

No. 64958-2-1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

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STATE OF WASHINGTON,

Appellant,

v.

NUR JAMAL M.  
(DOB 2/2/92),

Respondent.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR KING COUNTY  
JUVENILE DIVISION

The Honorable Christopher Washington

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BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. RCW 13.40.127(2), the deferred disposition provision of the Juvenile Justice Act, permits the juvenile court to continue the case for disposition “upon motion at least fourteen days before commencement of trial . . .” Does the plain language of the statute allow a motion for an order deferring disposition to be made after the entry of a guilty plea if no trial has commenced and the trial date has been stricken?

2. Does the plain language of this statute prevent the court or the juvenile probation counselor from moving for an order deferring disposition?

3. RCW 13.40.127(2) permits the court to defer disposition “with the consent of the juvenile.” Does the plain language of the statute permit the court to defer disposition when the respondent recommends a different disposition pursuant to a plea agreement but consents to the court’s decision to defer disposition?

4. On appeal, the State argues Jamal did not consent to the deferred disposition because, under his plea agreement with the prosecutor’s office, he was obligated to “agree” to recommend the same disposition recommended by the State, but the State did not provide this Court with support in the record for its interpretation of

the plea agreement. Defense counsel asserted Jamal could consent to the deferral without violating the plea agreement, and the juvenile court found the plea agreement was not breached. In the absence of evidence of a breach of the plea agreement, may the State argue on appeal the deferred disposition was invalid because Jamal's plea agreement forbade him from consenting as required by statute?

5. RCW 13.40.127(3) requires a juvenile who agrees to a deferred disposition to stipulate to the police report, acknowledge it will be used to support a guilty finding if he does not comply with the deferral conditions, waive his right to a speedy disposition, and waive his right to call and confront witnesses. Is the deferred disposition invalid where Jamal pled guilty, thus satisfying the requirement of a stipulation and waiver of his constitutional rights?

6. RCW 13.40.127(1) requires the court to "consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition." Does the plain language of the statute require the court to make a finding that the offender and the community will benefit from the deferral of disposition as argued by the State?

7. Where the juvenile court obtained information from the juvenile probation counselor and defense counsel about the offender and the offense before entering the order deferring disposition but the prosecutor refused to provide information about the basis of the State's plea recommendation, can the State complain on appeal that the deferred disposition is void because the court did not make a specific finding that the community would benefit from a deferred disposition?

8. RCW 13.40.127(2) requires the court to consult with the respondent's parents or guardian before entering an order deferring disposition. Can the State argue on appeal that the order deferring disposition is void where Jamal's' parents agreed with the court order but expressed their opinion after the order was entered?

**B. STATEMENT OF THE CASE**

A high school classmate was harassing Nur Jamal M., and Jamal was either unsuccessful in obtaining the assistance of school officials in addressing the problem or unaware he could obtain such assistance. RP 11-12. When the classmate taunted Jamal, saying, "Nigger, go back to Africa," Jamal hit the other boy several times in the face, causing bodily harm. RP 9

The King County Prosecutor charged 17-year-old Jamal with assault in the second degree, but amended the charge to assault in the third degree after Jamal agreed to plead guilty. CP 1; RP 3. The State agreed to recommend Jamal be sentenced to 6 months community supervision, 24 hours community service, payment of the victim penalty assessment, restitution, and ordered to have no contact with the victim. RP 8.

At the time Jamal entered his guilty plea, the juvenile court asked why the parties were not recommending a deferred disposition, questioning whether the prosecutor could remove this option from the court's consideration by a plea agreement. RP 12-14. The juvenile probation counselor (JPC) assigned to the case had reported to the court that Jamal was good candidate for a deferral. RP 16. The court accepted Jamal's guilty plea, and continued the matter on its own motion for the JPC to investigate further into the appropriateness of a deferred disposition in Jamal's case. CP 9-10; RP 17-18, 20-21.

At the next hearing, the court entered an order deferring the disposition for six months on the condition that Jamal be on community supervision for six months, perform 30 hours community service, pay restitution, have no contact with either the assault

victim or a witness who encouraged the assault, comply with traditional conditions of community supervision such as regular school attendance, and undergo counseling as recommended by his probation counselor. CP 11-13; RP 32, 35-37.

