

NO. 49042-1-II

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

DEREK MATTHEW JETER

Appellant.

ON APPEAL FROM THE
SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

The Honorable Susan Serko, Judge

OPENING BRIEF OF APPELLANT

Peter B. Tiller, WSBA No. 20835
Of Attorneys for Appellant

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TABLE OF CONTENTS

	<u>Page</u>
A. ASSIGNMENTS OF ERROR	1
B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR	1
C. STATEMENT OF THE CASE.....	1
D. ARGUMENT	5
1. THE TRIAL COURT’S FAILURE TO SET A CONTESTED HEARING AFTER AN OBJECTION TO RECORD SEALING WAS NOTED AT AN ADMINISTRATIVE SEALING HEARING WAS IN VIOLATION OF RCW 13.50.290.....	4
a. The plain language and legislative intent of RCW 13.50.290 requires the case be set for a contested hearing.....	7
i. Standard of review.....	7
ii. Legislative intent of RCW13.50.260.....	7
iii. Granting a contested hearing with counsel comports with the legislative intent of RCW 13.50.260.....	11
2. MR. JETER ADOPTS AND INCORPORATES THE ARGUMENT SET FORTH IN ISSUE 4 OF MR. COFIELD’S OPENING BRIEF.....	12
E. CONCLUSION.....	13

TABLE OF AUTHORITIES

<u>WASHINGTON CASES</u>	<u>Page</u>
<i>Christensen v. Ellsworth</i> , 162 Wn.2d 365, 173 P.3d 228 (2007).....	8
<i>Davis v. Dep't of Licensing</i> , 137 Wn.2d 957, 977 P.2d 554 (1999).....	9
<i>Geschwind v. Flanagan</i> , 121 Wn.2d 833, 854 P.2d 1061 (1993).....	7
<i>In re Recall of Pearsall–Stipek</i> , 141 Wn.2d 756, 10 P.3d 1034 (2000).....	8
<i>State ex rel Schillberg v. Barnett</i> , 79 Wn.2d 578, 488 P.2d 255 (1971).....	8
<i>State v. Howell</i> , 119 Wn.2d 513, 833 P.2d 1385 (1992).....	7
<i>State v. J.P.</i> , 149 Wn.2d 444, 69 P.3d 318 (2003).....	7
<i>State v. Murrin</i> , 85 Wn.App. 754, 934 P.2d 728 (1997).....	7
<i>State v. Posey</i> , 174 Wn.2d 131, 272 P.3d 840 (2012).....	9
<i>State v. Roggenkamp</i> , 153 Wn.2d 614, 106 P.3d 196 (2005).....	8
<i>State v. S.J.C.</i> , 183 Wn.2d 408, 352 P.3d 749 (2015).....	11
<i>State v. T.K.</i> , 139 Wn.2d 320, 987 P.2d 63 (1999).....	9
<i>State v. Wilson</i> , 125 Wn.2d 212, 883 P.2d 320 (1994).....	7
<i>Welch v. Southland Corp.</i> , 134 Wn.2d 629, 952 P.2d 162 (1998).....	7
<u>REVISED CODE OF WASHINGTON</u>	<u>Page</u>
RCW 13.50.050.....	4
RCW 13.50.260.....	1, 3, 4, 5, 10
RCW 13.50.260(1)(b).....	6
RCW 13.50.160(1)(c).....	7
RCW 13.50.260(1)(c)(ii).....	4
RCW 13.50.290.....	1, 2, 12
<u>OTHER AUTHORITIES</u>	<u>Page</u>
Laws of 1977, 1 st Ex.Sess., Ch.291.....	4
Laws of 2014, Ch.175 §1(2).....	10
Laws of 2014, Ch.175, §2.....	11
Laws of 2014, Ch.175 §3-4.....	4

A. ASSIGNMENTS OF ERROR

1. The superior court erroneously denied appellant Derek Jeter motion to revise a Court Commissioner's ruling that Derek Jeter's juvenile court record should not be sealed due to failure to complete his terms of probation.

2. The juvenile Court Commissioner erred by failing to set the matter for a contested evidentiary hearing under RCW 13.50.260 after the State noted an objection to sealing the appellant's juvenile record at an administrative sealing hearing.

