

WASHINGTON STATE COURT OF APPEALS  
DIVISION TWO

PERSONAL RESTRAINT PETITION OF PATRICK DRUM  
NO. 34377-1 *cons to 35947-2-II*

RESPONSE TO PETITION

FILED  
COURT OF APPEALS  
DIVISION TWO  
06 MAR 15 PM 2:15  
STATE OF WASHINGTON  
BY *JFR*  
DEPUTY

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TABLE OF AUTHORITY

CASES

<u>State v. Melick</u> , Court of Appeals, Div. I #54925-1-I Filed March 6, 2006.....	
<u>State v. Shattuck</u> , 55 Wn. App. 131, 776 P2d 1001 (1989).....	

STATEMENT OF THE CASE

Patrick Drum was charged with Burglary in the second degree in Jefferson County Cause Number 04-1-00110-8. Drum petitioned for Drug Court and on October 29, 2004 signed a Drug Court Contract. Attachment 4 to petitioner's PRP. Paragraph 19 of the Drug Court Contract signed by the petitioner reads as follows:

19. If the defendant is terminated from the Program, the defendant agrees and stipulates that the Court will determine the issue of guilt on the pending charge(s) solely upon the enforcement/investigative agency reports or declarations, witness

statements, field test results, lab test results, or other expert testing or examinations such as fingerprint or handwriting comparisons, which constitutes the basis for the prosecution of the pending charge(s). The defendant further agrees and stipulates that the facts presented by such reports, declarations statements and/or expert examinations are sufficient for the Court to find the defendant guilty of the pending charge(s).

The paragraph of the Drug Court Contract preceding the petitioner's signature reads as follows:

My attorney has explained to me, and we have fully discussed all of the above paragraphs. I understand them all and wish to enter into this Drug Court Contract. I have no further questions to ask the Judge.

The next paragraph of the Drug Court Contract reads as follows and is signed by petitioner's attorney:

I have read and discussed this Drug Court Contract with the defendant and believe that the defendant is competent and fully understands the contract terms.

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Attorney for Defendant

Respondent has submitted a certified copy of the transcript of the February 28, 2006 hearing as an appendix to this response. On page two of that transcript petitioner's attorney represents to the Court that he has discussed the Drug Court Contract with the petitioner. The petitioner then affirms that he had reviewed the contract thoroughly with his attorney.

## ARGUMENT

In State v. Shattuck, 55 Wn. App. 131, 776 P2d 1001 (1989) the Court held that a stipulation to the facts by a defendant in a deferred prosecution proceeding waived any subsequent procedural or legal defenses a defendant may try to assert once the deferred prosecution is revoked and a hearing on guilt is held. Shattuck, at 133-135. The very recent Washington Court of Appeals, Division One case State v. Melic, Number 54925-1-I Filed March 6, 2006 extended the rule in Shattuck to Drug Court proceedings.

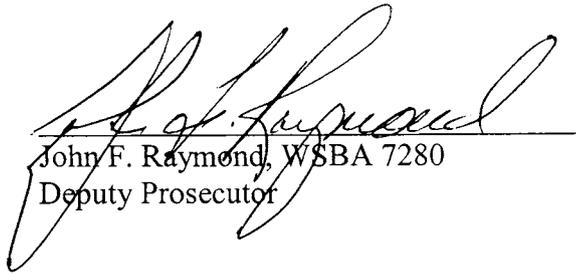
In the case at bar, the stipulation of the petitioner goes beyond the stipulations in Shattuck and Melic. Here petitioner not only stipulated to the police reports but also stipulated “that the facts presented by such reports, declarations statements and/or expert examinations are sufficient for the Court to find the defendant guilty of the pending charge(s).”

The petitioner and his attorney represented to the court both orally and in writing that they had thoroughly discussed the Drug Court Contract and that the petitioner understood the terms and conditions of the document that he signed.

CONCLUSION

The Personal Restraint Petition should be denied.

Respectfully submitted March 10, 2006.



John F. Raymond, WSBA 7280  
Deputy Prosecutor

FILED  
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WASHINGTON  
JEFFERSON COUNTY  
RUTH GORDON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR JEFFERSON COUNTY

STATE OF WASHINGTON, )  
 )  
 Plaintiff, ) No.: 04-1-00110-8  
 )  
 vs. )  
 )  
 PATRICK BOYD DRUM, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )

**VERBATIM REPORT OF PROCEEDINGS**

BE IT REMEMBERED that on the 29<sup>TH</sup> day of October, 2004, Jefferson County Cause No. 04-1-00110-8 came on for Petition for Entry to Drug Court/Omnibus Hearing before the Honorable Craddock D. Verser, sitting at the Jefferson County Courthouse, City of Port Townsend, State of Washington; and the parties being represented as follows:

JUELANNE DALZALL, Prosecuting Attorney, Jefferson County Prosecutor's Office, P.O. Box 1220, Port Townsend, Washington 98368 appearing on behalf of plaintiff State of Washington; and

SCOTT CHARLTON, Jefferson Associated Counsel, 686 Lake Street, Suite 100, Port Townsend, Washington 98368 appearing on behalf of defendant Drum.

