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SUPREME COURT  
STATE OF WASHINGTON  
2012 OCT 17 P 2:41

No. 87946-0

SUPREME COURT  
OF THE STATE OF WASHINGTON

BY RONALD R. CARPENTER

CLERK

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State of Washington, Respondent

v.

Adonijah Lacroy Sykes, Appellant

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MOTION FOR DISCRETIONARY REVIEW

---

Amy C. King, WSBA #33745  
Attorney for Appellant  
Adonijah Lacroy Sykes

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SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
	)	Plaintiff,
	)	No. 87946-0
	)	10-1-06021-5 SEA
vs.	)	
	)	
ADONIJAH L. SYKES,	)	MOTION FOR DISCRETIONARY
	)	REVIEW
	)	
	)	Defendant.
	)	
	)	

A. IDENTITY OF PETITIONER

ADONIJAH L. SYKES, appellant, seeks direct discretionary review of the trial court's order finding that the Drug Court practice of excluding the public from staffings attended by the court, attorneys, and treatment staff, where a defendant's progress is discussed, does not violate the Open Courts doctrine of the Washington State Constitution.

B. DECISION

The Washington Constitution, Article I, section 10 demands that "Justice in all cases shall be administered openly, and without unnecessary delay".

The trial court ruled that regularly scheduled unrecorded staffings, in which the court, prosecution, defense attorney, and treatment staff, review a defendant's progress in the Drug

1 Court Program, and at which the public is not permitted to attend, do not violate the Open Courts  
2 doctrine of the Washington State Constitution.

3 C. ISSUES PRESENTED FOR REVIEW  
4

5 Under Article 1, Section 10 of the Washington State Constitution, did the Drug Diversion  
6 Court violate the open courts guarantee when it considered allegations material to Ms. Sykes'  
7 case during closed proceedings to which neither he nor the public were allowed access?

8 D. STATEMENT OF THE CASE

9 Ms. Sykes has been involved in Drug Diversion Court (DDC) since her Arraignment on  
10 June 29, 2010. She opted in to the Drug Court on February 28, 2011. As part of the process for  
11 entering Drug Court, Ms. Sykes was required to sign Drug Diversion Court Waivers and  
12 Agreements in two cause numbers. In these Agreements Ms. Sykes and all other participants are  
13 advised that they are giving up all of their jury trial rights and that they will be subject to the  
14 requirements and recommendations of drug court staff regarding their progress through Drug  
15 Diversion Court. If a participant complete all phases of treatment successfully and make  
16 satisfactory progress through Drug Court's program, then she can expect the State to move to  
17 dismiss her charges upon graduation.

18 Participants are warned that treatment conditions and sanctions for violations may occur  
19 as outlined in the King County Drug Court Participant Handbook, a separate document that all  
20 participants are given and expected to have read prior to opting in. The Agreement also advises  
21 a participant regarding the maximum penalty and the standard range for each of the charges that  
22 the participant is "opting in" on and thus giving up trial rights for. Finally, the Agreements  
23 advise Drug Court participants that upon repeated or serious violations of the Drug Court rules,  
24 the State may at some point move the Court for termination of the participant from the Drug  
25 Court program. Upon termination, the Court has the authority to determine the defendant's guilt  
26 or innocence based on a review of the police reports contained in the Certification for  
27 Determination of Probable Cause, and then sentence the Defendant.

1 From March, 2011 through May, 2012, Ms. Sykes regularly took part in review hearings  
2 during the course of her treatment, occasionally receiving sanctions or therapeutic interventions  
3 for failure to complete certain treatment requirements.

