

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

3 STATE OF WASHINGTON
4 CITY OF OAK HARBOR
5 CITY OF COUPEVILLE
6 CITY OF LANGLEY

7 **Plaintiff,**

8 Vs.

9 _____,

10 **Defendant.**

CASE NUMBER(S): _____

**PETITION FOR DEFERRED
PROSECUTION (DP):**

CHARGES I. _____

CHARGES II. _____

CHARGES III. _____

11 **Comes now** the defendant and petitions the court for deferred prosecution pursuant to RCW
12 Chapter 10.05, and states as follows:

- 13 1. The wrongful conduct charged is the result of or caused by [] substance use disorders
14 [] mental health problems [] domestic violence behavior, for which I need treatment.
- 15 2. Unless I receive treatment for my problem, the probability is great I will re-offend.
- 16 3. I agree to pay for the cost of diagnosis and treatment, if financially able to do so, subject to
17 RCW 10.05.130. *A copy of the commitment to provide treatment/treatment contract has
been filed with this petition. RCW 10.05.050, RCW 10.05.150.*
- 18 4. I understand that the court will not accept a petition for deferred prosecution from a person
19 who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer
20 from alcoholism, drug addiction, mental problems or domestic violence behavior problems.
- 21 5. If this charge is a violation of Title 46 RCW or similar municipal ordinance, I have not
22 previously been placed on a deferred prosecution for a Title 46 or similar municipal
23 ordinance violation.
- 24 6. If this charge is a domestic violence offense, I have not previously been placed on a deferred
25 prosecution for a domestic violence offense, this charge was not originally charged in
superior court as a felony offense, and a prior stipulated order of continuance was not
previously granted. RCW 10.05.010; RCW 10.05.160.
- 26 7. A case history and assessment have been filed with this petition pursuant to RCW 10.05.020.

1 8. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a
2 lawyer appointed at public expense if I cannot afford one; (c) to a speedy, public jury trial;
3 (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses
4 who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed
5 innocent unless the charge(s) against me is proven beyond a reasonable doubt; and (i) to
6 present evidence and a defense. By deferring prosecution on these charges, I give up my
7 right to: (a) a speedy trial; (b) a jury; (c) testify; (d) question witnesses; (e) call witnesses;
8 and (f) present evidence or a defense.

9 9. I agree that the facts as reported in the attached police reports are admissible evidence and
10 are sufficient to support a conviction. I acknowledge that the above items will be used to
11 support a finding of guilty if the deferred prosecution is revoked.

12 10. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the
13 maximum penalty allowed by law.

14 11. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all
15 fines and incarceration if I seek treatment. I understand I may seek treatment from a public
16 or private agency at any time, whether or not I have been found guilty or placed on deferred
17 prosecution.

18 12. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent
19 offenses committed within a seven-year period. I know a deferred prosecution will be a prior
20 offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle
21 under the influence, negligent driving if originally charged as driving under the influence or
22 physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).

23 13. If the court defers prosecution on any crime that would be a violation of state law or local
24 ordinance relating to motor vehicle traffic control, I will be disqualified from driving a
25 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.

1 14. If the court defers prosecution for any crime involving domestic violence behavior, I will be
2 ordered not to possess firearms and I will be ordered to surrender firearms in my possession
3 under RCW 9.41.800. The court may order me to make restitution and to pay costs under
4 RCW 10.01.160. The court may also order reasonable conditions during the deferred
5 prosecution to ensure continued sobriety and reduce the likelihood of re-offense in co-
6 occurring domestic violence and substance abuse or mental health cases. These conditions
7 include, but are not limited to, attendance at a self-help recovery support group for
8 alcoholism or drugs, complete abstinence from alcohol and all non-prescribed mind-altering
9 drugs, periodic urinalysis or breath analysis, and maintaining law abiding behavior. The court
10 may terminate the deferred prosecution program if I violate the deferred prosecution order.
11
12 15. A deferred prosecution program for domestic violence behavior, or domestic violence co-
13 occurring with substance abuse or mental health, must include, but is not limited to, the
14 following requirements: (1) Completion of a risk assessment; (2) Participation in the level of
15 treatment recommended by the program as outlined in the current treatment plan; (3)
16 Compliance with the contract for treatment; (4) Participation in any ancillary or co-occurring
17 treatments that are determined to be necessary for the successful completion of the domestic
18 violence intervention treatment including, but not limited to, mental health or substance use
19 treatment; (5) Domestic violence intervention treatment within the purview of this section to
20 be completed with a state-certified domestic violence intervention treatment program; (6)
21 Signature of the petitioner agreeing to the terms and conditions of the treatment program; (7)
22 Proof of compliance with any active order to surrender weapons issued in this program or
23 related civil protection orders or no-contact orders.
24
25 16. If the court grants this petition, during the period of deferred prosecution I will be required
1 to contact my probation officer, the probation director or designee, or the court if there is no
2 probation department, to request permission to travel or transfer to another state if my
3 wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened
4 physical or psychological harm; (ii) an offense that involves the use or possession of a
5 firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by
6 drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in
7 Washington state. I understand that I will be required to pay an application fee with my
8 travel or transfer request.
9
10 17. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock
11 device requirements, then the court will hold a hearing to determine whether I should be
12 removed from the deferred prosecution program. After the hearing, the court will either
13 order that I continue with treatment or be removed from deferred prosecution and enter
14 judgment. If I am convicted of a similar offense during the deferred prosecution, the court
15 will revoke the deferred prosecution and enter judgment.
16
17 18. The charge(s) against me in this case will be dismissed three years from the end of the two-
18 year treatment program, and following proof to the court that I have complied with the
19 conditions imposed by the court following successful completion of the two-year treatment
20 program, but no less than five years from the date the deferred prosecution is granted, if the
21 court grants my petition for deferred prosecution and if I fully comply with all the terms of
22 the court order placing me on deferred prosecution.

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

3

4 Dated at _____, Washington this ___ day of _____.

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Defense Attorney – WSBA No.

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10 Address: _____

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13 Tel. Nr.: _____

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