

**IN THE MUNICIPAL COURT FOR THE CITY OF KIRKLAND
STATE OF WASHINGTON FOR KING COUNTY**

CITY OF KIRKLAND,)
)
 Plaintiff,)
)
 v.)
)
)
)
 Defendant,)
)
)
)
 _____)

Case Number _____

**ORDER GRANTING DEFERRED
PROSECUTION**
 CHARGE: _____

BAC: _____ No Test Refusal
 .08 - .14 .15 or above
 Drug Related

Vehicle: Commercial HazMat
 16 Passenger

THIS MATTER having come on for hearing before the undersigned Judge of the above entitled Court, upon the Defendant’s Petition for Deferred Prosecution; the Plaintiff, City of _____ appearing by and through the Prosecuting Attorney, and the Defendant appearing in person and through his/her attorney of record, or having waived his/her right to counsel; the Court having examined and incorporated into the record Defendant’s Petition and Statements in support of Deferred Prosecution, the written assessment and treatment plan prepared by _____ the Defendant’s case history and abstract of driving record, and the files and records herein, having heard argument of counsel, and, otherwise, being fully informed in the premises, now, therefore makes the following:

I. FINDINGS OF FACT

- 1.1 That the offense(s) for which Defendant stands charged in this case occurred as a direct result of alcoholism, drug addiction, or mental problems;
- 1.2 That Defendant is in need of treatment and if not treated for this condition, there is a high probability the Defendant will commit similar violations in the future;
- 1.3 That Defendant is amenable to treatment;
- 1.4 That extensive and long-term treatment is available to Defendant through _____ a state-approved treatment provider as designated under the law;
- 1.5 That Defendant agrees to complete the two-year program offered by the treatment provider as set forth in the attached case history and written assessment, pursuant to RCW 10.05.150 or RCW 10.05.040-.050, as applicable;

1.6 That Defendant has agreed to be liable for all costs and expenses associated with diagnosis, treatment and Supervised Probation;

1.7 That Defendant has acknowledged and waived his or her following rights in this matter: the right to a speedy trial, the right to a jury trial, the right to testify, the right to call witnesses to testify, and the right to present evidence in his or her defense;

1.8 That Defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police report(s) attached and incorporated herein by this reference and filed herewith;

1.9 That Defendant has acknowledged that the stipulated facts will be admissible and sufficient in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of this Order Granting Deferred Prosecution and that the facts contained in the report(s) will be used as the sole evidence to support a finding of guilt;

1.10 That Defendant's statements made pursuant to RCW 10.05.020(3) in support of the Petition for Deferred Prosecution were made knowingly and voluntarily; and that if the court finds cause to revoke this Order Granting Deferred Prosecution, these statements will be used to support a finding of guilt.

1.11 That Defendant has not 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:

II. CONCLUSIONS OF LAW

2.1 That the above entitled Court has jurisdiction over the subject matter and the parties to this action;

2.2 That the Defendant's Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq;

2.3 That the diagnostic evaluation and commitment to provide treatment submitted by the treatment provider meets the requirements of RCW 10.05.040 - .050 or RCW 10.05.150, as applicable; and

2.4 That the Defendant is eligible for Deferred Prosecution.

III. 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 Ch. 10.05 et seq. and for a term of years as set forth in RCW 10.05.120 upon the following terms and conditions:

3.1 Defendant shall complete the two-year treatment program recommended by _____, according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by this reference;

3.2 Defendant shall not possess or consume, and must maintain total abstinence, from alcohol, marijuana/cannabis products, any mind altering substance, or controlled substances as defined in RCW Ch. 69.50 et. seq., unless prescribed by a physician during the period of deferral;

3.3 Defendant shall commit no alcohol or drug related infractions, criminal traffic offenses or other criminal offenses during the period of deferral;

3.4 Defendant 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 state laws on financial responsibility [RCW 46.29.490];

3.5 An abstract of the Defendant's acceptance for deferred prosecution shall be sent to the Department of Licensing if the charge for which the Deferred Prosecution is granted is a misdemeanor or gross misdemeanor under Title 46 RCW;

3.6 Defendant shall be on supervised probation with the Kirkland Municipal Court Probation Department during the period of deferral and shall abide by all terms, conditions, rules, and regulations of the probation department for the term of this period. Defendant shall pay the costs of probation in the amount of **\$75 per month** for the first 24 months. Post 24 month costs **\$500** total;

3.7 The treatment provider shall file with the Court and probation department status reports every month describing Defendant's cooperation and progress in treatment. The Court or probation department may require an increase in the frequency of these reports at its discretion;

3.8 The treatment provider and probation department are authorized to monitor the Defendant's sobriety by the use of random drug testing or breath testing. Defendant shall submit to random urinalysis or breath testing upon the request of the probation department, treatment provider, or the Court.