4 On April 20, 2011, the Drug Court held a staffing at which neither the public nor Ms.  
5 Sykes were allowed to be present. During the course of that staffing, allegations were made and  
6 evidence discussed relating to Ms. Sykes failing to attend treatment groups and individual  
7 counseling. Her Drug Court Case Manager recommended in his notes and in person that the  
8 court sanction her to complete an essay for each of her two misses to be completed by the next  
9 court date and that she be placed on the Attendance Improvement Plan (AIP). The Judge  
10 indicated at the staffing that the court's disposition would likely be to place Ms. Sykes on AIP  
11 and order her to be sanctioned to write the essays requested by case management. According to  
12 the Drug Court Case Managers notes following the staffing the results of this closed staffing  
13 were that Ms. Sykes be sanction level one, complete an essay and be placed on AIP. At the next  
14 hearing the court ordered exactly what the Case Manager detailed in his note was the result of  
15 the closed staffing: that Ms. Sykes be sanction level one, complete the essays and be placed on  
16 AIP.

17 On November 16, 2011, the Drug Court held a closed staffing at which neither the public  
18 nor Ms. Sykes were allowed to be present. During the course of the staffing, allegations were  
19 made and evidence was presented relating to Ms. Sykes being out of compliance with her Drug  
20 Court conditions. The court heard from Ms. Sykes Case Manager and considered his notes,  
21 detailing that Ms. Sykes was out of compliance for some time due to trauma and medical issues.  
22 The Case Manager recommended that she be warned that further non compliance will result in a  
23 referral to the Transitional Recovery Program (TRP)(60 days in jail chemical dependency  
24 treatment) and receive a warning regarding Zero Tolerance. According to the Case Manager's  
notes following the staffing Ms. Sykes was to receive a Zero Tolerance warning and told that  
future non-compliance would result in TRP. At the review hearing on November 22, 2011, the  
imposed exactly what the Case Manager detailed in his notes were the results of the closed  
staffing: the court warned Ms. Sykes of Zero Tolerance and the possibility that she would be sent  
TRP with future non-compliance.

1 Also, on January 20, 2012, the Drug Court held a staffing at which neither the public nor  
2 Ms. Sykes were allowed to be present. During the course of that staffing, allegations were made  
3 and evidence presented by her Case Manager relating missing groups, missing urinalysis tests,  
4 and not verifying her sober support. The Case Manager recommended the sanction be 6 days in  
5 jail. At the review hearing on January 24, 2012, the court placed Ms. Sykes on a medical exempt  
6 period due to pregnancy related issues.

6 On April 3, 2012, the court ordered that Ms. Sykes case be set for a staffing. On April  
7 11, 2012, the Drug Court held a closed staffing at which neither the public nor Ms. Sykes were  
8 allowed to be present. During the course of that staffing, allegations were made and evidence  
9 presented by her Drug Court Case Manager relating to Ms. Sykes noncompliance history in Drug  
10 Court, prior sanctions imposed, allegations were made that she forged her sober support slips,  
11 allegations that she missed groups, missed individual sessions, and missed urinalysis tests. A  
12 discussion was made by her Case Manager that she was arrested on March 17, 2012. Details of  
13 this unfiled arrest report were discussed regardless of the fact that the prosecuting attorney had  
14 declined to file charges on the arrest. Her Case Manager recommended that she be terminated  
15 from Drug Court or that she be placed on Zero Tolerance until graduation. The prosecutor  
16 recommended termination. At the review hearing following the staffing held, April 12, 2012, the  
17 Drug Court Judge ordered that Ms. Sykes be terminated from the Drug Court Program.

15 As a result, Ms. Sykes' cases were scheduled for a termination hearing in Drug Court  
16 based on the previously alleged violations discussed at the closed staffings. In response, the  
17 Defense filed a Motion to Rescind and Vacate the Drug Diversion Court Waivers and  
18 Agreements, arguing that Ms. Sykes' rights to a jury trial in both of her cases should be restored  
19 and he be allowed to proceed to trial as if he had never "opted in" to King County Drug  
20 Diversion Court. The State, in its responses and at oral argument in the court below, conceded  
21 that a violation of the open courts guarantee occurred, but did not address the appropriate  
22 remedy.