C. ARGUMENT

THE ORDER DEFERRING DISPOSITION IS VALID  
BECAUSE THE REQUIREMENTS OF RCW 13.40.127  
WERE SATISFIED

The Juvenile Justice Act of 1977 (JJA) is designed to create a system responsible for and responding to the needs of juvenile offenders and holding juveniles accountable for their offenses. RCW 13.40.010; State v. Schaaf, 109 Wn.2d 1, 10, 743 P.2d 240 (1987). The JJA seeks a balance between rehabilitation and retribution, but “the purposes of accountability and punishment are tempered by and at times must give way to the purposes of responding to the needs of the juvenile.” State v. J.A., 105 Wn.App. 879, 20 P.3d 487 (2001).

Although juveniles will be held accountable for their behavior, juvenile courts are vested with broad powers to provide any necessary treatment, guidance or rehabilitation for juvenile offenders.

Schaaf, 109 Wn.2d at 8 (quoting State v. Holland, 30 Wn.App. 366, 373, 635 P.2d 142 (1981), aff'd, 98 Wn.2d 507, 656 P.2d 1056 (1983)).

One of the disposition alternatives provided by the JJA is to defer entering a disposition order, thereby providing the offender with the opportunity to have the conviction vacated and dismissed upon compliance with conditions of community supervision and payment of restitution. RCW 13.40.127; State v. Watson, 146 Wn.2d 947, 952, 51 P.3d 66 (2002). “This meets the ‘needs of the juvenile’ and the ‘rehabilitative and accountability goals’ of the Juvenile Justice Act.” Watson, 146 Wn.2d at 952-53 (quoting State v. J.H., 96 Wn.App. 167, 181-80, 978 P.2d 1121, rev. denied, 139 Wn.2d 1014 (1999), cert. denied, 529 U.S. 1130 (2000)).

The deferral of a juvenile disposition is governed by RCW 13.40.127. In pertinent part, the statute reads:

- (1) A juvenile is eligible for deferred disposition unless he or she:
  - (a) Is charged with a sex or violent offense;
  - (b) Has a criminal history which includes any felony;
  - (c) Has a prior deferred disposition or deferred adjudication; or
  - (d) Has two or more adjudications.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. The court shall consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition.

(3) Any juvenile who agrees to a deferral of disposition shall:

(a) Stipulate to the admissibility of the facts contained in the written police report;

(b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision; and

(c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section. . . .

RCW 13.40.127 (2009).

Jamal pled guilty to assault in the third degree and had no prior convictions. RP 3, 10, 20, 27. Assault in the third degree is not a violent offense. RCW 13.40.020(29); RCW 9.94A.030(45). He was thus eligible for a deferred prosecution.

The State does not claim that Jamal was not eligible for a deferral, but instead argues the statutory procedure was not followed. The State's argument must be rejected because RCW 13.40.127 was substantially complied with and the juvenile court was within its statutory authority in deferring the entry of a disposition order in Jamal's case.

1. The imposition of a deferred sentence did not violate RCW 13.40.127 because the motion was made prior to "the commencement of trial." The JJA permits the court to enter a deferred disposition "upon motion at least fourteen days before commencement of trial . . ." RCW 13.40.127(2). The State incorrectly contends this provision was violated because the deferred disposition was entered after Jamal entered a guilty plea, claiming a deferred disposition cannot be entered after a "conviction." Brief of Appellant at 8-9.

The State's claim that the deferred disposition was untimely because it was entered after "conviction" ignores the plain language

of the statute. The statute requires a motion for a deferred disposition be made “at least fourteen days before commencement of trial.” RCW 13.40.127(2) (emphasis added). The statute does not use the words “conviction” or “trial date,” as used in the State’s brief, but rather refers specifically to the “commencement of trial.” RCW 13.40.127(2); Brief of Appellant at 8.

In interpreting a statute, courts look first to the plain language of the statute and its ordinary meaning. State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003). Thus, when the plain language is unambiguous, there is no need to construe it otherwise. Id. Words in a statute that are not specifically defined are given their common meaning as found in a dictionary if needed. Watson, 146 Wn.2d at 956. To “commence” means to begin or start. Webster’s Third New International Dictionary 456 (3<sup>rd</sup> ed. 1993). So, the commencement of a trial means its beginning.<sup>1</sup> Here, no fact-finding hearing had ever begun, and the December 15, 2009, trial date was stricken before Jamal pled guilty. CP 19. Thus, this portion of the statute was complied with.

