

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING**

STATE OF WASHINGTON,

Plaintiff

vs.

Defendant.

CCN

NO.

DRUG DIVERSION COURT

WAIVER AND AGREEMENT

CLERK'S ACTION REQUIRED (AG)

DRUG DIVERSION COURT WAIVER OF RIGHTS AND AGREEMENT OF THE PARTIES

1. I have been informed and fully understand that I have the following important rights.
I understand that I give up the following important rights by entering Drug Diversion Court.
 - (A) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
 - (B) The right to remain silent before and during trial, and the right to refuse to testify against myself;
 - (C) The right at trial to testify and to hear and question the witnesses who testify against me;
 - (D) The right to have witnesses testify for me at trial. These witnesses can be made to appear at no expense to me.
2. I have been informed and fully understand that I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
3. I understand and agree that if I do not comply with the conditions of this agreement:
 - (A) A hearing will be held to determine whether I should be terminated from Drug Court. If it is found I should be terminated, then a trial by a judge will be held to determine my guilt or innocence beyond a reasonable doubt with respect to this/these charge/charges.

- (B) This trial will be limited to the judge reviewing the State's evidence including the discovery and the results of any scientific testing. I stipulate to the admissibility of any scientific testing in the discovery. This stipulation is not an admission of guilt and is not sufficient, by itself to warrant a finding of guilt.
- (C) I give up the right to contest and object to any evidence presented against me and to present evidence on my own behalf as to my guilt or innocence. I retain the right to object to sufficiency of the evidence to prove my guilt beyond a reasonable doubt.
4. I agree to complete the treatment program as ordered by the Court.
 5. I agree to sign a waiver allowing the treatment provider to release treatment information to the Court, defense counsel, the prosecuting attorney, and Drug Diversion Court Services staff. This information shall be used only to monitor compliance in this case and for no other purpose.
 6. I agree that as part of Drug Court procedure, that prior to hearings the judge will meet regularly with a group consisting of my attorney, the prosecutor, law enforcement, treatment staff and case managers to discuss my case. I will not be present during these meetings, they will not be recorded, and they will not be open to the public. The judge will not make any decisions at these meetings and will give me the opportunity to provide input at a subsequent hearing before making a decision in my case.
 7. I understand and agree that I am responsible for obtaining a Participant Handbook from the Court and for knowing all of the rules and procedures contained in it. Written notice of any amendments will be posted in the courtroom. I am responsible for knowing those amendments. I am expected to be familiar with the King County Drug Diversion Court Policy and Procedures Manual and any appendices posted. The King County Drug Diversion Court Policy and Procedures Manual and Appendices are available in the Drug Diversion Court courtrooms or on the King County Drug Diversion Court website. The website address is: <http://www.kingcounty.gov/courts/DrugCourt.aspx>.
 8. I agree that I will not knowingly associate with any person possessing or using illegal drugs. I also agree that if ordered by the court, I will stay out of specific areas associated with drug trafficking.
 9. I understand and agree that I may not possess or use any firearm while I am in Drug Diversion Court.
 10. I agree that I will not work with any police agency on any criminal cases or on any case where I may come into contact with illegal drugs.
 11. I agree that to graduate from Drug Diversion Court I must complete 24 hours of community service according to the schedule laid out in the Drug Diversion Court Participant Handbook.
 12. I agree to pay any and all restitution owing as a result of the crimes encompassed in these case number(s). I understand that I will not be allowed to graduate from Drug Court or have my case(s) dismissed or reduced, unless restitution in the amount of \$2000 is paid in full. I further understand that my progress in Drug Court will be affected by my progress in restitution

payments. I acknowledge and accept that I may be terminated from Drug Court if I do not satisfy my restitution obligation of \$2000 in a timely manner, whether the failure to pay is willful or not. If I have restitution in an amount that exceeds \$2000 my case will not be dismissed unless the entire amount owing is paid in full. If I am unable to pay the entire amount in full, but have met all other conditions in Drug Court, my case will be reduced to a gross misdemeanor, I will plead guilty to that reduced charge and the parties will jointly request a deferred sentence. The only condition of the deferred sentence will be to pay the remaining balance within a 24 month timeline. If I pay the balance, I can ask the judge to set aside the guilty plea and dismiss the charge. If I am still unable to pay the entire amount after a 24 month timeline my case will remain a gross misdemeanor and the guilty finding will not be dismissed as part of the deferral.

No restitution owed

Restitution order attached

13. I understand and agree that any violation of Drug Court requirements such as positive, dilute, or adulterated urinalysis tests, missed treatment sessions, any failure to abide by the terms of this agreement, or commission of a new crime, may result in modification of the treatment program, imposition of a sanction, revocation of my conditional release, and/or termination from the program.

14. **In considering the consequences of my entry into this waiver and agreement I understand that if I am terminated from Drug Diversion Court and found guilty beyond a reasonable of the following charges then:**

COUNT I _____

The crime with which I am charged carries a sentencing range of ____ to ____ months with a maximum penalty of five/ten/twenty (5/10/20) years in prison and a \$10,000/\$20,000/\$25,000/\$50,000 fine.

Disputed

Nondisputed

COUNT II _____

The crime with which I am charged carries a sentencing range of ____ to ____ months with a maximum penalty of five/ten/twenty (5/10/20) years in prison and a \$10,000/\$20,000/\$25,000/\$50,000 fine.