21 On September 19, 2012, the Drug Diversion Court, Hon. Gregory P. Canova, handed  
22 down Orders Denying Defendant's Motion to Rescind and Vacate Drug Diversion Court Waiver  
23 and Agreement in both of Ms. Sykes' cases, holding that Drug Court closed staffings are non-  
24 judicial in nature and not subject to the open courts guarantee for judicial proceedings. In its

1 Order, the Court certified that the issue involved a controlling question of law as to which there  
2 is a substantial ground for a difference of opinion, and that review of the Order may materially  
3 advance the ultimate termination of the litigation and may materially assist the trial courts in  
4 applying open courtroom principles to drug courts in King County and statewide.

5 On October 2, 2012, on joint Motion of all the parties, the Court filed its Order  
6 Continuing the Termination Hearings and Staying Proceedings in Ms. Sykes' cases, and the  
7 parties have filed Notice of Discretionary Review with the Washington State Supreme Court  
8 relating to the constitutionality of Drug Court closed staffings.

9 E. ARGUMENT IN SUPPORT OF DISCRETIONARY REVIEW

10 Ms. Sykes respectfully requests that this court grant direct, discretionary review of this  
11 important question under Article 1, Section 10 of the Washington State Constitution. Ms. Sykes  
12 had a right to have her case heard and decided in open judicial proceedings and given the serious  
13 and systemic violations of that right in King County Drug Diversion Court, must have a  
14 meaningful remedy in light of the violation, to wit, the full restoration of his trial rights for each  
15 case that he opted into drug court.

16 While the State of Washington concedes that King County Drug Diversion Court's  
17 practice does violate the open court's guarantee, it is silent regarding the appropriate remedy in  
18 light of the violations in Ms. Sykes' cases.

19 The decision in this case involves determining whether the system wide practice of  
20 conducting closed staffings of King County Drug Diversion Court cases involving the judge,  
21 drug court staff, the prosecutor and defense counsel, runs afoul of the open court's guarantee.  
22 Because these closed (to Ms. Sykes and the public) staffings are forums where recommendations  
23 are made, treatment information and plans are discussed, and the compliance and non-  
24 compliance of the defendant are at issue, they violate the open court's guarantee of Ms. Sykes  
and the public to open judicial proceedings.

Discretionary review is appropriate where the Superior Court has certified, or all the  
parties to the litigation have stipulated that the order involves a controlling question of law as to

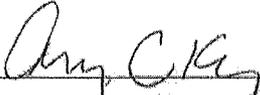
1 which there is substantial ground for a difference of opinion and that immediate review of the  
2 order may materially advance the ultimate termination of the litigation.

3 Hundreds of cases every year are diverted to King County's Drug Diversion Court with  
4 hundreds of closed staffings occurring prior to every drug court calendar. The development of  
5 this Court's precedent relating to Article I, Section 10's guarantee for open courts cast doubt on  
6 the constitutionality of the King County Drug Diversion Court's proceedings. Discretionary  
7 review is very appropriate given the system wide implications to the constitutional rights of  
8 hundreds of past and future Drug Court participants.

8 F. CONCLUSION

9 For the reason outlined above, Ms. Sykes respectfully requests that this Court grant direct  
10 discretionary review of the Superior Court's decision.

11  
12 Submitted this 17 day of October, 2012.

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16 Amy C. King, WSBA#33745  
17 Attorney for Adonijah L. Sykes  
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APPENDIX

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**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

ADONIJAH L. SYKES,

Defendant.

NO. 10-1-04372-8 SEA  
10-1-06021-5 SEA

**ORDER DENYING  
DEFENDANT'S MOTION TO  
RESCIND AND VACATE DRUG  
DIVERSION COURT WAIVER  
AND AGREEMENT**

THIS MATTER came before the Court upon defendant's Motion to Rescind and Vacate Drug Diversion Court Waiver and Agreement, and the State appearing by and through counsel, Denis O'Leary and Jim Whisman, and the defendant appearing personally and by and through counsel, Amy King, and the Court heard argument of counsel and considered the pleadings in support of and in opposition to said motion.