3. The superior court erred by entering the finding of fact:

The respondent is not eligible for administrative sealing as he has not completed the terms and conditions of disposition.

Clerk's Papers (CP) 58-59.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Under RCW 13.50.290, did the superior court err by denying a motion to revise a Court Commissioner's ruling that the appellant's juvenile court record should not be sealed due to an alleged failure to complete terms of juvenile probation without setting the case for a contested hearing and without providing notice to the juvenile's counsel and to any alleged victim? Assignments of Error 1, 2 and 3.

2. Does RCW 13.50.290 require the lower Court to set a contested hearing and provide notice to the juvenile's attorney and any victim of the original offense of the hearing in order to determine whether a juvenile's court

record should be sealed where a party notes an objection to sealing the record or where the court denies sealing of the record at an administrative hearing? Assignments of Error 1, 2, and 3.

C. STATEMENT OF THE CASE

Derek Jeter appeals the superior court's ruling denying his motion for revision of a Court Commissioner's ruling denying administrative sealing of his juvenile court record and subsequent failure to set the case for a contested hearing to determine if his juvenile court record should be sealed. Derek Jeter argues that under RCW 13.50.290, the court was required to hold a contested hearing and provide notice to the juvenile, his attorney, and any victim of the underlying offense instead of merely ruling that the record would not be sealed at the administrative hearing.

Derek Jeter was charged by amended information in the juvenile division of the Pierce County Superior Court with first degree criminal trespass and minor in possession of alcohol on April 29, 2014. Clerk's Papers (CP) 3-4. He was adjudicated guilty of the offenses on July 24, 2014 after entry of an *Alford* plea.¹ CP 5-12, 13-20. The court entered an order of disposition on July 24 2014, which included six months of supervision and treatment under a Chemical Dependency Disposition Alternative. CP 14. Included among the conditions of the disposition is the requirement that he

perform 30 hours of community service. CP 14.

On January 16, 2015, the court entered a CDDA review order that Derek Jeter had complied with the CDDA conditions. CP 28-29. The order provided that Mr. Jeter has “successfully fulfilled all the requirements of CDDA! ☺” (exclamation point and smiley face in original). CP 28. Appendix A. The order also provided that supervision in the CDDA program was terminated due to successful graduation from the program. CP 29.

On March 25, 2016, a Court Commissioner heard an administrative sealing hearing pursuant to RCW 13.50.260. The court entered an Order on Administrative Sealing that the record would not be sealed. The court found:

Probation reports the respondent [] has [X] has not completed the terms and conditions of probation, to include payment of restitution to all victims other than insurance providers authorized under Title 48 RCW. **Did not complete community service hours or write letter of apology.**

CP 31. Appendix B.

The court did not seal Mr. Jeter’s juvenile court record and did not schedule a contested hearing regarding record sealing. CP 31-32.

Counsel for Mr. Jeter moved to revise the Commissioner’s ruling on April 1, 2016. CP 33-35. The revision motion was heard May 3, 2016 by the Honorable Susan Serko. The court denied the motion for revision, finding

¹ *North Carolina v. Alford*, 400 U.S. 25, 31 (1970).

that “[t]he respondent is not eligible for administrative sealing as he has not completed the terms and conditions of disposition, as required by RCW 13.50.260(1)(c)(ii), and the court properly declined to set a contested hearing.” Report of Proceedings (RP)² at 17; CP 58-59. Appendix C.

Timely notice of appeal was filed on June 1, 2016. CP 60-62. This appeal follows.

D. ARGUMENT

1. THE TRIAL COURT’S FAILURE TO SET A CONTESTED HEARING AFTER AN OBJECTION TO RECORD SEALING WAS NOTED AT AN ADMINISTRATIVE SEALING HEARING WAS IN VIOLATION OF RCW 13.50.290

RCW 13.50.260 governs sealing juvenile criminal records. Prior to June, 2014, former RCW 13.50.050 governed juvenile record sealing. Effective June 12, 2014, the sections of RCW 13.50.050 addressing sealing hearings and sealing juvenile offender records were recodified in a new section, RCW 13.50.260. See Laws of 2014, Ch. 175, §§ 3–4. The 2014 statutory amendment represented the most recent significant change regarding juvenile records. In 1977, the legislature undertook a major overhaul of the juvenile justice statutes, providing much more specific and delineated substantive and procedural guidelines for juvenile courts. Laws of 1977, 1st Ex.Sess., ch. 291. The law was

² The report of proceedings consists of a revision hearing held May 3, 2016.

divided into four sections, including provisions relating to juvenile courts and records generally, *id.* §§ 1–15, and provisions specific to juveniles who had violated criminal laws, *id.* §§ 55–81.

