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IN THE {Insert County} COUNTY SUPERIOR COURT
JUVENILE DIVISION

STATE OF WASHINGTON,)
) No. {INSERT CAUSE No.}
Plaintiff,)
) STIPULATION, FINDINGS, AND ORDER
v.) WAIVING DECLINATION AND RETAINING
) JUVENILE COURT JURISDICTION.
{INSERT JUVENILE'S NAME},)
Age: {INSERT AGE}; DOB: {INSERT DOB},)
)
Respondent.)

I. STIPULATION TO KENT FACTORS FAVORING RETENTION

IT IS HEREBY mutually understood, agreed and stipulated between and among the parties that, along with the agreement to waive the RCW 13.40.110 mandatory decline hearing, there are sufficient facts to support a finding by the Court to retain juvenile jurisdiction based on the criteria set forth in *Kent v. United States*, 383 U.S. 541, 16 L.Ed.2d 84, 86 S.Ct. 1045 (1966), as follows:

A. FACTS

- 1) {INSERT THE FACTS OF THE CASE HERE}

- 2) The State charged the Respondent with {INSERT CHARGE}, which carries a presumptive juvenile range of {INSERT JUVENILE RANGE} weeks (approximately {INSERT JUVENILE RANGE IN MONTHS} months) at the Juvenile Rehabilitation Administration (JRA). If charged in adult court, the Respondent would serve a presumptive range of {INSERT ADULT RANGE} months, at the Department of Corrections.

1
2 3) The Respondent has criminal history consisting of the following: {INSERT
3 JUVENILE HISTORY}. In addition, the Respondent has the following contacts
4 with law enforcement: {INSERT JUVENILE'S NON-HISTORY CONTACTS}.

5
6 **B. KENT FACTORS CONSIDERED**

7 The factors which the Juvenile Court must consider in determining whether or not to
8 transfer jurisdiction to adult Court are outlined by the United States Supreme Court in *Kent v.*
9 *United States*, 383 U.S. 541, 16 L.Ed.2d 84, 86 S.Ct. 1045 (1966).¹ These factors, commonly
10 known as the “*Kent* factors” or “*Kent* criteria”, consist of eight separate areas examining the case
11 and the juvenile. The *Kent* factors are—

- 12 (1) **Seriousness of the Offense**: The seriousness of the alleged offense to the
13 community and whether the protection of the community requires
14 declination;
- 15 (2) **Manner Committed**: Whether the alleged offense was committed in an
16 aggressive, violent, premeditated or willful manner;
- 17 (3) **Persons or Property**: Whether the alleged offense was against persons or
18 property, greater weight being given to offenses against persons, especially if
19 personal injury resulted;
- 20 (4) **Merit**: The prospective merit of the complaint;
- 21 (5) **Adult Co-Respondents**: The desirability of trial and disposition of the
22 entire offense in one court when the juvenile's associates in the alleged
23 offense are adults;
- 24 (6) **Sophistication and Maturity**: The sophistication and maturity of the
25 juvenile as determined by consideration of his home, environmental
26 situation, emotional attitude and pattern of living;
- 27 (7) **Criminal History and Contacts**: The record and previous history of the
28 juvenile, including previous contacts with law enforcement agencies,
29 juvenile courts, prior periods of probation, or prior commitments to juvenile
institutions;
- 30 (8) **Prospects for Protection and Rehabilitation**: The prospects for adequate
31 protection of the public and the likelihood of reasonable rehabilitation of the
juvenile (if he is found to have committed the alleged offense) by the use of
procedures, services and facilities currently available to the Juvenile Court.

¹ The Washington State Supreme Court adopted the *Kent* Criteria in *State v. Williams*, 75 Wn.2d 604, 453 P.2d 418 (1969).

1 *Id* at 566-68 [bold text headings added for clarification].

2 **C. AGREEMENT AS TO KENT FACTORS THAT SUPPORT RETENTION**
3 **OF JUVENILE COURT JURISDICTION**

4 The parties agree the following Kent criteria support retention of juvenile court
5 jurisdiction in the present case: {CHOOSE APPLICABLE FACTORS BELOW THAT
6 SUPPORT RETENTION OF THE CASE IN JUVENILE COURT}

7 **1. OFFENSE WAS NOT {AGGRESSIVE}, {VIOLENT}, {PREMEDITATED}, {OR} {WILLFUL}**

8 While this offense requires a mandatory hearing, the true facts of the case show this
9 incident was not particularly {aggressive}, {violent}, {premeditated}, {or} {willful}.

