



**Violation II: “Failure to maintain law abiding behavior by being arrested” is an unconstitutional charge, a violation of due process rights. Being arrested for or charged with a crime is not in itself a crime.**

**“A person when first charged with a crime is entitled to a presumption of innocence, and may insist that his guilt be established beyond a reasonable doubt.”**

United States v Gaudin, 515 U.S. 506, 514, 115 S. Ct. 2310, 132 L. Ed. 2d 444 (1995)

**“Proving that one has been charged with a crime is not permissible . . . nor admissible under any rule of law . . . It is error, in a criminal case, to allow the state to prove that the accused had on a previous occasion been charged with a crime.”**

State v Morgan, 146 Wash. 109, 261 P. 777

**In the opinion of Senior Circuit Judge Floyd R. Gibson, “The use of pending charges, though, seems to me a mistake. I do not see how the fact that someone is charged with a crime - a charge which has not yet been tried and may never be - can be used against him. A charge is merely an accusation. A person charged is still entitled to the presumption of innocence until his guilt has been properly established.”**

US v. Morse 983 F.2d 851;1993 U.S. App. LEXIS 32

**“Courts and counsel should be mindful of the rule that evidence, even in a criminal case, may not be admitted of a criminal charge, but only a previous conviction. The presumption should be conclusive that one is innocent of the commission of a crime of which he is accused until his guilt is proved.”**

Warren v. Hynes 4 Wn.2d 128;102 P.2d 691;1940 Wash. LEXIS 478

**The trial court allowed or entertained the prosecution’s repeated claim that the defendant had been arrested for “non law abiding behavior”.**

charging documents, transcript page 235 lines 5-6, et al.

**The underlying charges were dismissed in Fife Municipal Court and found not to be “non law abiding” during the hearing.**

transcript page 257 line 6

The court erred in its belief that I “did neither” of the two options suggested regarding concerns over a legitimate treatment provider. (page 263 line 13)

The record demonstrates I did both. The judge himself admitted the first, participating in treatment with Ms. Tracer, even after the concerns arose. (page 263 line 15)

I also took the other action of discussing the issue with my counsel which is evidenced during the hearing (pages 14 & 250 , for example) as well as the judge’s own comments on page 263.

Reversing the trial court’s decision to revoke the suspended sentence will serve justice by allowing participation in therapy. Ironically, neither therapy nor the Getting It Right program are available at the location I am presently held.