RCW 13.50.260 differs significantly in structure from former RCW 13.50.050. The statute provides that a court “shall hold regular sealing hearings” and “shall administratively seal an individual's juvenile court record pursuant to the requirements of this subsection unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing.” RCW 13.50.290(1)(a). Appendix D.

As noted above, the statute provides that if there is an objection or the court finds a compelling reason why the record should not be sealed,, the court shall set a contested hearing to address record sealing, and the hearing must be set within 18 days after notice of the hearing and opportunity to object is provided to the respondent, the respondent’s attorney, and victim of the offense. The plain language of the statute requires that the records must be sealed in the absence of an objection or a finding by the court of a compelling reason not to seal. If there is an objection or if the court finds a compelling reason not to seal, the court must set a date for a contested hearing and provide notice to the victim of the offense, respondent, and respondent’s counsel. The statute states in

relevant part:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The contested hearing shall be set no sooner than eighteen days after notice of the hearing and the opportunity to object has been sent to the juvenile, the victim, and juvenile's attorney. The juvenile respondent's presence is not required at a sealing hearing pursuant to this subsection.

RCW 13.50.260(1)(b) mandates that the administrative hearing be scheduled at the disposition hearing, and scheduled to take place after occurrence of the latter of the following three events: the respondent's eighteenth birthday, or release from probation, or release from confinement in the Juvenile Rehabilitation Administration or completion of parole. RCW 13.50.260(1)(b) provides:

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

- (i) The respondent's eighteenth birthday;
- (ii) Anticipated completion of a respondent's probation, if ordered;
- (iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

RCW 13.50.160(1)(c) details mandates what occurs at the administrative sealing hearing and sets forth the circumstances under which a respondent is not eligible for administrative sealing. The statute provides the court must enter an order sealing the juvenile court record unless it is a “most serious offense,” a sex offense, or a drug offense, and the respondent has completed the terms of disposition and paid full restitution.

a. The plain language and legislative intent of RCW 13.50.290 requires the case be set for a contested hearing

i. Standard of review

Issues of statutory construction are reviewed *de novo*. *Welch v. Southland Corp.*, 134 Wn.2d 629, 632, 952 P.2d 162 (1998). Our Supreme Court has previously held that it assumes that the Legislature meant what it said in the plain language of the statute. *Geschwind v. Flanagan*, 121 Wn.2d 833, 841, 854 P.2d 1061 (1993). If the statutory language is unambiguous, it is not subject to judicial construction. *State v. Howell*, 119 Wn.2d 513, 518, 833 P.2d 1385 (1992). “The purpose of statutory construction is ‘to give content and force to the language used by the Legislature.’” *State v. Murrin*, 85 Wn.App. 754, 757–58, 934 P.2d 728 (1997) (quoting *State v. Wilson*, 125 Wash.2d 212, 216, 883 P.2d 320 (1994)).

ii. Legislative intent of RCW 13.50.260

The fundamental goal of statutory interpretation is to discern and

implement the legislature's intent. *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003). When interpreting a statute, courts look first to the statute's plain meaning. *State v. Armendariz*, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). "Plain meaning is discerned from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole." *Christensen v. Ellsworth*, 162 Wash.2d 365, 373, 173 P.3d 228 (2007). "If the statutory language is susceptible to more than one reasonable interpretation, then a court may resort to statutory construction, legislative history, and relevant case law for assistance in discerning legislative intent." *Id.*