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<sup>1</sup> This interpretation is consistent with the purpose of the fourteen-day requirement, which is logically designed to prevent the waste of court and attorney resources. Because the trial date in this case was stricken, there was no waste of court or prosecution resources.

2. The statute does not prohibit the juvenile court or juvenile probation counselor from moving for a deferred prosecution. The State also argues the deferred prosecution was not statutorily authorized because only the State or the respondent may move for a deferred disposition. Brief of Appellant at 12. The statute, however, merely says that “a motion” must be made before the commencement of trial. RCW 13.40.127(2). The statute does not prevent the court or juvenile probation counselor from making the motion.

Again, this Court interprets a statute by looking at its plain meaning and assumes the Legislature “means exactly what it says.” State v. Delgado, 148 Wn.2d 723, 727, 63 P.3d 792 (2003) (quoting Davis v. Dep’t of Licensing, 137 Wn.2d 957, 964, 977 P.2d 554 (1999)). This inquiry does not permit the court to add words or clauses to an unambiguous statute. Id. Thus, the Delgado Court refused to add a comparability clause in the adult two-strike statute simply because there was a comparability clause in the three-strike statute. Id. at 727-31. Accord State v. Thompson, 151 Wn.2d 793, 801, 92 P.3d 228 (2004) (use of words “in criminal actions” in “knock and wait” statute prohibits court from reading “civil actions” into statute). The statute does not limit who may make a motion for

a deferred disposition, and this Court should reject the State's invitation to read language into the statute.

The State's argument that RCW 13.40.127 prohibits the juvenile court from moving for a deferred disposition is based upon its assertion that "[g]enerally, the Legislature expressly includes the court in the statute when it intends for the juvenile court to be a potential moving party in dispositional matters." Brief of Appellant at 12. The State then refers this Court to two statutes for this general proposition, RCW 13.40.165(4) and RCW 13.40.160(3). Brief of Appellant at 12, n.5. The statutes at issue permit the court to order an "examination" of a respondent on its own motion in order to provide information relevant to sentencing alternatives for sex offenders and drug offenders. These statutes do not address the court's authority to order a particular sentence. And, while these statutes specifically address which parties may move for an evaluation, the deferred disposition statute has no such limitation. RCW 13.40.127 ("upon motion"); RCW 13.40.165(4) and RCW 13.40.160(3) ("The court, on its own motion or the motion of the state or the respondent").

Here, the JPC's report indicated that Jamal was an excellent candidate for a deferred disposition, but she did not request one

because she believed she could not do so. RP 16-17, 27. The JPC, however, was free to make an independent recommendation, and the court was free to follow it and not the parties' agreed recommendation. JuCR 7.7(15) (judge may impose any sentence he sees fit and need not follow any particular sentence recommendation); State v. Sanchez, 146 Wn.2d 339, 46 P.3d 774 (2002) (community corrections officer appointed by the court is not party to plea agreement and may advocate position different from that of the prosecutor); State v. Poupart, 54 Wn.App. 440, 446-47, 773 P.2d 893, rev. denied, 113 Wn.2d 1008 (1989) (juvenile court probation counselors not bound by terms of plea agreement); see State v. Beaver, 148 Wn.2d 338, 341-42, 60 P.3d 586 (2002) (court followed recommendation of probation counselor of manifest injustice disposition until age 21 instead of agreed recommendation of prosecutor and respondent to 208-week manifest injustice disposition). The juvenile court itself moved for a deferred disposition by continuing the disposition hearing for over two weeks to permit the JPC to provide further information about whether deferring disposition was appropriate in Jamal's case. RP 17-18, 20-21.

While the State argues the intent of the Legislature to limit motions for deferred dispositions to respondents and prosecutors is “quite clear,” the opposite is true. Brief of Appellant at 13. The plain language of the statute does not limit who may make the motion for a deferred disposition. RCW 13.40.127. This Court should reject the State’s invitation to inject wording into the statute that prohibits the prosecutor or the juvenile probation counselor from moving for a deferred disposition.

3. Jamal consented to the court’s decision to defer disposition. Under RCW 13.40.127(2), the juvenile court may enter an order deferring disposition “with consent of the juvenile.” The State argues the deferred disposition is invalid because Jamal could not “agree” to the deferred disposition because he was bound by “a plea agreement not to agree.” Brief of Appellant at 10. This argument must be rejected because the State (1) misreads the language of the statute, (2) fails to provide this Court with language in the plea agreement that supports its argument, and (3) lacks standing to assert Jamal’s rights.

