

**KITSAP COUNTY DISTRICT COURT
STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

Defendant.

No. _____

**BEHAVIORAL HEALTH COURT
STIPULATION, DECLARATION OF
DEFENDANT, AGREEMENTS, AND WAIVERS**

1. BEHAVIORAL HEALTH COURT PROGRAM

COMES NOW the Defendant, having been fully advised by counsel, and in consideration for entry into the Kitsap County District Court Behavioral Health Court (BHC) Program, and makes the following stipulation, declaration, agreement, and waivers –

2. DECLARATION

I acknowledge that my participation is a partnership with the Court to support me in making beneficial lifestyle changes. These changes are designed to help me remain stable in the community and reduce the likelihood of recidivism. The court staff will encourage me to achieve treatment and personal goals while promoting accountability. I must agree to abide by the conditions of this Agreement in order to participate in the BHC Program.

3. SUBSTITUTION OF COUNSEL

- 3.1 _____ Defendant agrees that the _____ Law Office is withdrawn as attorney for Defendant in this case and that the withdrawal is effective immediately.
- 3.2 _____ of the Office of Public Defense is appointed as substitute counsel for all further Behavioral Health Court proceedings until the court enters judgment and sentence or enters an order of dismissal. This representation will include representation of the Defendant if this matter is bound over to Superior Court.

4. DEFENDANT’S WAIVER OF RIGHTS AND AGREEMENT

- 4.1 **Waiver Of Time For Trial.** Defendant understands that Defendant has the right to be tried within ninety (90) days following the “commencement date” as defined in CrRLJ 3.3(c)(2)(i), and that if Defendant does not receive a trial within this time period the case may be dismissed with prejudice. Defendant understands that Defendant has a right to trial by *(date)* _____.

Defendant gives up that right and agrees to a new commencement date of 10 years from the date this Agreement is entered. The last allowable date for trial will be 90 days after the new commencement date.

- 4.2 **Waiver Of Jury Trial.** Defendant understands that Defendant has the right to trial by jury unless Defendant waives (gives up) the right to a jury trial (CrRLJ 6.1.1(a)). Defendant hereby waives Defendant's jury trial right and requests that Defendant's guilt or innocence be decided by a Judge.

- 4.3 **Waiver Of Confidentiality And Authorization For Release Of Records.** Defendant authorizes treatment providers to release any medical information regarding Defendant's treatment to treatment providers, the Court, the Behavioral Health Court Program Manager and/or Care Coordinator, defense counsel and the prosecutor. Defendant understands that the information used or disclosed pursuant to this authorization may be subject to re-disclosure and may no longer be protected by law. Defendant waives confidentiality of medical records, including any test results, and authorizes treatment providers to discuss Defendant's progress with the BHC Team, including the Court, defense counsel, and the prosecutor. Defendant understands and agrees that there may be discussions about Defendant's case, treatment program, and medical condition that will take place outside of Defendant's presence or the presence of defense counsel.

- 4.4 **Waiver Of Rights, Waiver Of Objection To Any Evidence Presented And Stipulation.** Defendant understands that Defendant has the right to contest and object to evidence presented against Defendant. Should Defendant be found to be in violation of this Agreement, Defendant gives up the right to contest or object to any evidence presented against Defendant at any future hearings, whether or not such evidence is a part of the Court's record at the time of entry of this Agreement.

Defendant also understands that Defendant has the right to present evidence on Defendant's own behalf. Defendant gives up the right to present evidence on Defendant's own behalf as to Defendant's guilt or innocence regarding the underlying charge(s). Defendant understands that evidence will be presented against Defendant at a future hearing and Defendant understands that the Judge will review that evidence in determining Defendant's guilt or innocence.

Defendant understands that, by this process, Defendant is giving up the constitutional right to a jury trial, the right to hear and question witnesses, the right to call witnesses in Defendant's own behalf, the right to testify or not to testify, the right to remain silent, the right to challenge the admissibility of statements Defendant has made (CrRLJ 3.5), the right to challenge physical, oral or identification evidence (CrRLJ 3.6), and the right to assert any of the following privileges – both spousal and marital (RCW 5.60.060), physician-patient (RCW 5.60.060), clergy-penitent (RCW 5.60.060), psychologist-client (RCW 18.83.110), registered nurse (RCW 5.62.020), and/or counselor (RCW 18.19.180).