Washington courts have established principles of statutory construction. "[E]ach word of a statute is to be accorded meaning." *State v. Roggenkamp*, 153 Wn.2d 614, 624, 106 P.3d 196 (2005) (quoting *State ex rel. Schillberg v. Barnett*, 79 Wn.2d 578, 584, 488 P.2d 255 (1971)). "[T]he drafters of legislation ... are presumed to have used no superfluous words," and courts must ascribe meaning to every word in a statute. *Id.* at 624–25, 106 P.3d 196 (alterations in original) (internal quotation marks omitted) (quoting *In re Recall of Pearsall–Stipek*, 141 Wn.2d 756, 767, 10 P.3d 1034 (2000)) ("Isolating 'reckless' from the phrase 'in a reckless manner,' as petitioners advocate, would render the sword 'manner' meaningless and superfluous."). Courts "may not

delete language from an unambiguous statute: [s]tatutes *must* be interpreted and construed so that all the language used is given effect, *with no portion rendered meaningless or superfluous.*” *J.P.*, 149 Wn.2d at 450, 69 P.3d 318 (emphasis added) (internal quotation marks omitted) (quoting *Davis v. Dep’t of Licensing*, 137 Wn.2d 957, 963, 977 P.2d 554 (1999)). Finally, and importantly, “the legislature is deemed to intend a different meaning when it uses different terms.” *Roggenkamp*, 153 Wn.2d at 625, 106 P.3d 196.

Our Legislature has consistently treated juvenile court records as distinctive and as deserving of more confidentiality than other types of records.

In *State v. S.J.C.*, our Supreme Court stated:

The juvenile court as a separate division of superior court is a creation of the legislature. *State v. Posey*, 174 Wash.2d 131, 136–37, 272 P.3d 840 (2012). It is therefore unsurprising that the legislature has always provided guidance on the openness of juvenile court records as a distinct class of records. While the specificity and content of this guidance has varied, the legislature has always made some provision to limit public access to juvenile court records in recognition of the unique purpose of juvenile courts to rehabilitate and reintegrate youth into society. This court has always given effect to the legislature’s judgment in the unique setting of juvenile court records.

S.J.C., 183 Wn.2d 408, 419, 352 P.3d 749 (2015). The Court noted “we have always given effect to the statutory procedures and requirements for sealing juvenile records[.]” *S.J.C.*, 183 Wn.2d at 422 (citing *State v. T.K.*, 139 Wn.2d 320, 331, 987 P.2d 63 (1999) (holding that a former version of RCW

13.50.050 “impos[ed] a mandatory obligation to seal if a juvenile meets the statutory conditions”)).

The Legislature's stated intent behind its 2014 chapter 13.50 RCW amendments supports interpreting RCW 13.50.260 in a way that resolves ambiguities in favor of the person seeking to have his or her juvenile record sealed:

(1) The primary goal of the Washington state juvenile justice system is the rehabilitation and reintegration of former juvenile offenders. The public has a compelling interest in the rehabilitation of former juvenile offenders and their successful reintegration into society as active, law-abiding, and contributing members of their communities.

When juvenile court records are publicly available, former juvenile offenders face substantial barriers to reintegration, as they are denied housing, employment, and education opportunities on the basis of these records.

(2) The legislature declares it is the policy of the state of Washington that the interest in juvenile rehabilitation and reintegration constitutes compelling circumstances that outweigh the public interest in continued availability of juvenile court records. The legislature intends that juvenile court proceedings be openly administered but, except in limited circumstances, the records of these proceedings be closed when the juvenile has reached the age of eighteen and completed the terms of disposition.

Laws of 2014, ch. 175, § 1(2).

The Legislature designed the mechanism for sealing juvenile records specifically so juveniles can overcome prejudice and reintegrate into society. *Id.* at § 1(1). Because Washington's goal for its juvenile justice system is rehabilitation and reintegration rather than punishment, “[t]he legislature has

always treated juvenile court records as distinctive and as deserving of more confidentiality than other types of records[,] and [Washington] court[s] ha[ve] always given effect to the legislature's judgment in the unique setting of juvenile court records." *S.J.C.*, 183 Wn.2d at, 417.