The only written plea agreement in the juvenile court file is found in the Order Waiving Hearing and Setting for Plea/Disposition. CP 19. This document sets forth the State’s

agreement to amend the charge to third degree assault, not file additional charges stemming from the incident, and to recommend a particular disposition. CP 19. This plea agreement was also mentioned at the entry of Jamal's guilty plea. RP 8. Neither the written agreement nor the prosecutor's recitation of it at the time of the guilty plea say that Jamal was agreeing to make the same disposition recommendation as the prosecutor or agreeing not to ask the court to defer disposition. CP 19; RP 8.

The court and parties, however, indicated the respondent was agreeing to State's disposition recommendation. RP 12, 15, 16. Defense counsel therefore did not move for the deferral of disposition or argue in favor of deferring disposition, but stated the court could defer disposition on its own motion. RP 15, 20, 28, 29, 31.

The statute requires the court to obtain "consent" from the juvenile before deferring disposition. The fact that Jamal did not move for the deferred disposition does not mean he did not consent to it. Defense counsel stated Jamal had no objection to the entry of the order, and the court explained to Jamal what he was doing. RP 31-32, 34-35. It is clear that Jamal understood the court's decision to defer disposition was to his advantage, and he did not object.

In support of its argument that Jamal could not consent to the deferred disposition, the State refers this Court to the prosecutor's argument in juvenile court. Brief of Appellant at 10 (citing RP 30-31). The deputy prosecuting attorney asserted that Jamal could not agree to a deferred disposition due to his plea agreement. RP 30. Immediately following the prosecutor's argument, however, defense counsel stated, "No objection. I believe that Mr. M[.] has done his part of the bargaining, which is to plead guilty, and from there we have no objection to allowing the court -- " RP 31. The court interrupted counsel and explained the deferral process to the respondent. RP 32. In addition, earlier the juvenile court had found no breach of the plea agreement, a finding to which the State has not assigned error. RP 17. Thus, there is no support for the State's argument that Jamal could or did not consent to the deferral because of his plea agreement.

Furthermore, the State has no standing to object to the deferral of disposition on these grounds. See State v. Stenson, 132 Wn.2d 668, 749, 940 P.2d 1239 (1997), cert denied, 523 U.S. 1008 (1998) (right to present victim impact statement belongs to victim, not defendant); State v. Farmer, 116 Wn.2d 414, 420, 805 P.2d 200, 812 P.2d 858 (1991) (defendant may not challenge sexual

exploitation of minor statute on basis it violates First Amendment rights of children); State v. Shuffelen, 150 Wn.App. 244, 255, 208 P.3d 1167, rev. denied, 220 P.3d 210 (2009) (defendant lacks standing to challenge police officer's questioning of his wife). If, as the State asserts, Jamal breached his plea agreement, the State needed to seek a finding from the court that the agreement was breached and then pursue its remedies in that situation. RP 29; State v. Sledge, 133 Wn.2d 828, 841, 947 P.2d 1199 (1997) (principles for interpreting and enforcing plea bargains apply to guilty pleas entered in juvenile court); State v. McNally, 125 Wn.App. 854, 867-68, 106 P.3d 794, rev. denied, 155 Wn.2d 1022 (2005) (prosecutor not required to uphold bargain to recommend SOSSA after defendant breached plea agreement by failing to disclose prior sex offense).

The State lacks standing to complain that the deferred disposition was improperly entered without Jamal's consent. Jamal agreed to make the same disposition recommendation as the State, and he did so. The State has not shown that Jamal violated his plea agreement or that he did not consent to the court's decision to defer the entry of a disposition order.

4. By entering a guilty plea, Jamal complied with the requirements of RCW 13.40.127(3). When a juvenile offender agrees to a deferred disposition, he must (1) stipulate to the admission of the facts contained in the police report, (2) acknowledge the report will be entered and used to support a finding of guilt and impose disposition if he fails to comply with the terms of supervision, (3) waive his right to a speedy disposition, and (4) waive his right to confront and call witnesses. RCW 13.40.127(3).

