



Snohomish County District Court
 Cascade Everett Evergreen South

State of Washington,
 City of _____, Plaintiff,

v.
 _____, Defendant/ Petitioner.

No(s): _____

**PETITION FOR DEFERRED PROSECUTION
 PURSUANT TO CHAPTER 10.05 RCW**

Charge(s): _____

Offense Date: _____

I am the defendant and I petition the court for deferred prosecution under RCW Chapter 10.05. I make the following statement under oath in support of my petition:

1. I sincerely believe that the wrongful conduct charged is the result of or caused by (check all that apply):

<input type="checkbox"/> Substance Use Disorder – Alcohol	<input type="checkbox"/> Mental Health Problems
<input type="checkbox"/> Substance Use Disorder – Drugs	<input type="checkbox"/> Domestic Violence Behavior Problems
2. I need treatment. Unless I receive treatment, the probability is great that I will offend again. I understand that the treatment must be provided by a Washington State certified provider.
3. I agree to pay (a) the cost of diagnosis and treatment if I am financially able to do so, subject to RCW 10.05.130; (b) \$50 monthly probation supervision costs for the duration of the deferred prosecution program (totaling up to \$3000); (c) mandatory alcohol violators assessment of \$250 if charged with a violation of a Title 46 offense or similar municipal ordinance, (d) city filing fees, if applicable; and (e) restitution to my victims, if applicable.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from substance use disorder, mental health problems and/or domestic violence behavior problems.
5. If this charge is a violation of Title 46 or similar municipal ordinance, I have not been previously placed in a deferred prosecution for a Title 46 or similar municipal ordinance. If this charge is a misdemeanor or gross misdemeanor domestic violence offense, I have not been previously placed in a deferred prosecution for a misdemeanor or gross misdemeanor domestic violence offense.
6. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me at no cost; (h) to be presumed innocent unless each charge against me is proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; and opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.

7. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction for each crime charged. I acknowledge that the attached police reports will be used in a stipulated bench trial to support a finding of guilty if the deferred prosecution is revoked. If the deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.
8. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
9. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).
10. If the court grants my petition for a driving offense under Title 46 RCW, the court will send notice to the Department of Licensing and my driver's license will be on probationary status for five years from the date of offense, I will be disqualified from driving a 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(b). 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(1)(c). The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720(3)(c). 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 nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. I will also be required to attend the DUI Victim Panel. The court may revoke the deferred prosecution program if I violate this paragraph.
11. If the court defers prosecution on a case involving a domestic violence behavior problem, I will be ordered not to possess firearms, ordered to surrender firearms under RCW 9.41.800, and ordered to file proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no contact orders. I will also be required to attend the Domestic Violence Victim Panel.
12. If the court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.

13. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock driver's license or ignition interlock device requirements, then the court shall either order me to comply with the term or condition or be removed from deferred prosecution (RCW 10.05.090). After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will be required to revoke the deferred prosecution and enter judgment.
14. The court will dismiss the charge(s) against me in this case three years following proof to the court that I have successfully completed the treatment program, but no less than five years from the date the deferred prosecution is granted and I fully comply with all the terms of the court order placing me on deferred prosecution.
15. I understand that I am required to file this petition and other documentation to the probation department and the prosecutor at least seven days prior to proposed entry pursuant to local rule SCLCrRLJ 7.1. Required documents include: (a) case history and behavioral health or domestic violence assessment; (b) treatment plan; (c) provider commitment; (d) proposed Order Granting Deferred Prosecution; (e) proof that the first 18 hours of treatment are complete; (f) proof of ignition interlock installation, if applicable; and (g) proof of compliance with any weapons surrender order, if applicable. The probation department will review my petition to see if I meet all requirements for the deferred prosecution program and will forward a recommendation to the judge. The judge will ultimately decide whether to defer my prosecution.

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

Dated in (city) _____, Washington this ____ day of _____, 20____.

Defendant / Petitioner

Defendant's Attorney, WSBA#: _____

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have interpreted this document for the defendant from English to that language. I certify under penalty of perjury under the laws the State of Washington that the foregoing is true and correct.

Dated at (city) _____, Washington this __ day of _____, 20____.

Interpreter Signature

Print Name