The plain language of RCW 13.50.290 mandates that a contested hearing needs to be set by the court to address the issue of sealing whenever any party to the scheduled administrative hearing notes an objection. The statute does not create a previously undefined right of a juvenile to seal records; instead, it clarifies and streamlines the hazy process by which a juvenile could seal records under former RCW 13.50.050. By failing to set a contested hearing, the court thwarted the Legislative's clear intention of sealing juvenile records in cases in which "the juvenile has reached the age of eighteen and completed the terms of disposition." Laws of 2014, ch. 175, sec. 2. A reviewing court should liberally interpret the statute to give meaning to its clear purpose to seal record for eligible juveniles so that they can be successfully reintegrated into society.

iii. Holding a contested hearing with counsel comports with the legislative intent of RCW 13.50.260

By failing to set the matter for a contested hearing, the Superior Court placed Mr. Jeter in position where the State's contention that he had not complied with conditions of probation was uncontested. The importance of the

contested hearing promulgated by the Legislature is particularly evident in Mr. Jeter's case. Here, the allegation that he failed to complete the court-ordered community service hours may be subject to a variety of challenges including waiver or inability to comply with the requirement. The other allegation, that he failed to write an "apology letter," may also be challenged in a variety of ways such as that the failure to write a letter is *de minimis* violation, or that the requirement was satisfied in ways other than a written letter. By failing to set the matter for a contested hearing, the court is merely relying on the prosecution's representation of the facts without challenge. The failure to allow for advocacy undermines the legislative intent by fomenting a hurdle to a smoother transition of a juvenile offender to society—and of critical importance—to the job market, by placing a needlessly burdensome and almost vindictive barrier in Mr. Jeter's way, when in fact the State's objections may either be rebutted or mitigated at a contested hearing.

2. MR. JETER ADOPTS AND INCORPORATES THE ARGUMENT SET FORTH IN ARGUMENT 4 OF MR. COFIELD'S OPENING BRIEF.

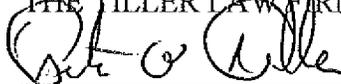
Pursuant to RAP 10.1, Mr. Jeter adopts and incorporates issue 4 of Mr. Cofield's brief regarding imposition of appellate costs in the unlikely event the State prevails. Mr. Jeter remains indigent and appellate costs should not be imposed.

E. CONCLUSION

For the foregoing reasons, Mr. Jeter respectfully requests this Court reverse the order of the lower court denying his motion for revision, and to remand the matter to the juvenile court for a contested hearing pursuant to RCW 13.50.290.

DATED: December 2, 2016.

Respectfully submitted,
THE TILLER LAW FIRM



PETER B. TILLER-WSBA 20835

ptiller@tillerlaw.com

Of Attorneys for Derek Jeter

CERTIFICATE OF SERVICE

The undersigned certifies that on December 2, 2016, that this Appellant's Corrected Opening Brief was sent by the JIS link to Mr. David Ponzoha, Clerk of the Court, Court of Appeals, Division II, 950 Broadway, Ste.300, Tacoma, WA 98402-4454 , and copies were mailed by U.S. mail, postage prepaid, to the following:

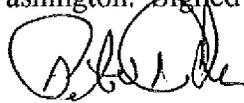
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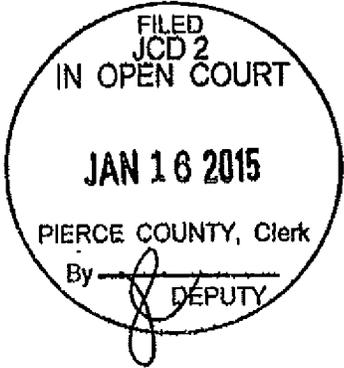
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This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on December 2, 2016.



PETER B. TILLER

APPENDIX A



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY
JUVENILE COURT

STATE OF WASHINGTON,

Plaintiff.

CAUSE NO 14-8-00425-4

vs

DEREK MATTHEW JETER
DOB : 02/25/98
JUVIS# 865832-14R013407

- ORDER ON REVIEW OF CHEMICAL DEPENDENCY CONDITIONS FOR DISPOSITION ORDER (ORRVH)
- ORDER ON REVIEW OF CHEMICAL DEPENDENCY CONDITIONS FOR DEFERRED DISPOSITION (ORRVH)
- ORDER ON REVIEW OF CONDITIONS OF CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE (OPTION C) (CDDA)

Respondent

THIS MATTER coming on regularly for hearing this date for the purpose to review compliance with Chemical Dependency Conditions for Disposition Order, or Chemical Dependency Conditions for Deferred Disposition, or a Chemical Dependency Disposition Alternative (Option C), previously ordered in the above-entitled matter, the above-named respondent has.