- 4.5 **Mandatory Appearances.** Defendant agrees that Defendant's appearance at all scheduled BHC hearings is mandatory unless excused in advance by the Court.

5. CHARGE(S) IN THIS CASE

- 5.1 **Maximum Penalty.** Defendant understands that each crime with which Defendant is charged carries a maximum sentence and if a felony crime, a Standard Sentence Range (which is based on my offender score), as follows –

Count No.	Charge	Offender Score	Standard Range	Maximum Term And Fine
I	_____	_____	_____	_____
II	_____	_____	_____	_____
III	_____	_____	_____	_____
IV	_____	_____	_____	_____
V	_____	_____	_____	_____

- 5.2 **Sentence.** For felony charges, the Judge must impose a sentence within the standard range unless the Judge finds substantial and compelling reasons not to do so. Defendant understands the presumption of concurrency does not apply to crimes that do not fall within the Sentencing Reform Act; therefore, the Judge may sentence any gross misdemeanor/misdemeanor consecutive to felony crimes. If the Judge goes outside the standard range, either Defendant or the State of Washington can appeal that sentence.

Defendant understands that upon termination or withdrawal, Defendant will receive credit for time served in custody. The Judge may also place Defendant on community custody, impose restrictions on Defendant's activities, and order Defendant to perform community service.

Defendant understands that the Judge does not have to follow anyone's recommendation as to sentence. Defendant also agrees to pay the cost of restitution for any charged and uncharged crimes known at the time of this stipulation as determined by the Judge. Defendant agrees to waive Defendant's presence at any restitution hearings in this action.

6. DEFENDANT’S AGREEMENT

I agree to all of the following Behavioral Health Court terms and conditions –

- 6.1 **Probation Monitoring Of Conditions.** I agree that compliance with this Agreement will be monitored by the Kitsap County District Court. I agree to contact District Court Probation Services within one judicial day of the signing of this Agreement and keep all appointments with District Court Probation Services or the court staff.
- 6.2 **\$150 Probation Monitoring Assessment.** I agree to pay a misdemeanor probation monitoring assessment of **\$150**. Payments shall be made during each phase of the Program and the entire amount is due in full before graduation panel is scheduled. Payments shall be made to **Kitsap County District Court, 614 Division Street, MS-25, Port Orchard, WA 98366**. Any amounts paid by check should include my full name and case number. If payment is made by check, 30 days will be required for the payment to process and post.
- 6.3 **Minimum 18 Month Program.** I understand the Behavioral Health Court Program length is a minimum of 18 months. This period may be extended based on my individual performance and compliance with this Agreement.
- 6.4 **Medication.** I will take all medication as prescribed and provide a list of all my prescribed medications to BHC staff. If my prescriptions change, I will promptly notify BHC staff.
- 6.5 **Mental Health Evaluation.** I agree to obtain a mental health evaluation from a state-certified agency within 30 days of entering this Agreement and file proof thereof with the Court Clerk.
- 6.6 **Treatment.** I agree to attend all scheduled appointments with treatment providers and work diligently with them to complete an appropriate treatment program. This includes taking all medications as prescribed.
- 6.7 **Release Of Information Authorization.** I agree to authorize my treatment providers to release any medical information regarding my treatment to my treatment providers, the Court, the Behavioral Health Court Program Manager and/or Behavioral Health/Compliance Specialists, my defense counsel, and the prosecutor. I understand that the information used or disclosed pursuant to this authorization may be subject to re-disclosure and may no longer be protected by law.
- 6.8 **Alcohol And Cannabis Prohibited.** I agree to not possess or consume any beverage containing alcohol. I agree to not possess or consume any cannabis.
- 6.9 **Non-Prescribed Controlled Substances Prohibited.** I agree to not possess or consume controlled substances unless prescribed by a physician.
- 6.10 **Random Urinalysis And Portable Breath Tests.** I agree to submit to random UAs and Portable Breath tests when I am asked to do so by the Court. I understand that failure to provide a sample or refusal to provide a sample will be considered a positive test which is a violation of this Agreement. The cost of UAs will be my responsibility.