This decision involves four drug court participants who are to be scheduled for a hearing on the State's motion to terminate their involvement in King County Drug Diversion Court (DDC) based upon alleged violations of their DDC Waiver and Agreement. These four participants have filed motions seeking to rescind and vacate their DDC Waiver and Agreement and to return their cases to the regular criminal calendar to proceed as if the Waiver and Agreement had never been agreed to. They each rely upon Article 1, Section 10 of the

ORDER DENYING DEFENDANT'S  
MOTION TO RESCIND AND VACATE  
DRUG DIVERSION COURT WAIVER  
AND AGREEMENT

JUDGE GREGORY P. CANOVA  
KING COUNTY SUPERIOR COURT  
516 THIRD AVE  
SEATTLE WA 98104  
(206) 296-9290

1 Washington State Constitution and argue, primarily, that DDC staffings are adversarial  
2 proceedings which must be open to the public. From this premise, they argue that the Court's  
3 repeated failure to satisfy this constitutional mandate requires imposition of the remedy they seek.

4 A DDC staffing is not an "adversarial proceeding," i.e., it is not a proceeding where  
5 disputed facts are resolved. DDC staffings involve the discussion of issues relevant to the best  
6 course of individualized treatment for each drug court participant. At a staffing, the Court hears  
7 recommendations from the case manager, the deputy prosecuting attorney and the attorney for the  
8 participant. The judge considers those recommendations for purposes of the next court hearing  
9 for that participant. At that hearing, the parties may modify or make their additional  
10 recommendations to the Court. After considering any additional input from the participant, the  
11 Court makes a decision on the course of treatment.  
12

13  
14 These staffings are non-judicial in nature and are more akin to a staffing of health care  
15 professionals discussing and recommending the best medical treatment strategy for a particular  
16 patient. These staffings are an integral part of the collaborative approach to the treatment of drug  
17 addiction and abuse. *See* Appendices A and B, attached hereto and incorporated herein in their  
18 entirety by reference, for further analysis and discussion of these issues. The Court also  
19 incorporates by reference its oral decision of September 4, 2012.  
20

21 A conclusion that the DDC staffings must be open to the public, pursuant to Article 1,  
22 Section 10 of the Washington State Constitution, would have a chilling effect on the willingness  
23 of individuals to choose to participate in Drug Court. In reality, discussions in open court of  
24 intensely personal matters relating to such issues as childhood and adult physical, psychological  
25 and sexual abuse and mental illness diagnoses and treatment histories would, understandably,

1 discourage many of those in desperate need of treatment for drug addiction from seeking that  
2 treatment through Drug Court.

3         The disclosure of such mental and physical health information in open court would also  
4 clearly violate the privacy protections of the Health Insurance Portability and Accountability Act  
5 (HIPAA). Participants in Drug Court are asked to sign specific confidentiality waivers under the  
6 Act, but only to allow drug court team members to discuss health and treatment records with  
7 treatment providers and other DDC team members. The secondary disclosure of such information  
8 is not permitted under HIPAA and that restriction may not be waived by the patient. The  
9 disclosure of this information is limited to those in the criminal justice system who are working to  
10 monitor the patient/participant's progress. 42 C.F.R. § 2.35(a). *See also* the disclosure  
11 restrictions set forth in 42 U.S.C. §290 dd.  
12

13  
14         While this Court fully supports the right of public access to court proceedings as  
15 envisioned by Article 1, Section 10 of the Washington State Constitution:

16         "Because these staffing discussions are collaborative, nonadversarial, and do not  
17 relate to the adjudication of the underlying charge, they may be conducted as if they  
18 were not hearings without offending the rights embodied in Article 1, section 10 of  
the state constitution."

19 Appendix A, p. 3. Now, therefore, it is hereby

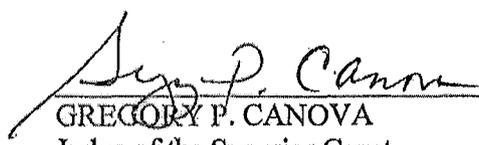
20         ORDERED, ADJUDGED AND DECREED that the defendant's Motion to Rescind  
21 and Vacate Drug Diversion Court Waiver and Agreement is DENIED.

