

BENTON COUNTY DISTRICT COURT, STATE OF WASHINGTON

STATE OF WASHINGTON

Benton County

City of _____, Plaintiff,

vs.

Defendant.

DOB: _____

WADL# _____

No: _____

**ORDER on Petition for Deferred
Prosecution**

Charges: _____

Violation Date: _____

FINDINGS OF FACT

1. Defendant has filed herewith a Petition and Statement of Rights and the court has examined both documents and finds that the Defendant has been advised of all statutory rights, obligations, and conditions required under RCW 10.05.020.

2. The Defendant's Petition and Statement of Rights contains the following stipulations:

- a) Defendant agrees to the admissibility and sufficiency of the facts as contained in the written police report to include after acquired blood test results;
- b) Defendant acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense/s held subsequent to revocation of the order granting deferred prosecution;
- c) Defendant has acknowledged and waived all the following rights: the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his/her defense, and right to a jury trial; and
- d) Defendant's waiver of rights were made knowingly, intelligently, voluntarily, and under penalty of perjury.

3. Defendant also acknowledges that their statement will be used to support a guilty finding in the event the order granting deferred prosecution is revoked.

4. The Defendant has indicated their financial ability to pay the costs of the prescribed treatment and agreed to pay those costs.

5. The Defendant has agreed to abide by all conditions set forth in this order during the period of the deferred prosecution.

6. The Defendant: [] has not been previously granted a deferred prosecution; [] has previously been granted a deferred prosecution and is eligible for a second deferred prosecution as the Defendant has no other prior convictions defined in RCW 46.61.5055(14) as a "prior offense" and Defendant is not currently under the jurisdiction of a court for a prior deferred prosecution.

7. The Defendant has filed herewith the written report of an examination and investigation, and treatment plan conducted by a state approved agency.

8. The prosecutor [] has / [] has not made a request for a copy of the treatment or service plan and a copy [] has / [] has not be given to the prosecutor by defendant's counsel.

9. This Court has examined the written report, findings, and recommendations of the treatment provider and does find that their investigation and examination does determine: (1) the person suffers from the problem described; (2) the problem is such that if not treated there is a probability that future similar misconduct will occur in the future; (3) extensive and long term treatment is required; (4) effective treatment for the person's problem is/are available; and
(5) the person is amenable to treatment and [] is not seeking a waiver of good cause.

9(a) [] Defendant is seeking a waiver of [] 18 hours of intensive outpatient treatment (substance use disorder); [] 6 mental health sessions (mental health disorder) and the Court finds good cause to waive due to: _____

10. The findings and recommendations of the approved behavioral health agency supports treatment and recommends a treatment/service plan setting out:

(a) The type; (b) Nature; (c) Length; (d) Treatment or service time schedule; and
(e) Approximate cost of the treatment.

11. The facility/service provider has agreed to provide the court with a monthly statement regarding; 1) Defendant's cooperation with the treatment plan proposed, 2) Defendant's progress/failure in treatment and 3) has agreed that these monthly statements shall and will be made as a declaration by the person who is personally responsible for providing the treatment/services.

12. The evaluation facility that made the written report has attached to their report a commitment to provide the treatment in accordance with RCW 10.05.

13. Having examined the treatment plan and the recommended treatment this Court does approve the plan.

14. In reviewing this petition this Court finds Defendant agrees to comply with the terms and conditions of the approved treatment plan, has signed the approved treatment plan/program and agrees to pay the costs.

CONCLUSIONS OF LAW

This Court has jurisdiction of the subject matter and the parties in the above-entitled cause and Defendant qualifies for a Deferred Prosecution under RCW 10.05.

ORDER

1. The Defendant shall complete the approved two-year treatment program.
2. The Defendant shall comply with the approved treatment plan and shall comply with all of the following requirements and conditions during the entire deferred prosecution.
3. The Defendant shall follow all conditions of the approved treatment plan as set forth by the approved behavioral health agency and shall not change treatment agencies without prior approval of the Court.

A deferred prosecution for **Substance Use Disorder** shall include the following requirements: Completion of an intensive outpatient treatment program or residential inpatient treatment program, depending on the severity of the diagnosis; and participation in a minimum of two meetings per week of a substance use disorder self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program.

A deferred prosecution for **Mental Health Co-Occurring Disorder** shall also include the following requirements of substance use disorder: Completion of an intensive outpatient treatment program or residential inpatient treatment program, depending on the severity of the diagnosis; Participation in a minimum of two meetings per week of a substance use disorder self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;

OR

The Completion of an outpatient program as determined by the petitioner's diagnostic evaluation; **and** Completion of individual or group mental health services.