- 6.11 **Payment Of Legal Financial Obligations.** I agree to pay all legal financial obligations assessed by the Court in this case while this Agreement is in effect, including a misdemeanor probation department assessment and restitution, if applicable.
- 6.12 **Appearance And Court Directives.** I agree to appear at all hearings and follow through with all directives as ordered by the Court.
- 6.13 **Missed Court Appearances.** I understand that if I fail to appear for any court appearance, a warrant may be issued for my arrest.
- 6.14 **Regular Contact.** I agree to maintain regular contact with the Behavioral Health Specialists on a schedule we develop. I will immediately contact Compliance when directed to do so, including responding timely to voice messages, electronic messages and letters.
- 6.15 **Avoid Certain People.** I agree to avoid social contact and relationships with people who are actively involved in substance use and/or criminal activity.
- 6.16 **Permission Required In Advance.** I agree to not change my treatment providers, my residence, obtain new co-inhabitants, or travel outside of the State of Washington without first obtaining permission from the BHC team.
- 6.17 **My Contact Information.** I agree to notify the Court in person or in writing of any change of residence or mailing address or telephone number or email address. I agree that such notification must be made within 10 days of the change.
- 6.18 **New Conditions.** I understand that new conditions or requirements may be imposed during my participation in the BHC Program.
- 6.19 **BHC Handbook.** I agree to regularly review the BHC Handbook and abide by all rules and directions set forth in it.
- 6.20 **Failure To File Proof Of Compliance.** I agree that failure to file with the Court Clerk written proof of compliance with any condition in this Agreement, when such proof of compliance is required, shall be a material violation of this Agreement.
- 6.21 **Court Obligations.** I agree to comply with all court obligations, including those in other courts.
- 6.22 **Discussions About Case.** I understand and agree that there may be discussions about my case, my treatment program, and my medical condition that will take place out of my presence or the presence of my attorney.
- 6.23 **Firearms Prohibited.** I agree to not own or possess or have access to any firearms for the duration of this Program.
- 6.24 **Court Orders Prohibiting Contact.** I agree to strictly comply with all provisions of any court order entered in this case or any other case if such order restrains me and was issued pursuant to any of the following chapters of the Revised Code of Washington – chapter 7.105 RCW, RCW 9A.40.102, 9A.44.210, 9A.46.080, 9A.88.160, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.26B.020, or 26.26A.470.

6.25 **Seized Property.** I agree today to forfeit all property seized by law enforcement pursuant to an investigation into the crime(s) charged in this case.

6.26 **Obey The Law.** I agree to obey all criminal laws. I agree to report any new arrests or criminal proceedings that arise against me to the Court within 24 hours.

I agree that the Court may take action on the State's motion alleging a violation of this condition prior to any resolution of the alleged new criminal law violation. I specifically agree that a "conviction" for a criminal law violation occurring after the signing of this Agreement is not a prerequisite to this Court taking action on the State's motion to terminate this Agreement due to my alleged violation of this condition.

I agree that my petition or otherwise request of any Washington court to grant me a deferred prosecution pursuant to RCW 10.05 *et seq.* for any criminal law violation occurring after the signing of this Agreement shall be a violation of this condition.

I agree to cooperate with law enforcement during the investigation and prosecution of the criminal conduct which has resulted in this Agreement. I understand that this cooperation may include my future testimony in other criminal proceedings involving other persons.

I agree to abide by any subpoenas or other legal process I may be subject to. I understand that failure to honor a subpoena issued to me while this Agreement is in effect will be considered a violation of this Agreement.

Violation of this condition is grounds for termination of the Program.

Traffic and civil infractions (for example, but not limited to, speeding tickets) are not considered criminal law violations. Accordingly, my commission of a traffic and/or civil infraction does not constitute a violation unless otherwise stated in this Agreement or ordered by the Court.

6.27 **Sanctions.** I understand that if I fail to meet any of the conditions of this Program, I will face sanctions. Sanctions may include but are not limited to – written assignments, increased court and/or compliance appearances, community service/jail work crew, in-custody jail time, and termination from the BHC Program.