22         Pursuant to RAP 2.3(b)(4), this Court certifies that this Order involves a controlling  
23 question of law as to which there is a substantial ground for a difference of opinion. Immediate  
24 review of the Order may materially advance the ultimate termination of this litigation and may  
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materially assist the trial courts in applying open courtroom principles to drug courts in this county and in other counties.

DATED this 19<sup>th</sup> day of September, 2012.

  
GREGORY P. CANOVA  
Judge of the Superior Court

Superior Court for the State of Washington  
For the County of King

King County Courthouse  
Seattle, WA  
98104

April 27, 2011

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Dana Brown  
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Elinor Cromwell  
SCRAP  
1401 E. Jefferson St., Suite 200  
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Dear Counsel:

As you know, during the last several months both judges and attorneys of our therapeutic courts have engaged in discussions concerning whether the staffings of Drug Court may be contrary to Article I, section 10 of the Washington State Constitution requiring that court proceedings be open to the public.

From the origins of Drug Courts in the late 1980s, and beginning in King County in 1994, staffings have been recognized as an integral part of the collaborative, problem solving approach that has been responsible for the recovery of thousands of chemically dependent participants. In an article titled "Need to know," published in December 2010 by the National Association of Drug Court Professionals (NADCP), Dr. Douglas B. Marlowe, in discussing the multidisciplinary team approach of therapeutic courts, noted:

The most effective Drug Courts require regular attendance by the judge, defense counsel, prosecutor, treatment providers and law enforcement officers at staff meetings and status hearings. When any one of these professional disciplines was regularly absent from team discussions, the programs tended to have outcomes that were, on average approximately 50% less favorable. In other words, if any one professional discipline walks away from the table, there is reason to anticipate the effectiveness of a Drug Court could be cut by as much as one half. (citations omitted)

The question currently being posed is whether, despite almost 17 years of success in King County DDC, staffings should now be significantly modified into a more formal, adversarial model. It is clear that should the judge be absent from staffings, DDC will inevitably become more adversarial and judicial involvement, one of

APPENDIX A

the ten key components of Drug Courts, will be significantly diminished. Judges also derive considerable benefit from being involved in staffing. The judge listens and engages in the give and take of the far-ranging discussions held in staffings. It is a completely different judicial role as team leader evaluating therapeutic recommendations than the traditional judicial decision-making role in the courtroom.

Article I, section 10 of the Washington State Constitution provides that "[j]ustice in all cases shall be administered openly". The Sixth Amendment to the United States Constitution and Article I, section 22 of the State Constitution guarantees a criminal defendant the right to a public trial by an impartial jury. These provisions have a commonality: they protect the right to a public proceeding. State v. Momah, 167 Wn. 2d 140, 147, 217 P.3d 321 (2009). Cases such as Momah have as their primary focus the preservation of the requirements of a public trial. It is a fundamental right in a free society for the public to be able to witness adversarial proceedings to ensure that transparent justice is being administered in an open and fair manner.

A defendant's right to a public trial hinges on the question of whether the court proceeding is evidentiary or adversarial. See State v. Rivera, 108 Wn. App. 645, 652-53, 32 P.3d 292 (2001). In State v. Sadler, 147 Wn. App. 97, 193 P.3d 1108 (2008), the Court of Appeals observed:

"The right to an open public trial ensures that the defendant receives a fair trial in part by reminding the officers of the court of the importance of their functions, encouraging witnesses to come forward, and discouraging perjury. Although the right to a public trial can serve the public or the defendant, the public's right and the defendant's right serve complementary and interdependent functions in assuring the fairness of our judicial system. In particular, the public trial right operates as an essential cog in the constitutional design of fair trial safeguards. State v. Bone Club, 128 Wn.2d 254, 259, 906 P.2d 325 (1995). (Other citations and footnotes omitted). Id. at 109-110.