4. Defendant shall maintain complete and total abstinence from alcohol and non-prescribed drugs.
5. Defendant shall submit to a urinalysis or breath analysis (U/A, B/A) upon the demand of the treatment agency or Probation;

[X] In the event the petitioner fails to remain abstinent, a full substance use disorder reassessment and recommended treatment shall be ordered and followed;

- No less than weekly approved outpatient counseling, whether group or individual, for a minimum of six (6) months following the intensive phase of treatment;
- No less than monthly outpatient contact, whether group or individual, for the remainder of the two-year deferred prosecution period; and
- The decision to include the use of prescribed drugs, including disulfiram (formerly labeled Antabuse), as a condition of treatment shall be reserved to the treating facility and the petitioner's physician.

6. The defendant shall refrain from establishments whose primary business is the sale and/or consumption of alcohol or cannabis, except for employment purposes.

7. The defendant shall have no criminal violations of law and no alcohol-related infractions;

8. The defendant shall not drive unless in possession of a valid license and proof of insurance and shall remain in compliance with all DOL restrictions or requirements.

9. The defendant shall not refuse to submit to an alcohol test of their breath or blood upon the request of a law enforcement officer who has reasonable grounds to believe Defendant was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs;

10. The defendant shall appear in court at any time requested by the Court/Probation throughout the period of this Deferred Prosecution.

11. The defendant shall attend/complete the DUI Victim's Panel within 90 days of the date on this order granting deferred prosecution.

12. The defendant shall only operate motor vehicles equipped with an ignition interlock device for at least one year as a condition of this order granting deferred prosecution, if this deferred prosecution is a substance use disorder and this period may be longer as determined by DOL and set forth in RCW 46.20.720.

13. The defendant shall report immediately after court to Benton County District Court Probation Department and begin "Active" probation and supervision for the duration of this deferred prosecution.

14. The defendant shall abide by the rules and regulations of this deferred prosecution as well as those set forth by the probation department including but not limited to the following:

- i) Defendant shall advise probation and the Court of any and all address changes;

- ii) If the defendant is subject to the Interstate Compact, the Defendant shall not move from the State of Washington without express court approval under the compact;
- iii) Defendant shall keep probation informed of any phone number changes;
- iv) Defendant shall keep the probation office informed of any new criminal law violations, specifically any subsequent arrests or issuance of citation for any law violation;
- v) The Defendant shall authorize by whatever means necessary their treatment agency to communicate freely with the Court and Probation regarding the Defendant's treatment progress.

15. The Benton County District Court Probation Department shall:

- Request an abstract of the petitioner's driving record every 90 days.
- Make monthly contact with probationer until treatment is complete..
- Review the petitioner's criminal history at least every 90 days until the end of the deferral period; and
- Report any known violations of supervision, or law violations, or any noncompliance with deferred prosecution conditions to the court within five business days or as soon as practicable.

16. The treatment agency/facility shall provide monthly compliance reports under declaration by the person who is personally responsible for providing the treatment or services.

17. In the event the Defendant fails or neglects to carry out and fulfill any term or condition of the deferred prosecution the treatment agency shall immediately, in writing, report such breach to Probation, together with its recommendation. In the event non-compliance is a "failure to abstain" paragraph five above shall be followed. For any other alleged violation, the statutory procedure in RCW 10.05.090- shall be followed.

18. ☐ This court finds that the charge herein was committed on or after July 23, 2023, and the Defendant has a "prior offense" within seven years as defined RCW 46.61.5055 and enters a **Separate Notice of Firearm Ineligibility.**

19. The defendant shall pay the probation fee of \$1500.00 and pay a Breath/Blood Test assessment of \$250.00 for a combined total of **\$1750.00.**

Total financial obligation payment schedule as set by the court clerk at \$75/mo.

☐ The defendant is indigent and reduces probation fee to \$_____.

☐ Alternative Payment plan of \$_____ per month starting on _____.

20. IT IS FURTHER ORDERED THAT:

Three years after receiving proof of successful completion of the approved treatment plan, **and** following proof to the court that the petitioner has complied with the conditions imposed by the court following successful completion of the approved treatment plan, but not before five years following entry of the order of deferred prosecution pursuant to a petition brought under RCW 10.05.020(1), the court shall dismiss the charges pending against the petitioner.

DATED THIS _____ day of _____ 20____.

Judge / Commissioner / Pro Tem