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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

STATE OF OREGON,)
) Case No.
Plaintiff,)
)
vs.) PETITION FOR PROBATION
) AGREEMENT PURSUANT TO
) ORS 475.245
)
Defendant.)
_____)

COMES NOW the above-named Defendant, _____, and respectfully petitions the Court for an Order staying proceedings herein in accordance with ORS 475.245. This Petition is supported by the attached Declaration which is incorporated herein by this reference.

DATED this _____ day of _____, 20_____.

Defendant

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

STATE OF OREGON,)	Case No.
)	
Plaintiff,)	DECLARATION IN SUPPORT OF
)	PETITION FOR PROBATION
)	AGREEMENT
,)	
Defendant.)	
)	

STATE OF OREGON,)
) ss.
County of Jackson)

I, _____, declare as follows:

(1) I have been charged Possession of a Controlled Substance pursuant to ORS 475.840(3), or with Possession of Methamphetamine, Cocaine, Heroin, Marijuana or 3, 4-methylenedioxymethamphetamine pursuant to SB 907, Oregon Laws, 2005, or with Tampering with Drug Records.

(2) I request that the Court grant me a Probation Agreement in accordance with ORS 475.245.

(3) I have not previously been granted a Conditional Discharge, Diversion or Probation Agreement, or any other form of conditional dismissal of any offenses involving controlled substances under any statute of the State of Oregon, the United States, or of any other state or foreign county.

(4) I understand that to be granted a Probation Agreement, I must **WAIVE** the following rights:

(a) The right to a speedy trial and trial by jury;

DECLARATION IN SUPPORT OF PETITION FOR PROBATION AGREEMENT

- 1 (b) The right to present evidence on the defendant's behalf;
- 2 (c) The right to confront and cross-examine witnesses against the defendant;
- 3 (d) The right to contest evidence presented against the defendant, including the right
- 4 to object to hearsay evidence; and
- 5 (e) The right to appeal from a judgment of conviction resulting from an adjudication of
- 6 guilt entered under subsection (9) of this section, unless the appeal is based on
- 7 an allegation that the sentence exceeds the maximum allowed by law or
- 8 constitutes cruel and unusual punishment.

9 The Court may then enter an Order staying further proceedings subject to the satisfactory

10 completion of twelve (12) or eighteen (18) month period of probation supervised by Jackson

11 County Community Justice.

12 (5) I understand that I am not required to enter into a Probation Agreement.

13 I also understand that I have the following additional rights:

14 (a) I have the right to call witnesses on my behalf at no expense to

15 me, and any such witnesses would be compelled to appear and testify;

16 (b) I have an absolute right to confront and cross-examine any

17 witness who would testify against myself;

18 (c) I need not take the witness stand, nor can I be compelled to give

19 testimony against myself;

20 (d) The sole burden of proof is upon the State of Oregon to

21 establish my guilt beyond a reasonable doubt and to a moral certainty;

22 (e) If I am not a citizen of the United States, I understand that a

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24 DECLARATION IN SUPPORT OF PETITION FOR PROBATION AGREEMENT

1 plea of guilty or conviction could result in deportation or denial of United States
2 citizenship;

3 (f) I understand that if I am not a citizen of the United States and I am found
4 guilty of a crime, which is considered an aggravated felony under 8USC 1102,
5 this conviction will result in removal proceedings against me unless the United States
6 Attorney General or his designee chose not to pursue removal. I also understand that this
7 conviction will result in a change of my immigration status.

8 (g) I have the right to the assistance of an attorney for my defense at all stages
9 of the proceedings, and I have the right to have an attorney appointed for me at State
10 expense if I cannot afford one.

11 (6) I understand that I will have to abide by all statutory conditions of probation as set
12 forth in ORS 137.540, unless a condition is specifically deleted by the Court, and also any
13 special conditions of probation that the Court deems necessary. **Specifically, I understand**
14 **that I shall be subject to the following general conditions of probation:**

15 (a) Pay supervision fees, fines, restitution or other fees ordered by the
16 Court;

17 (b) Not use or possess controlled substances except pursuant to a medical
18 prescription;

19 (c) Submit to testing of breath or urine for controlled substance or alcohol
20 use if the probationer has a history of substance abuse or if there is a reasonable suspicion
21 that the probationer has illegally used controlled substances;

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1 (d) Participate in a substance abuse evaluation as directed by the supervising
2 officer and follow the recommendations of the evaluator if there are reasonable grounds to
3 believe there is a history of substance abuse;