Further, in Detention of Ticson, 159 Wn. App. 374 (2011), Division One spoke about the constitutional open courts requirement in the context of chambers conferences concerning evidentiary issues. The court discussed the crucial importance of open courts:

Public trial rights "ensure a fair trial", foster the public's understanding and trust in our judicial system, and ... give judges the check of public scrutiny. None of these purposes is served by eliminating trial judge's discretion to handle ministerial or purely legal matters informally in chambers. Rather, public trial rights apply to "adversary hearings," including presentation of evidence, suppression hearings and jury selection. The resolution of purely ministerial or legal issues that do not require the resolution of disputed facts is not an adversarial proceeding. Id. at 383-384. (Footnotes omitted).

The state argues that staffings are adversarial in nature and therefore subject to the open court provision of the state constitution. There have been precious few Washington State appellate decisions concerning Drug Courts in general and absolutely none on this specific issue. The undersigned judicial officers, with several years of therapeutic court experience, believe that staffings are intended to promote robust conversation on a wide range of treatment issues and are by no means essentially adversarial in nature. Moreover, public trial rights would not be compromised simply because possible behavioral sanctions are discussed among the myriad of other therapeutic concerns covered in staffings.

Staffing discussions frequently focus on treatment issues, such as level of care, medications, co-occurring disorders, housing, employment, education and whether in patient treatment or outpatient treatment are believed necessary. The list could go on and on. To be sure, incentives and sanctions are discussed as well, but it is important to understand that staffing recommendations for sanctions are preliminary in nature and are

imposed in open court only when the defendant is present with counsel. It is also worth noting that staffings serve another important function— that of providing an appropriate place where confidential personal, medical and mental health matters can be openly discussed.

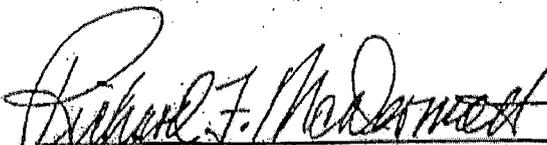
Drug court discussions that pertain to monitoring of a drug court participant's recovery from addiction, or the imposition of sanctions or incentives to encourage behavioral change, have nothing whatever to do with the question of guilt or innocence in the underlying criminal case. Richard C. Boldt, *Rehabilitative Punishment and the Drug Treatment Court Movement*, 76 Wash. U.L.Q. 1205, 1252-54 (1998). In a criminal matter, the public has a right to observe all proceedings that relate to the question of guilt or innocence, and those matters cumulatively comprise the open administration of justice. Because these staffing discussions are collaborative, nonadversarial, and do not relate to the adjudication of the underlying charge, they may be conducted as if they were not hearings without offending the rights embodied in Article I, section 10 of the state constitution.

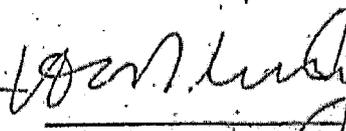
As therapeutic courts have proven their effectiveness over the past two decades, the Washington Supreme Court has recognized the necessity of making an exception to certain ex parte communications by a judge who presides over mental health court, drug court or other therapeutic courts. Rule 2.9 (A) (1) Code of Judicial Conduct. The comment to that Rule states that "[a] judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem solving court, mental health courts or drug courts. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers and others. (Emphasis added).

This comment to Rule 2.9 (A) (1) strongly supports the notion that therapeutic courts are unique and that judges who serve in these courts have a need to interact with the participants in order to advance the therapeutic mission that defines drug courts. Staffings are the ideal environment where the vast array of therapeutic ideas and options can be freely discussed.

For these reasons, the undersigned judicial officers believe that it would be inappropriate and damaging to the Drug Court model to change how staffings function.

