby acknowledge the foregoing Order of Deferred Prosecution and agree to comply with the terms and conditions set forth therein.

Petitioner

Date