- to-date complied with the conditions of CDDA.
- violated condition(s) of supervision of CDDA.
- failed to make satisfactory progress in treatment.
- successfully fulfilled all the requirements of CDDA.

! ☺

IT IS HEREBY ORDERED that

the CDDA conditions will be REVIEWED on _____ at _____ a.m./p.m.

1
2
3 [] the CDDA conditions are modified to include the following additional conditions of
4 supervision _____
5 _____
6 _____

7 [] the matter shall be set for a [] CDDA REVOCATION hearing or a []
8 DEFERRED DISPOSITION REVOCATION hearing on _____
at _____ a.m./p.m.

9 [] the CDDA (Option C) is REVOKED and a disposition hearing is set for
_____ at _____ a.m./p.m.

10 [] the CDDA (Option C) is REVOKED, the suspended sentence of _____
11 days/weeks is imposed [] and a Commitment Order has been signed this date. All
12 other conditions of the Disposition Order dated _____ remain in full
force and effect.

13 supervision in the CDDA program is TERMINATED. ^(SUCCESSFUL GRADUATION) If a community supervision
14 period remains, all other conditions of community supervision remain in full force
and effect

15 DONE IN OPEN COURT this 16 day of JAN, 2015

17 Wainhendon
18 JUDGE/COMMISSIONER

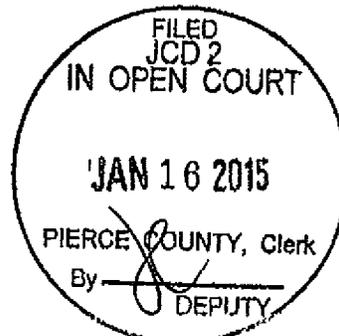
19 Presented by.

20 [Signature]
21 Deputy Prosecuting Attorney
WSB # 371939

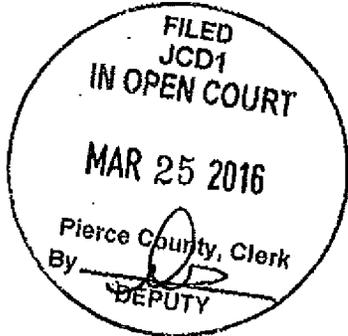
22 Parent of Respondent

23 [Signature]
24 Attorney for Respondent
WSB # 18064

25 [Signature]
26 Respondent



APPENDIX B



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY
JUVENILE COURT

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 14-8-00425-4

vs.

DEREK MATTHEW JETER
D.O.B.: 02/25/98
JUVIS#: 865832-14R013407
SEX: MALE
RACE: WHITE
ETHNICITY: NON-HISPANIC

ORDER ON ADMINISTRATIVE
SEALING HEARING PURSUANT TO
RCW 13.50.260
 (ORSF)
 (ORSFD)
 (ORCNT)

Respondent.

THIS MATTER coming before the court for an administrative sealing hearing set pursuant to RCW 13.50.260; the respondent being present not present (presence is not required); the respondent being represented by Paul D. Breen; the State being represented by Elizabeth Vincent Deputy Prosecuting Attorney; and the court having considered the records and files herein and having heard from the parties present; Now, Therefore, the court enters the following findings of fact and order.

I. FINDINGS

1. The respondent is is not at least 18 years of age, and was not adjudicated guilty of a "most serious offense", "sex offense", or "drug offense" in this matter;
2. Probation reports the respondent has has not completed the terms and conditions of probation, to include payment of restitution to all victims other than insurance providers authorized under Title 48 RCW; *did not complete community service hours & wrote letter of apology.*
3. Probation reports the respondent has has not completed the terms and conditions of parole, to include payment of restitution to all victims other than insurance providers authorized under Title 48.

4. An objection to administrative sealing [] has [] has not been made before the court.

II. ORDER

1. [] Based on the above findings the court seals the respondent's juvenile court record pursuant to RCW 13.50.260.