10 **2. OFFENSE WAS AGAINST PROPERTY; NOT PERSONS**

11 The offense was against property, thus less weight considered for declination than
12 offenses involving persons, especially where there is physical harm or injury. This factor favors
13 retention of juvenile court jurisdiction in this case.

14 **3. RESPONDENT'S CO-SUSPECTS ARE JUVENILES**

15 The co-suspects in this case are juveniles, thus the matter can be resolved in one court, and
16 in one fact finding, if the cases are joined. This factor favors retention of juvenile court
17 jurisdiction in this case.

18 **4. LACK OF SOPHISTICATED AND MATURITY**

19 The Respondent is {age} years of age; however, there is no evidence at this time that
20 {he/she} possesses a maturity or sophistication beyond that of any average {age} year old, much
21 less that of an adult offender. This factor favors retention of juvenile court jurisdiction in this
22 case.

23 **5. {NO} {MINIMAL} CRIMINAL HISTORY OR CONTACT WITH LAW ENFORCEMENT**

24 The Respondent has {no} {minimal} prior criminal history or contact with law
25 enforcement. This factor favors retention of juvenile court jurisdiction in this case.

26 **6. INCARCERATION AND REHABILITATION IS AVAILABLE WITHIN THE JUVENILE SYSTEM**

27 The Respondent has not been given sufficient opportunity for rehabilitation within the
28 juvenile justice system. The standard range commitment for {INSERT CHARGE} would be
29 {INSERT JUVENILE RANGE} weeks. Such commitment would be adequate to provide the services
30 and incarceration necessary to attempt to rehabilitate Respondent, and, to hold {HIM/HER}
31 accountable for the offense(s). Further, protection of the public is served by having Respondent
serve time in a secure institution.

In certain cases where aggravating factors are present, the court could impose a manifest
injustice and sentence the Respondent to time at JRA until the age of 21.

1 {REMOVE FOLLOWING PARAGRAPH IF NOT SSODA ELIGIBLE OR NOT A SEX OFFENSE}

2 The Respondent might qualify for a Special Sexual Offender Disposition Alternative,
3 RCW 13.40.160 (hereinafter SSODA), in which case {HE/SHE} has the option of suspending a
4 JRA sentence in favor of local sanctions and up to two years of treatment. The juvenile would
5 certainly benefit from this additional supervision. This factor favors retention of juvenile court
6 jurisdiction in this case.

7 **D. AUTHORITY OF THE COURT TO WAIVE DECLINE HEARING**

8 RCW 13.40.110 provides the juvenile court authority to waive the necessity for a
9 mandatory decline hearing upon agreement of the parties. RCW 13.40.110(2); *State v. Ramos*,
10 152 Wn. App. 684, 692-93, 217 P.3d 384 (2009). Of course any waiver by the juvenile must be
11 an “express waiver intelligently made by the juvenile after the juvenile has been fully informed of
12 the right being waived.” *State v. Saenz*, 175 Wn.2d 167, 175, 283 P.3d 1094 (2012), and, *Ramos*
13 at 693.² Further, despite agreement by the parties, the decision as to whether or not to transfer
14 jurisdiction to adult court ultimately rests with the juvenile court. *In Re Dalluge*, 152 Wn.2d 772,
15 781, 100 P.3d 279 (2004).³ Thus, this court is not required to accept the stipulation and is
16 required to make an independent determination before waiving the necessity for a declination
17 hearing. *Saenz* at 179.⁴

18 In this case, the court should make an independent determination whether to retain
19 Respondent based on the stipulations herein, and, after a hearing in which the court has an
20 opportunity to hear from all interested parties, to consider the stipulations, to ensure the juvenile
21 has been fully informed of the right being waived, and, to consider all the *Kent* criteria.

22 **E. CONCLUSION**

23 The parties agree that retention of jurisdiction is in the best interest of the Respondent
24 and the public. It is the State and Respondent’s agreement that, given the legal parameters of the
25 Juvenile Justice Act, meaningful consequences and community protection are available in the
26 juvenile system.

27 **II. CERTIFICATE OF RESPONDENT**

28 I am the Respondent in the above-entitled case. For purposes of this waiver, I wish to
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² Quoting RCW 13.40.140(9)

³ “The juvenile court’s decision to either maintain or decline its exclusive jurisdiction is a mandatory step absent automatic decline based on the nature of the crime.” *Dalluge*, 152 Wn.2d at 684.

⁴ “Juvenile court judges are not simply potted palms adorning the courtroom and sitting idly by while parties stipulate to critically important facts.” *Saenz*, 175 Wn.2d at 179 (2012).

