

IN THE SEATAC MUNICIPAL COURT FOR THE COUNTY OF KING,
STATE OF WASHINGTON

CITY OF SEATAC,)
 Plaintiff,)
)
 vs.)
)
 Defendant. ,)
)
 _____)

No.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
DEFERRED PROSECUTION

THIS MATTER comes before the undersigned Judge of the above-entitled Court upon Defendant’s petition for Deferred Prosecution; the City of SeaTac appearing by and through the Prosecuting Attorney, and the Defendant, appearing in person and through his/her attorney of record _____; the Court having reviewed and incorporated into the record Defendant’s Petition for Deferred Prosecution, the evaluation and treatment report prepared by _____, the Defendant’s criminal case history and abstract of driving record, and the files and records herein, having heard argument of counsel, and otherwise, being duly informed in the premises, now therefore, makes the following:

1. FINDINGS OF FACT

- 1.1. That the Defendant is charged with the crime(s) of: _____
- 1.2. That the offense(s) for which the Defendant is charged is the result of or caused by [] alcoholism [] drug addiction [] mental health problems;
- 1.3. That the Defendant is in need of treatment and if not treated for this (these) condition(s), there is a high probability that the Defendant will commit similar violations in the future.
- 1.4. That the Defendant is amenable to treatment;
- 1.5. That extensive and long-term treatment is available to the Defendant through _____, a state-approved treatment program;
- 1.6. That the Defendant has agreed to be liable for all costs and expenses associated with diagnosis and treatment;
- 1.7. That Defendant agrees to complete the two-year treatment program and follow the recommendations outlined in the attached treatment report;
- 1.8. That Defendant has been informed fully and understands all the trial rights guaranteed to him/her, and that he/she waives the following rights if the Court grants the Petition for Deferred Prosecution:
 - a. The right to a speedy trial;
 - b. The right to a jury trial;
 - c. The right to give testimony on his or her own behalf;
 - d. The opportunity to call and question witnesses;
 - e. The right to present any evidence;

- 1.9. That the Defendant has stipulated to the admissibility of the police reports and has also stipulated that those reports are sufficient to support a conviction to the charged offense(s);
- 1.10. That the Defendant has acknowledged the police reports (attached hereto) and that the facts contained in the reports will be used as the sole evidence to support a finding of guilty if the Deferred Prosecution is revoked;
- 1.11. That the Defendant has been advised of the statutory maximum penalties that may be imposed and the mandatory minimum penalties that must be imposed upon conviction for the charged offense(s), and that the Defendant understands that if the Deferred Prosecution is revoked, he/she may be sentenced up to the maximum penalty allowed by law;
- 1.12. That statements made by Defendant pursuant to RCW 10.05.020 were made knowingly, intelligently and voluntarily; and
- 1.13. That the Defendant has not previously been granted a deferred prosecution for a violation of Title 46 RCW or other similar municipal ordinance;
- 1.14. That the Defendant has been advised and does understand that even a successful deferred prosecution will enhance mandatory minimum penalties for subsequent offenses committed within a 7-year period, and will be considered a prior offense under RCW 46.61.5055.
- 1.15. That the Defendant has been advised and is aware of consequences a deferred prosecution has on his/her privilege to operate a commercial motor vehicle in Washington state and on his or her commercial driver's license, and the duties imposed on the holder of a commercial driver's license when granted a deferred prosecution.
- 1.16. That the Defendant has been advised that he/she is subject to the Interstate Compact for Adult Offenders under Supervision (ICAOS), and if subject to ICAOS, has been made aware of the consequences and restrictions a deferred prosecution and probation monitoring will have on his/her ability to travel out of state under ICAOS, and that he/she must qualify for transfer of supervision, must receive permission to leave the state, and must be accepted by the receiving state prior to leaving Washington;

From the foregoing Findings of Facts, the Court makes the following:

2. 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 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 meet the requirements of RCW 10.05, et. seq.; and
- 2.4. That the Defendant is eligible for Deferred Prosecution.

3. ORDER

Having made and entered the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED, that the Defendant is granted a Deferred Prosecution pursuant to RCW 10.05, 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 the plan as outlined in the Diagnostic Evaluation, a true copy of which is attached to this Order and incorporated herein by reference, and shall be liable for all costs and expenses associated with diagnosis and treatment;
- 3.2. Defendant shall maintain total abstinence from alcohol and any controlled substance as defined in RCW 69.50, et. seq., unless prescribed by a physician and according to the physician's instructions, during the period of deferral;
- 3.3. The treatment provider and the probation department are authorized to monitor the Defendant's sobriety by the use of random urinalysis or breath testing. Defendant shall submit to random urinalysis or breath testing upon the request of the probation department, treatment provider, or the Court;
- 3.4. Defendant shall commit no criminal offenses or alcohol-related infractions during the deferral period;
- 3.5. Defendant shall not operate a motor vehicle upon public highways without a valid operator's license and proof of liability insurance with minimal liability limits in accordance with Titles RCW 46.20 and RCW 46.29;
- 3.6. Defendant shall attend and complete a DUI Victims Panel within 90 days and file written proof of completion with the probation department and the Court (RCW 46.64.5152);
- 3.7. The Court shall make an entry upon the person's court docket showing that the person has been accepted for deferred prosecution. A copy of the treatment plan shall be filed with the court;
- 3.8. An abstract of Defendant's acceptance for Deferred Prosecution shall be sent to the Department of Licensing if the underlying charge is a Title 46 RCW violation;
- 3.9. Defendant shall be on supervised probation with the Tukwila Probation Department during the two year period in which the Defendant is receiving treatment at the agency noted above and shall abide by all terms, conditions, rules, restrictions and regulations of the probation department during this period. Defendant shall pay the costs of probation in the amount of \$_____ per month;
- 3.10. The treatment provider shall file monthly status reports with the probation department up to completion of the required two-year treatment program 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. The Defendant understands that it is his/her responsibility to ensure that the treatment provider complies with the with the requirement of this section, including, but not limited to, the filing of written proof of completion of the deferred prosecution program;