7. DEFENDANT’S AGREEMENT – ADDITIONAL CONDITIONS

I agree to all the following additional Behavioral Health Court terms and conditions –

- 7.1 ___ **Restitution.** Payment shall be made to **Kitsap County District Court**, 614 Division Street, MS-25, Port Orchard, WA 98366.
- Any amounts paid by check should include the Defendant’s full name and case number. If payment is made by check, then 30 days will be required for the payment to process and post before this condition is satisfied.
- Defendant agrees to pay to the Court restitution to the following as determined by a separate order entered contemporaneous to this Agreement –
-
- 7.2 ___ **Substance Use Disorder.** I agree to obtain a substance use disorder evaluation from a state-certified agency within 30 days of entering into this Agreement and file written proof thereof with the Court Clerk. I agree to successfully comply with all treatment recommendations and provide proof of such compliance to the Court Clerk. I will not change treatment providers without prior approval from the BHC Team and the Court.
- 7.3 ___ **Anger Management Course.** I agree to successfully complete an anger management course and within 90 days of entering this Agreement file written proof with the Court Clerk. I understand that completion of online courses shall not satisfy this condition.
- 7.4 ___ **Moral Reconciliation Therapy.** I agree to enroll in Moral Reconciliation Therapy (MRT) within 90 days of entering this Agreement and file written proof with the Compliance Specialist. I agree to successfully comply with all group recommendations and provide proof of compliance to the Compliance Specialist. I agree to successfully complete the Moral Reconciliation Therapy program prior to my Behavioral Health Court graduation.
- 7.5 ___ **No Contact Orders.** I agree to join the Prosecutor’s recommendation to the Court that any No Contact Order issued in this case shall remain in full force and effect until such later time as the No Contact Order expires or is rescinded by the Court.
- 7.6 ___ **Contact Prohibited – Persons.** I agree to not initiate contact, approach, or communicate by any means whatsoever with –
-
- 7.7 ___ **Contact Prohibited – Businesses/Locations.** I agree to not enter, remain, or come within _____ of –
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8. SUCCESSFUL COMPLETION OF BEHAVIORAL HEALTH COURT

- 8.1 **Determination Of Success.** I understand that successful Completion and Graduation from the Behavioral Health Court will be determined by the Behavioral Health Court Team based upon my progress through treatment, program phases and readiness for re-entry, among other factors.
- 8.2 **Dismissal Of Charge(s).** If Defendant successfully complies with the promises Defendant made in this Agreement, the Prosecution agrees to move to dismiss with prejudice the charge(s) filed in this case at a hearing to be scheduled not before 18 months following entry of this Agreement. This period may be extended based on Defendant's individual performance and compliance with this Agreement.

9. PROCEDURE ON ALLEGED VIOLATION OF AGREEMENT

- 9.1 **Prompt Hearing.** Defendant and the State agree that time is of the essence of this Agreement and of each and every provision herein. Upon the filing by the State of a Motion to Terminate this Agreement, the parties shall request the Court to set a hearing date within approximately thirty (30) days of the filing of the motion, unless the State otherwise allows, so that the Court may promptly determine whether a violation has occurred.
- 9.2 **Procedure.** The parties agree that a State motion alleging a violation of this Agreement by Defendant will be handled in accordance with the procedures set forth in *State v. Marino*, 100 Wn.2d 719, 674 P.2d 171 (1984), and *State v. Kessler*, 75 Wn.App. 634, 879 P.2d 333 (1994), and that when determining guilt or innocence the Judge may look beyond the confines of Defendant's court file and may consider evidence found in Defendant's Washington State Department of Licensing driving abstract, in the Washington State Judicial Information System (including access through the Judicial Access Browser System), and in the Statewide Electronic Collision and Ticket Online Records.

10. TERMINATION FROM BEHAVIORAL HEALTH COURT

- 10.1 **Felony Charges Upon Termination.** I understand that if I am terminated from Behavioral Health Court, felony charge(s) and any gross misdemeanor/misdemeanor charges will be re-filed in the Kitsap County Superior Court for guilt determination and sentencing. I understand and stipulate that the Kitsap County Prosecuting Attorney's Office may submit investigative reports to the Kitsap County Superior Court.
- I stipulate that the Kitsap County Superior Court may determine my guilt of the charges filed against me by examining the investigative reports. I further stipulate that the facts contained within the investigative reports are sufficient for a Judge to find me guilty of the charges presently filed against me. In addition, I stipulate that any statements I have provided to investigative agencies and/or the Kitsap County Prosecuting Attorney's Office are admissible for the Court to consider at the time it determines my guilt, and I hereby waive any objections I may have to the admissibility of my statements.