It is true Jamal did not separately stipulate to the admissibility of the facts contained in the police report or acknowledge it would be used to support a finding of guilt if the deferred disposition was later revoked. RCW 13.40.127(3). He did, however, enter a guilty plea admitting the assault, making any need for a later guilty finding based upon the police reports irrelevant and waiving his right to call his own witnesses or confront adverse witnesses. RP 5-6, 9-10, 20.

Defense counsel pointed out that guilty pleas had been entered at the request of the State in other deferred prosecution cases. RP 18-19. State v. Haws, 118 Wn.App. 36, 38, 174 P.3d 147 (2003), for example, addresses a deferral of disposition after a

guilty plea. In addition, RCW 13.40.127(4) says the court shall defer imposition of sentence “following the stipulation, acknowledge, waiver, and entry of a finding or plea of guilt.” This Court recently interpreted the statute consistent with this procedure, stating, “The JJA authorizes the juvenile court to defer disposition of the juvenile’s case for a period not to exceed one year after the juvenile is found or pleads guilty.” State v. N.S.T., \_\_\_ Wn.App. \_\_\_, 2010 WL 2252530 at \*2 (No. 62934-4-I, June 7, 2010) (citing RCW 13.40.127 (2), (4)) (emphasis added). The statute thus contemplates that a respondent may enter a plea of guilty instead of stipulating to the police report.

The cases cited by the State hold that a juvenile offender may not have disposition deferred after he is found guilty at trial, but do not support the State’s argument that one cannot be entered after a plea of guilty. State v. B.J.S., 140 Wn.App. 91, 101, 169 P.3d 34 (2007) (parties agree respondent’s counsel was ineffective in advising respondent he could request deferred disposition after fact-finding hearing); State v. Lopez, 105 Wn.App. 688, 692, 20 P.3d 978, rev. denied, 144 Wn.2d 1016 (2001) (respondent asked for deferred disposition at sentencing hearing after being found guilty of residential burglary, third degree malicious mischief and

being a minor in possession of alcohol, thus violating 14-day rule). A distinction between permitting a deferred disposition after a fact-hearing or after a trial is logical if the Legislature wanted to limit deferred dispositions to respondents who acknowledged their offenses and is also consistent with a goal of protecting limited judicial resources.

The plea of guilty thus satisfied all of the concerns addressed in RCW 13.40.127(3) with the exception of a waiver of a speedy disposition hearing. The State, however, could easily have asked Jamal if he waived his right to a speedy disposition under JuCR, and the court would not have deferred the disposition he had declined to do so. This Court should not find the juvenile court's decision to defer disposition is invalid because of a minor error not brought to the court's attention by the prosecutor.

5. The court obtained information about whether the offender and the community would benefit from deferring disposition. The State argues the juvenile court failed to comply with the deferred disposition statute because it did not indicate how the community or Jamal would benefit from the deferred disposition. Brief of Appellant at 9. The deferred disposition statute, however, requires the court to "consider whether the

offender and the community will benefit from a deferred disposition before deferring the disposition.” RCW 13.40.127(2). The court did that here. There is no requirement that the court make findings as to the impact on the respondent or the community as the State suggests, and the deferred disposition is not invalid for this reason. RCW 13.40.127.

Prior to the entry of the order deferring the imposition of disposition, the juvenile court asked questions about the offense and obtained information about the appropriateness of a deferral from the juvenile probation counselor, who provided two written reports.<sup>2</sup> RP 8-9, 11-14, 16-17, 27. The court learned that Jamal had a long-standing issue with the assault victim, a fellow high school student, and had been unable to address the problem with school officials. RP 11-12. When the victim said, “Nigger, go back to Africa,” Jamal, who is of African descent, took matters into his own hands.<sup>3</sup> RP 11-12. The court then continued the hearing to obtain more information. RP 17. At the next hearing, the court learned that Jamal was a good student, got along well with his family, and had no criminal history. RP 27.

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<sup>2</sup> The State did not provide this Court with the JPC’s written disposition report or addendum, and they are not in the juvenile court file. See RP 8-9, 16, 25.

<sup>3</sup> Jamal’s mother, for example, had a Somali interpreter. RP 24.