3.9 In the event that the Defendant fails or neglects to carry out and fulfill any term or condition of the treatment plan, or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720, the facility, center, institution or agency administering the treatment or device, shall immediately in writing report such breach to the Court, the probation department, the prosecutor, and the Defendant's attorney of record, together with its recommendation. The Court, upon receiving such a report of failure, neglect or violation, will hold a hearing to determine whether the Defendant should be removed from the deferred prosecution program;

3.10 If the Defendant is subsequently convicted of a similar offense while in the deferred prosecution program, or if the Court finds cause to revoke the deferred prosecution; the stipulated police report(s) shall be admitted into evidence. The Court will then enter judgment based solely on said report(s) and, if appropriate, sentence the Defendant according to law;

3.11 Defendant's waiver of the right to a speedy trial pursuant to CrRLJ 3.3 and RCW 10.05.020(3) is accepted;

3.12 Defendant's waiver of the right to a jury trial pursuant to CrRLJ 6.1.1(a) and RCW 10.05.020(3) is accepted;

3.13 Defendant shall pay a BAC State Toxicology Lab assessment in the amount of **\$250** [RCW 46.61.5054];

3.14 Defendant shall keep the probation department and the clerk of the Court advised, in writing, of any changes in address and telephone number within two business days. Defendant's current address and phone number:

Phone:() _____

3.15 Defendant shall surrender his or her non-probationary Washington State driver's license to the Washington State Department of Licensing pursuant to RCW 46.20.355;

3.16 Defendant shall not change the treatment provider without prior approval of the Court and probation department;

3.17 Three years after receiving written proof of successful completion of the two-year treatment program, but not before five years following entry of the Order of Deferred Prosecution, and if the Defendant is in full compliance with all other conditions of this order, the Court shall dismiss the charge(s) pending against the Defendant;

IV. ADDITIONAL TERMS AND CONDITIONS:

4.1 Defendant shall pay restitution to (full name and address)

_____ in the amount of \$ _____, no later than _____;

4.2 Any Defendant requesting to relocate outside of the State of Washington must have judicial approval and comply with Interstate Commission on Adult Supervision (ICAOS) [RCW 3.50.355];

4.3 Defendant shall pay witness fees and expenses due for subpoenaed witnesses who have appeared for hearing or trial [RCW 10.05.010(1)];

4.4 Defendant shall pay Deferred Prosecution cost of \$ _____ per payment order agreement. The costs must be paid in full within 24 months of signing this agreement;

4.5 Defendant shall attend and complete a DUI Victim's Panel within 90 days and file written proof of completion with the probation department and the Court. [RCW 46.61.5152];

4.6 Defendant may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device for the mandatory period required by DOL pursuant to RCW 10.05.140 and RCW 46.20.720. It is further ordered that:

- a. The Defendant shall not operate any motor vehicle unless he/she has a valid license and insurance;
- b. The Defendant shall have an ignition interlock breath alcohol device installed by a Washington State Patrol certified ignition interlock breath alcohol device vendor on ANY motor vehicle(s) he/she operates;
- c. Defendant shall bear the cost of installation and maintenance of the ignition interlock device;

- d. Any ignition interlock device installed pursuant to this order shall be monitored by the installer at least once every sixty-five (65) days (WAC 204-50-080). Notification shall be made by the installer in writing to all named parties, pursuant to paragraph 3.10 above; or as required by WAC 204-50 etc seq;
- e. Defendant shall not adjust, tamper with, remove, or circumvent in any manner: (1) any ignition interlock device, (2) the wiring of any ignition interlock device, or (3) the ignition system of any vehicle equipped with an ignition interlock device; and
- f. Any ignition interlock device installed pursuant to this Order Granting Deferred Prosecution shall comply with the mandatory operation features required pursuant to WAC 204-50-110. The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of .025 or more.
- g. The court grants a 5 day grace period to install the ignition interlock.

4.7 During the three years following completion of the two-year treatment program, Defendant shall attend a minimum of [redacted] AA/NA or other self-help support group meetings per [redacted] week [redacted] month. Support group attendance logs must be filed with the Court monthly by the 5th day of the following month. The log must include the defendant's name, case number, date of the meeting, group meeting name, chairperson signature and telephone number. Approved attendance log forms are available in the Probation Office. You cannot attend multiple meetings in one day and must attend the minimum meetings ordered within each calendar month.

4.8 Defendant shall not refuse to submit to a test of his or her breath or blood to determine alcohol concentration or the presence of controlled substances upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.

4.9 Other terms and conditions:

DONE IN OPEN COURT this _____, day of _____, 20_____.

Judge/Judge Pro-Tem

Presented by:

Approved for Entry; Copy Received:

Attorney for Defendant
WSBA #

Prosecuting Attorney
WSBA#

I do hereby acknowledge the foregoing Order of Deferred Prosecution. I have read it or had it read to me, understand and agree to comply with the terms and conditions set forth therein.

Defendant Date

INTERPRETER DECLARATION:

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated the above document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED: _____ LOCATION: Kirkland, Washington

Interpreter