Disputed

Nondisputed

COUNT III _____

The crime with which I am charged carries a sentencing range of ____ to ____ months with a maximum penalty of five/ten/twenty (5/10/20) years in prison and a \$10,000/\$20,000/\$25,000/\$50,000 fine.

Disputed

Nondisputed

(A) The standard sentence range is based on the crime(s) charged and my criminal history in the Appendix B attachment. Defense retains the right to object to out of state convictions. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere. The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the

sentencing judge about those convictions. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, this agreement is binding on me and I cannot change my mind even though the standard sentencing range and prosecuting attorney's recommendation may increase.

- (B) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the State or I can appeal the sentence.
- (C) The sentences imposed on counts _____ will run concurrently unless there is a finding of substantial and compelling reasons to do otherwise.
- (D) In addition to sentencing me to confinement, the judge will order me to pay \$500 to a victim's compensation fund assessment and a \$100 DNA fee. If this crime is a felony drug violation of RCW 69.50, the judge will impose an additional fine of \$1000 (\$2000 if this is not my first such conviction) unless the judge finds that I am indigent. If this crime is a violation of RCW 69.50.401 relating to synthetic cannabinoid, the judge will impose an additional fine of at least \$10,000 pursuant to RCW 69.50.430, unless the judge finds that I am indigent. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and incarceration, lab, and attorney fees and place other restrictions and requirements upon me. Furthermore, the judge may place me on community custody.
- (E) Because this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine, including its salts, isomers, and salts of isomers or amphetamine, including its salts isomers and salts of isomers, and if a fine is imposed, \$3000 of the fine may not be suspended. RCW 69.50.401(2)(b). If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.
- (F) Government assistance may be suspended during any period of confinement.
- (G) In addition to confinement, if the total period of confinement ordered is 12 months or less, the judge may impose up to one year of community custody for a crime against a person under RCW 9.94A.411 or a felony violation of chapter 69.50 or 69.52 or an attempt, conspiracy or solicitation to commit such a crime. If the total period of confinement ordered is more than 12 months, the judge will sentence me to the following period of community custody, unless the judge finds substantial and compelling reasons to do otherwise:

For crimes committed prior to July 1, 2000: for a drug offense, one year.

For crimes committed on or after July 1, 2000, and prior to August 1, 2009, as follows: crimes against person or violation of RCW 69.50 or 69.53: a range of 9 to 12 months.

For crimes committed on or after August 1, 2009, as follows: crimes against persons or violations of RCW 69.50 or 69.52: 12 months.

During the period of community custody, I may be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions being imposed.

- (H) The judge may sentence me as a first time offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.650. This sentence may include as much as 90 days of confinement plus all of the conditions listed in paragraph (14)(d). The judge also may require me to undergo treatment, to devote time to as specific occupation, and to pursue a prescribed course of study or occupations training. In addition, I may be sentenced to up to 6 months or, if treatment is ordered, 12 months of community custody.
- (I) The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001) or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range or 12 months, whichever is greater, and community custody of at least one-half of the midpoint of the standard range, plus all of the other conditions described in paragraph (14)(d). The judge could impose a residential-based DOSA alternative that would include three to six months of residential chemical dependency treatment and 24 months of community custody, plus all the other conditions described in paragraph 14(d). During confinement and community custody under either alternative, I will be required to participate in substance abuse evaluation and treatment, not to use illegal controlled substance and to submit to testing to monitor that, and other restrictions and requirements will be placed on me.
- (J) The judge may sentence me under the parenting sentencing alternative if I qualify under RCW 9.94A.655. A sentence under that alternative would consist of a period of 12 months of community custody, plus all of the other conditions described in paragraph 14(d). During community custody, I will be required to follow conditions imposed by the court and the Department of Corrections.
- (K) A finding of guilt under RCW 46.20.285 (3) or (4), will result in the revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge if this paragraph applies to me.
- (L) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.
- (M) If this crime involves a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency virus (HIV).
- (N) If I am not a citizen of the United States, I understand that a finding of guilty to an offense(s) punishable as a crime under State law may be and for some crimes is grounds for deportation, exclusion from admission to the U.S., or denial of naturalization pursuant to the laws of the United States.

- (O) If found guilty, I will be required to provide a biological sample for purposes of DNA identification analysis.
 - (P) If found guilty, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.
 - (Q) If found guilty, I will be ineligible to vote until that right is restored in a manner provided by the law. If I am registered to vote, my voter registration will be cancelled.
 - (R) If am found guilty of a violation of the state drug laws, I understand that my eligibility for state and federal food stamps, welfare, housing, and education benefits will be affected. 20 U.S.C. 1091 (r) and 21 U.S.C. 862a.
15. I knowingly, freely and voluntarily enter into this agreement.
 16. No one has threatened to harm me or any other person to get me to enter into this agreement.
 17. No person has promised me anything to get me to sign this agreement except as written in this document.
 18. Upon successful completion of Drug Court, including the full satisfaction of any restitution obligation, all criminal charges pending against me under this (these) cause number(s) will be dismissed with prejudice.

My lawyer and I have reviewed and discussed all of the above paragraphs 1 through 18. I understand everything contained in these paragraphs and do hereby knowingly give up these rights and enter into this agreement with the State.

Dated: _____

Deputy Prosecuting Attorney

Defendant Attorney

Defendant

I am fluent in the _____ language, and I have translated this entire document for the Defendant from English into that language. The Defendant has acknowledged his/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