4 (e) Remain in the State of Oregon until written permission to leave is
5 granted by the Department of Corrections or a county community corrections agency;

6 (f) If physically able, find and maintain gainful full-time employment,
7 approved schooling, or a full-time combination of both. Any waiver of this requirement must
8 be based on a finding by the Court stating the reasons for the waiver;

9 (g) Submit to random urinalysis at the direction of the probation officer;

10 (h) Change neither employment nor residence without prior permission
11 from the Department of Corrections or a county community corrections agency;

12 (i) Permit the probation officer to visit the probationer or probationer's
13 residence or work site, and report as required and abide by the direction of the supervising
14 officer;

15 (j) Consent to the search of person, vehicle or premises upon the request
16 of a probation officer, if the probation officer has reasonable grounds to believe that evidence
17 of a violation will be found, and submit to fingerprinting or photographing, or both, when
18 requested by the Department of Corrections or a county community corrections agency for
19 supervision purposes;

20 (k) Obey all laws; municipal, county, state and federal;

21 (l) Promptly and truthfully answer all reasonable inquiries by the
22 Department of Corrections or a county community corrections agency;

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(m) Not possess weapons, firearms, or dangerous animals;

(n) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to 163.465, and if recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer;

(n) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.

I also understand that the Court may impose upon me special conditions of probation for my reformation and rehabilitation, including, but not limited to, the following:

(a) Submit to polygraph examination by a qualified polygraph examiner designated by the Court or probation officer;

(b) Abstain from or limit the use of intoxicants;

(c) Submit to random urinalysis at the direction of a probation officer;

(d) Refrain from knowingly associating with persons who use or possess controlled substances illegally or from frequenting places where such substances are kept or sold;

(e) Refrain from knowingly associating with co-defendants or crime partners or persons known by me to be engaged in criminal activity;

(f) Take Antabuse, if medically approved;

(g) Defendant shall perform 40 hours of community services within one year;

DECLARATION IN SUPPORT OF PETITION FOR PROBATION AGREEMENT

1 (h) Defendant shall submit to random urinalysis at the direction of the
2 probation officer;

3 (i) Defendant shall not use or possess any controlled substances without a
4 valid prescription

5 (j) Defendant shall be subject to the imposition of structured sanctions as
6 set out in ORS 137.595;

7 (k) Defendant shall remain a law-abiding citizen. Defendant understands
8 that any new criminal charges filed during the pendency of the Probation Agreement
9 may result in Defendant's termination from the program with criminal proceedings
10 being reinitiated for the underlying charge. Defendant agrees to notify his probation
11 officer within 7 days of the time that Defendant receives notice of any new criminal
12 charges.

13 I understand that the Court may modify the conditions of probation at any time. I
14 further state that I have discussed with my attorney the statutory general and special
15 conditions of probation contained in ORS 137.540 that may be imposed upon me by the
16 Court and hereby state my understanding of said conditions and my agreement to abide by
17 such conditions as the Court may order.

18 (7) I understand that if I successfully fulfill all terms and conditions of my probation
19 agreement, that the Court will dismiss the proceedings with prejudice against me. Dismissal
20 under ORS 475.245 shall be without adjudication of guilt and shall not be a conviction for
21 purposes of ORS 475.245 or for purposes of disqualifications or disabilities imposed by law
22 upon conviction of a crime.

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1 (8) Furthermore, I understand that if I fail to abide by all general and special conditions
2 of probation imposed by the Court, the Court may revoke my probation agreement, and
3 reinstate criminal proceedings as otherwise provided by statute.

4 (9) I understand the Court may find me guilty of the offenses in the accusatory
5 instrument in accordance with the waiver of rights in the probation agreement. I further
6 understand I may not contest the sufficiency of the evidence establishing any guilt of the
7 offense in the accusatory instrument.

8 (10) I understand that any false statement made by me in this declaration may
9 result in my Petition for Probation Agreement being rejected, my criminal proceedings being
10 reinitiated provided by statute. I further understand that any false statement made by me in
11 this Affidavit may result in my prosecution by the State of Oregon for the crimes of Perjury
12 and/or False Swearing.

13 (11) Stipulate that the substance was the controlled substance alleged in the charge.

14 (12) Stipulate that the substance weighed as alleged in the charge.

15 I hereby declare that the above statement is true to the best of my knowledge and
16 belief, and I understand it is made for use as evidence in court and is subject to penalty for
17 perjury.

18 DATED this _____ day of _____, 20_____.

19 _____
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21 Defendant

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