10.2 _____ **Felony Offender Score Upon Termination.** I understand that the State calculated my offender score based upon its current understanding of my criminal history and that the State’s recommendation upon termination is based upon that calculation. My attorney and I have reviewed the offender score calculation, including the criminal history upon which it is based, and I agree that the offender score calculation in this Agreement is accurate.

I stipulate that none of the listed offenses “wash” for scoring purposes and waive any future argument regarding “washing” of the convictions listed in this Agreement. I understand that my offender score and standard range may increase if additional criminal history is discovered, an error in scoring error is found, and/or I am convicted of another crime after entering this Agreement. I understand that any resulting increases to my offender score and/or sentencing range will not be grounds to withdraw from this Agreement and that I will still be bound by its terms.

In addition, if I am convicted of a felony offense, I understand I will be prohibited from possessing, owning, or having in my control any firearm unless my right to do so is restored by a court of record.

10.3 _____ **Felony Sentencing Recommendations Upon Termination.** I understand if I am terminated from the Behavioral Health Court program and found guilty of any felony charge(s), the State will make to the Court the following felony sentencing recommendations –

_____ **Standard Range.** The State will recommend a sentence at the top of the standard range.

_____ **Other.** The State will recommend a sentence as follows –

10.4 _____ **Gross Misdemeanor/Misdemeanor Charges Upon Termination.** I understand that if I am terminated from Behavioral Health Court, the Judge will review the complaint, investigative reports, and any other evidence presented by the prosecutor to determine guilt to the charges and proceed directly to sentencing. I further stipulate that the facts contained within the investigative reports are sufficient for the Judge to find me guilty of the gross misdemeanor/misdemeanor charges presently filed against me. In addition, I stipulate that any statements I have provided to investigative agencies and/or the Kitsap County Prosecuting Attorney’s Office are admissible for the Court to consider at the time it determines my guilt, and I hereby waive any objections I may have to the admissibility of my statements.

10.5 **Gross Misdemeanor/Misdemeanor Sentencing Recommendations Upon Termination**. I understand that the maximum sentence for the gross misdemeanor/ misdemeanor crime(s) charged in this case are listed in this Agreement. I also understand that the Judge can impose any sentence up to the maximum sentence no matter what the prosecutor or the defense recommends. I also agree to pay the cost of restitution for any charged and uncharged crimes known at the time of this Agreement as determined by the Judge. I agree to waive my presence at any restitution hearings in this case.

I understand if I am terminated from the Behavioral Health Court program and found guilty, the State will make to the Court the following gross misdemeanor/misdemeanor sentencing recommendations –

NOTE TO DEFENDANT

This Agreement is a contract between you and the Kitsap County Prosecutor’s Office. In order to receive the benefit of the contract (dismissal of your charges), you must comply with all terms of this Agreement. If you fail to satisfy any of these requirements, you can be found guilty of the crime(s) charged in this case by a Judge without a trial by jury.

I declare (or affirm) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED in Port Orchard, WA on – _____.

/s/ Signed Electronically

____ Defendant

____ Signed by counsel for Defendant after receiving permission from Defendant.

I have read and discussed this document with Defendant, and believe Defendant is competent and fully understands this document.

/s/ Signed Electronically

PROSECUTING AUTHORITY

____ (name)

____ (WSBA No.)

/s/ Signed Electronically

DEFENDANT’S LAWYER

____ (name)

____ (WSBA No.)

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

<p>STATE OF WASHINGTON,</p> <p>Plaintiff,</p> <p>v.</p> <p>_____ ,</p> <p>Defendant.</p>	<p>No. _____</p> <p>NOTICE OF APPEARANCE</p>
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 /s/ *Signed Electronically*
 DEFENDANT'S LAWYER
 _____ (name)
 (WSBA No.)