WHEREUPON, the following proceedings were had and done to-wit:

**(Motion Calendar in Progress)**

COURT: State of Washington v. Patrick Drum, 04-1-00110-8, Omnibus and/or Petition to Drug Court.

MR. CHARLTON: Your Honor, we've petitioned for Drug Court. It was set over for entry of the order into Drug Court. I'm handing forward to the Court a signed Drug Court contract, which I went over with Mr. Drum out at the jail. We just need the Prosecuting Attorney's signature.

COURT: Mr. Drum, you sent a number of-- at least some envelopes to the court, and I don't open those, I just return them. You are represented by an attorney, so everything you do should go through your attorney.

MR. DRUM: I understand, sir.

COURT: Actually, it must. I've got here a Drug Court contract, Mr. Drum. And, did you review that thoroughly with Mr., uh, Charlton?

MR. DRUM: Yes, I did.

COURT: Do you understand what you're getting into?

MR. DRUM: Yes, I do.

COURT: This is not an easy way to get out of a

felony conviction. It requires a lot of effort on your part, and you'll be under the scrutiny of the court for the next-- at least two years. Do you understand that?

MR. DRUM: Yes, I do.

COURT: And that jail time will be imposed if you violate the conditions of your agreement with the court. And sometimes you end up getting more jail time in Drug Court than you would by pleading guilty, just because you can't stay straight. Do you know that?

MR. DRUM: Yes, I do.

COURT: All right. The Prosecutor has signed off on the Drug Court contract. What is the participation fee?

MS. DALZELL: Uh, Mr. Kessler isn't here. It's a sliding fee scale, Your Honor.

COURT: All right. I'm going to just put "to be determined" then in that, in these blanks on this.

MR. CHARLTON: And, Your Honor, Mr. Drum is no longer held, uh, on these charges in Superior Court. He is held on bail in District Court, and, uh, we'll address that across the hall.

COURT: All right.

MS. DALZELL: Well, if you are going to ask that he be released across the hall I'd ask he be

held here. Um, pending a (inaudible)

MR. CHARLTON: No, you're...

MS. DALZELL: I won't agree with that.

MR. CHARLTON: Your Honor, the understanding is that he will be in custody until a bed date opens.

COURT: An in-patient treatment opens up...

MR. CHARLTON: Yes.

COURT: ...but, um, and that'll be handled across the hall?

MR. CHARLTON: Once a bed date opens we'll ask that his bail be reduced across the hall.

MS. DALZELL: So that he can (inaudible)

MR. CHARLTON: But, um, he'll be going directly to treatment.

COURT: All right, Mr. Drum. I've reviewed and signed the Drug Court contract, and I trust that you will be able to work through your problem.

MR. DRUM: Thank you.

COURT: I look forward to working with you.

MR. DRUM: Thank you. Um, Mr. Carlton?

MR. CHARLTON: Patrick?

MR. DRUM: Yeah, I noticed that my uncle is in the courtroom. I don't know if you guys have talked yet. But, um, I hope, I just hope that you guys have talked so he didn't waste a trip over here.

MR. CHARLTON: I'll talk with him, Patrick.

MR. DRUM: Thank you.

MR. CHARLTON: You can call me, uh, call me at the office later this morning, okay?

MR. DRUM: All right, thank you.

CLERK: (inaudible)

COURT: There's going to be more documents, but I assume the Prosecutor will provide them.

CLERK: (inaudible) he's filed a Petition and a Consent and we have the contract today (inaudible)

MS. DALZELL: And you don't have one in the file?

CLERK: No.

COURT: Talk to Mr. Charlton about that. We'll get that...

MS. DALZELL: Can I get that to Your Honor later today?

COURT: Yeah.

**(Motion Calendar continues)**

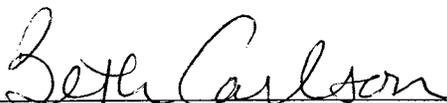
CERTIFICATE OF COURT CLERK AND  
ELECTRONIC COURT REPORTER

STATE OF WASHINGTON     )  
                                  )    ss  
COUNTY OF JEFFERSON    )

I, Beth Carlson, Official Electronic Court Reporter of the Superior Court of the State of Washington in and for Jefferson County, do hereby certify as follows:

That the foregoing VERBATIM REPORT OF PROCEEDINGS, numbered from page 1 through and including page 6, is a true and correct transcript of a portion of the proceedings held October 29, 2004, in the matter of State of Washington, Plaintiff vs. Patrick Boyd Drum, Defendant, Jefferson County Cause No. 04-1-00110-8, before the Honorable Craddock D. Verser, sitting at the Jefferson County Courthouse, Port Townsend, Washington, on the date hereinbefore mentioned.

DATED at Poulsbo, Washington on this 27<sup>th</sup> day of February, 2006.

  
Court Reporter

CERTIFICATE