The State had the opportunity to provide information to the juvenile court concerning why a deferred disposition was not in the interests of the community when the court asked the prosecutor why the State sought to eliminate the option through its plea agreement. The prosecutor said he could not answer questions about the individual plea agreement, but noted the State had agreed to reduce the charge. RP 12-13, 14. At the time of the entry of a guilty plea, however, the juvenile court is required to inquire if the plea agreement is consistent with the interests of justice and the prosecutor's standards. RCW 9.94A.431(1).<sup>4</sup> The prosecutor also had an obligation to make both the nature and "the reasons for the agreement" part of the record. CrR 4.2(e); JuCR 7.6(b); Sledge, 133 Wn.2d at 840 (prosecutor is obligated to participate in disposition proceedings, candidly answer court's questions, and not hold back relevant information).

The court again asked the prosecutor about the reasons for the plea agreement at the February 1 hearing. The prosecutor again refused to comment on the reasons behind the State's recommendations because the plea agreement was reached

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<sup>4</sup> This statute applies to juvenile pleas through JuCR 7.6(b). That rule states pleas of juvenile offenders are governed by CrR 4.2. CrR 4.2 then references Former RCW 9.94A.090, now codified as RCW 9.94A.431.

“behind closed doors.” RP 30. Thus, the prosecutor had the opportunity to provide the court with any information about the negative impact of the deferral of disposition on the community but refused to provide this information to the court if there was any.

The juvenile court obtained information about the appropriateness of a deferred disposition in this case in light of the interests of the respondent and asked the State for its input. The court thus complied with RCW 13.40.127(2)'s requirement that it consider whether the offender and the community will benefit from a deferred disposition.

6. The requirement of consultation with the respondent's parents, RCW 13.40.127(2), was substantially complied with.

Jamal's attorney informed the juvenile court that his mother agreed with deferring her son's disposition. RP 33. After the court made its decision, Jamal's father heartily thanked the court for deferring the disposition for his son. RP 36.

The State nonetheless complains that the deferral of disposition should be reversed because the court should have consulted with the parents before deciding to defer the disposition. Brief of Appellant at 9. The State, however, lacks standing to assert the parents' rights. The State further fails to explain how the

timing of the parent's expression of their approval requires this Court to dismiss the deferral of disposition when the parents were supportive of the court's decision. The deferral should not be reversed on this basis.

7. The juvenile court order deferring disposition while Jamal complies with conditions of supervision is valid and should be affirmed by this Court. The juvenile court was permitted by statute to move for a deferred disposition. The motion was made prior to the commencement of trial, Jamal entered a guilty plea and consented to the deferral, the court obtained information about the impact of a deferred disposition on the community and the defendant and received input from Jamal's parents. RCW 13.40.127 was complied with, and this Court should affirm the deferred disposition entered in this case.

#### D. CONCLUSION

The juvenile court has broad discretion to order a disposition in a juvenile case that meets the JJA's goals of accountability and rehabilitation and meets the needs of the individual offender. J.H., 96 Wn.App. at 181; See State v. H.E.J., 102 Wn.App. 84, 87, 9 P.3d 835 (2000) (juvenile court may order juvenile to participate in

sexual deviancy evaluation and treatment as part of disposition for non-sex offense).

Here, the juvenile court properly exercised its discretion by moving for a deferred disposition before the commencement of a fact-finding hearing. The court entered the order deferring disposition only after Jamal entered a guilty plea and consented to the deferral and the court requested and received input concerning the impact on Jamal and the community. Jamal's parents also consented to the court order. This Court should affirm the imposition of an order deferring disposition in Jamal's case.

DATED this 14<sup>th</sup> day of June 2010.

Respectfully submitted,



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Elaine L. Winters – WSBA # 7780  
Washington Appellate Project  
Attorneys for Respondent

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE**

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STATE OF WASHINGTON,	)	
	)	
Appellant,	)	
	)	NO. 64958-2-I
v.	)	
	)	
NUR MOHAMOUD,	)	
	)	
Respondent,	)	

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**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ARRANZA RILEY, STATE THAT ON THE 14<sup>TH</sup> DAY OF JUNE, 2010, I CAUSED THE ORIGINAL **BRIEF OF RESPONDENT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X]MICHAEL PELLICCIOTTI, DPA KING COUNTY PROSECUTOR'S OFFICE APPELLATE UNIT 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____
[X] NUR MOHAMOUD 12210 SE PETROVITSKY RD RENTON, WA 98058	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

**SIGNED** IN SEATTLE, WASHINGTON THIS 14<sup>TH</sup> DAY OF JUNE, 2010.

X \_\_\_\_\_ 

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