2. [] Based on the above findings the court does not seal the respondent's juvenile court record pursuant to RCW 13.50.260. This matter is set for contested sealing hearing on the _____ day of _____, 20_____.

3. Based on the above findings the court does not seal the respondent's juvenile court record pursuant to RCW 13.50.260

DATED: March 25, 2016

[Signature]
JUDGE/COMMISSIONER

Presented by:

MARY E. DICKE

[Signature]

Deputy Prosecuting Attorney
WSB # 25076

[Signature]
Respondent's Attorney
WSB # 23127

COUNT I: CRIMINAL TRESPASS IN THE FIRST DEGREE - GUILTY, 4/24/14
COUNT II: MINOR IN POSSESSION OF OR CONSUMING LIQUOR - GUILTY, 4/24/14

Law Enforcement Agency Code: WA02700
Incident Number: 140161176
Incident Date: 01/16/14

OBJECTION NOTED.
Approved as to Form.

mal

FILED
JCD1
IN OPEN COURT
MAR 25 2016
Pierce County, Clerk
By [Signature]
DEPUTY

APPENDIX C



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY
JUVENILE COURT

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 14-8-00425-4

vs.

DEREK MATTHEW JETER
D.O.B.: 2/25/1998
JUVIS#: 865832-14R013407

ORDER DENYING MOTION TO
REVISE COMMISSIONER'S RULING
()

Respondent.

This matter coming before the above entitled court on the motion of the respondent to revise the ruling rendered by Commissioner Mary Dicke on March 25, 2016. The Commissioner having denied the defense request to set a contested sealing hearing after finding that the respondent was not eligible for administrative sealing based on his failure to complete the terms and conditions of sentence; the State being represented by KEVIN S. BENTON, Deputy Prosecuting Attorney; the respondent, who was not present and not required to be present, being represented by MAUREEN CAVANAUGH; the court having considered the briefing in this matter filed by the State, the defense, as well as amicus curiae Team Child; the court having heard and considered argument presented by the parties, and the court in all matters being fully advised, Now, Therefore orders as follows:

The respondent's motion to revise Commissioner Dicke's ^{ruling} is denied. The respondent is not eligible for administrative sealing as he has not completed the terms and

748-004254

conditions of disposition, as required by RCW 13.50.260(1)(c)(ii), and the court properly declined to set a contested hearing.

DONE IN OPEN COURT this 3rd day of May, 2016.

Susan K. Serko
SUSAN K. SERKO, Judge

Presented by:

Kevin S. Benton
KEVIN S. BENTON
Deputy Prosecuting Attorney
WSB #16891

FILED
JCD 2
IN OPEN COURT

MAY 03 2016
PIERCE COUNTY, Clerk
By *[Signature]*
DEPUTY

Approved as to form only:

Maureen Cavanaugh
MAUREEN CAVANAUGH
Attorney for Respondent
WSB #18232

APPENDIX D

RCW 13.50.260

Sealing hearings—Sealing of records.

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The contested hearing shall be set no sooner than eighteen days after notice of the hearing and the opportunity to object has been sent to the juvenile, the victim, and juvenile's attorney. The juvenile respondent's presence is not required at a sealing hearing pursuant to this subsection.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

- (i) The respondent's eighteenth birthday;
- (ii) Anticipated completion of a respondent's probation, if ordered;
- (iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) A court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if:

(i) One of the offenses for which the court has entered a disposition is not at the time of commission of the offense:

(A) A most serious offense, as defined in RCW 9.94A.030;

(B) A sex offense under chapter 9A.44 RCW; or

(C) A drug offense, as defined in RCW 9.94A.030; and

(ii) The respondent has completed the terms and conditions of disposition, including affirmative conditions and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order

sealing the juvenile court record unless the court determines that sealing is not appropriate.

(2) The court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case.

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise

provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

TILLER LAW OFFICE

December 02, 2016 - 4:57 PM

Transmittal Letter

Document Uploaded: 5-490421-Appellant's Brief.pdf

Case Name: State v. Derek Jeter

Court of Appeals Case Number: 49042-1

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

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Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

Brief: Appellant's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

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Comments:

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