- 3.11. 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 report such breach in writing 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 schedule a hearing to determine whether the Defendant should be removed from the deferred prosecution program;
- 3.12. In the event 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 sentence the Defendant according to law;
- 3.13. Defendant's waiver of the rights to a speedy trial and a jury trial are accepted;
- 3.14. During the term of the deferred prosecution, Defendant shall notify the Court and probation department in writing within three days of a change in his/her address or telephone numbers. Defendant's current address and phone numbers are as follows: _____
_____;
- 3.15. Defendant shall surrender his/her non-probationary Washington State driver's license as required by the Department of Licensing (RCW 46.20.355);
- 3.16. Defendant shall not change treatment providers 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 otherwise in full compliance with all other conditions of this order, the Court shall dismiss the charge(s) pending against the Defendant which are noted above within this cause number;
- 3.18. Defendant shall begin the treatment program on or before _____; and
- 3.19. Defendant shall return to Court when directed.

4. ADDITIONAL TERMS AND CONDITIONS

- 4.1. Defendant shall pay restitution for _____ to the Court in the amount of \$ _____, within thirty days, or in accordance with the payment schedule set by the collection company utilized by the Court.
- 4.2. Defendant shall pay \$ _____ for the cost of an emergency response (up to \$2,500)(RCW 38.52.430);
- 4.3. Defendant shall pay witness fees and expenses due for subpoenaed witnesses who have appeared for trial (RCW 10.01.010);
- 4.4. Defendant shall pay a BAC State Toxicology lab assessment in the amount of \$200 _____ (RCW 46.61.5054);
- 4.5. Defendant shall pay court costs of \$250 _____ for administration of the Deferred Prosecution Program (RCW 10.01.160);
- 4.6. Defendant shall pay public defense recoupment in the amount of \$ _____;
- 4.7. Defendant shall pay warrant fees in the amount of \$ _____;

4.8. Defendant may drive only a motor vehicle equipped with a functioning ignition interlock device with photograph capabilities for _____ years from the date this order is signed by the judge (RCW 46.20.720); It is further ordered that:

4.8.1. The Defendant shall not operate any motor vehicle unless he/she has a valid license and insurance;

4.8.2. 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 he or she operates;

4.8.3. The Defendant shall bear the cost of installation and maintenance of the ignition interlock breath alcohol device;

4.8.4. Any ignition interlock breath alcohol device installed pursuant to this order shall be monitored by the installer at least once every 60 days. Notification shall be made by the installer in writing to all named parties, pursuant to paragraph 3.1 above or as required by WAC 204-50 et seq.;

4.8.5. The Defendant shall not adjust, tamper with, remove, or circumvent in any manner (1) any ignition interlock breath alcohol device; (2) the wiring of any ignition interlock breath alcohol device; or (3) the ignition system of any vehicle equipped with an ignition interlock breath alcohol device; and

4.8.6. Any ignition interlock breath alcohol device installed pursuant to this Order shall meet all mandatory requirements as stated in WAC 204-50-110, and shall contain a digital image identification device as prescribed in RCW 43.43.395;

4.9. During the three years following completion of the two-year treatment program, the Defendant shall attend a minimum of two (2) AA/NA or other self-help support meetings per week. Proof of such attendance must be filed with the Court by the 5th of each month following completion of the two-year treatment program. The probation department or the Court may increase or decrease the frequency of support group meetings;

4.10. The Defendant shall not refuse to submit to a test of his/her breath or blood to determine alcohol concentration or the presence of controlled substances upon the request of a law enforcement officer;

4.11. Defendant shall not leave the state without first seeking permission from probation and the Court; and

4.12. Other: _____

Done in open Court this _____ day of _____, 20_____.

JUDGE/JUDGE PRO-TEM

Presented by:

Attorney for Defendant _____ WSBA# _____

Approved for Entry; Copy Received:

Prosecuting Attorney _____ WSBA# _____

I do hereby acknowledge the foregoing Order of Deferred Prosecution. I have read it in its entirety, I understand the terms of the Deferred Prosecution, I have discussed the terms with my attorney, and have had all of my questions regarding the Deferred Prosecution answered. I hereby knowingly, intelligently and voluntarily enter into the Deferred Prosecution, and I agree to comply with all of the terms and conditions of the Deferred Prosecution as ordered by the Court and set forth herein.

Defendant _____ Date _____

INTERPRETER'S 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 this order 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 foregoing is true and correct.

Interpreter: _____

Date: _____