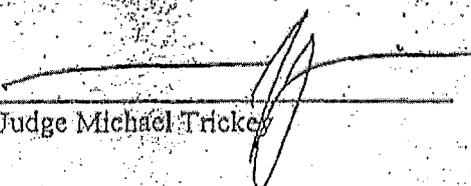
Sincerely Yours,

  
\_\_\_\_\_  
Presiding Judge Richard F. McDermott

  
\_\_\_\_\_  
Judge Harry J. McCarthy

  
\_\_\_\_\_  
Judge J. Wesley SaintClair

\_\_\_\_\_  
Judge Philip Hubbard  
(UNAVAILABLE TO SIGN)

  
\_\_\_\_\_  
Judge Michael Trickey

\_\_\_\_\_  
Judge Laura Inveen

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Judge Patricia Clark

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Judge LeRoy McCullough

\_\_\_\_\_  
Commissioner Julia Garratt

cc: Mary Taylor

\_\_\_\_\_  
Judge Michael Trickey

  
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Judge Laura Inveen

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Judge Patricia Clark

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Judge LeRoy McCullough

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Commissioner Julia Garratt

cc: Mary Taylor

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Judge Michael Trickey

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Judge Laura Iiveen

  
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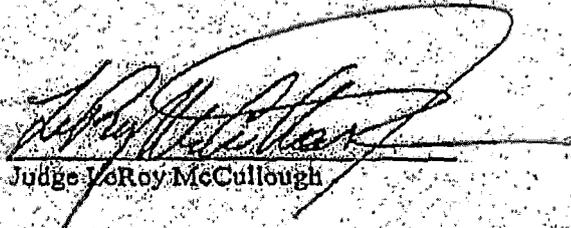
cc: Mary Taylor

Judge Michael Trikey

Judge Laura Invesa

Judge Patricia Clark

Judge Leroy McCullough



Commissioner Julia Garratt

cc: Mary Taylor

Judge Michael Trickey

Judge Laura Inveen

Judge Patricia Clark

Judge LeRoy McCullough



Commissioner Julia Garratt

cc: Mary Taylor

Superior Court of the State of Washington  
for the County of King

Harry J. McCarthy  
JUDGE

King County Courthouse  
Seattle, WA  
98104-2381

January 11, 2012.

Mark Larson  
Chief Criminal Deputy  
Office of the Prosecuting Attorney  
King County Courthouse W554  
516 Third Ave  
Seattle, WA 98104

RE: Drug Court Staffings

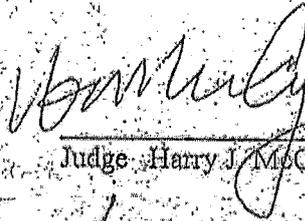
Dear Mr. Larson:

We have carefully considered your letter of August 5, 2011 and the case authority cited therein. We have also obtained the views of counsel on this matter and have had the benefit of the experience of Drug Court judges nationally, within King County and the State of Washington.

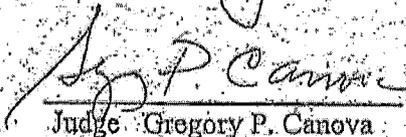
It is our strong conviction that the 18 year old practice of conducting staffings within King County Drug Diversion Court is consistent with state constitutional principles. The non-adjudicative, collaborative nature of drug court staffings is also consistent with and based upon nationally recognized best practices, and has been an integral part of King County Drug Diversion Court success. As you know, that success has led this Court to become a leader and a model for the other Drug Courts in Washington. We do not believe there is a basis to abandon that position.

We believe there are crucial distinctions between the non-adversarial, collaborative, team discussions held as Drug Court staffings and the cases which have held that certain adjudicative proceedings have been conducted contrary to the state constitutional requirement of full and open access to courts in the administration of justice. We therefore decline to change the current drug court staffings and adhere to our analysis set forth in our letter of April 27, 2011.

Sincerely Yours,



Judge Harry J. McCarthy



Judge Gregory P. Canova

cc: R. McDermott  
W. Saint Clair  
Don Madsen, ACA  
Jennifer Beard, SCRAP  
Mary Taylor