1 stipulate to the alleged facts and *Kent* criteria and to proceed with my case in the Juvenile Court.

2 I understand I am currently considered a “juvenile” under RCW 13.40.020(14), and, thus
3 am entitled to the protections of the juvenile justice system until and unless remanded to the adult
4 superior court. I understand my case can not be remanded to adult superior court until the
5 juvenile court has made a determination that remand is appropriate in my case.

6 I understand the juvenile system offers many rehabilitative opportunities not available in
7 the mostly punitive adult system. The juvenile system is designed to meet the needs of youthful
8 offenders like myself. The protections offered by the juvenile system include broader discretion
9 in sentencing that allows for less time in confinement, limits confinement to age twenty-one (21),
10 and provides for limitations on the use of juvenile records. Juvenile offenses are not considered
11 crimes, do not count as strikes under the POAA,⁵ and cannot subject me to incarceration for life.

12 I understand I have a right to request the {INSERT COUNTY} County Juvenile Court hold
13 a decline hearing to determine whether or not to decline juvenile court jurisdiction in favor of
14 having my case proceed in the adult {INSERT COUNTY} County Superior Court. I do not believe
15 that would be in my best interest. I believe and stipulate that it is in my best interest to be
16 retained in the juvenile system, even if that subjects me to a commitment up to my 21st birthday at
17 a facility run by the Juvenile Rehabilitation Administration.

18 I understand in return for my stipulation {and agreement to plead guilty}, the State will
19 recommend that the mandatory decline hearing required by RCW 13.40.110 be waived in this
20 matter.

21 {REMOVE THE FOLLOWING IF THE RETENTION IS NOT PART OF A PLEA AGREEMENT}

22 I understand that pursuant to this stipulation and waiver, I agree to plead guilty in
23 juvenile court to {INSERT CHARGE}. The terms of the plea agreement herein are as follows:

24
25 **STATE’S AGREEMENT**—The State agrees to:

- 26 1. A waiver of the mandatory decline hearing, otherwise required by
27 RCW 13.40.110. The State will not seek remand to the jurisdiction
28 of adult Superior Court in this matter. Further the State agrees to
29 stipulate that waiver would be in the best interest of the community
30 and the Respondent, along with any other conditions that would favor
31 retention under *Kent v. United States*, 383 U.S. 541, 16 L.Ed.2d 84,
86 S.Ct. 1045 (1966);
2. Recommend {INSERT JUVENILE RANGE} weeks at JRA. {Unless
Respondent qualifies for a SSODA and is amenable to treatment, in
which case the recommendation shall be for a determinate _____

⁵ Persistent Offenders Accountability Act, see RCW 9.94A.570.

1 weeks at JRA suspended on condition of compliance with a SSODA,
2 and, completion of _____ months of community supervision,
3 _____ hours of community restitution, and, _____ days of
4 detention, along with other conditions such as no contact with the
5 victim and children two or more years younger than the juvenile.} In
6 addition, recommend payment of a \$100 Crime Victim's
7 Compensation Fee, a \$100 DNA fee, and restitution.

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3. Not charge other offenses or sentencing enhancements that arise out of the same conduct that constitutes the current charge in this matter.

RESPONDENT'S AGREEMENT—In Respondent agrees to:

1. Plead guilty in juvenile court to {INSERT CHARGE}. In addition to pay a \$100 Crime Victim's Compensation Fee, a \$100 DNA fee, and restitution.
2. Stipulate that the facts contained in this document, and the official law enforcement reports in this matter, may be used to determine guilt, or supplement other information in determining guilt, if that becomes necessary;
3. Not seek to withdraw the guilty plea, and, not appeal any finding of guilt in this matter;
4. Set disposition over for a reasonable amount of time to allow all interested parties, including the victim, to be present and prepared to address the court;
5. Not appeal the decline waiver, plea, or disposition in this case, and, further, waive any right of collateral attack on such in the future.

I am making this stipulation and agreement freely and voluntarily. No one has threatened me with harm of any kind to me or to any other person to cause me to enter such.

My lawyer has explained to me, and we have fully discussed the above, including the legal ramifications of this decision. I understand them all. I have been given a copy of this document. I have no further questions to ask the Judge.

DATED this {INSERT DATE}.

I have read, or have had read to me, the above and agree to it:

{INSERT JUVENILE'S NAME}, RESPONDENT

I, {INSERT DEFENSE COUNSEL'S NAME}, ATTORNEY FOR {INSERT JUVENILE'S NAME}, have read and discussed this document with the Respondent, {INSERT JUVENILE'S NAME}, and I believe that the Respondent is competent and fully understands the stipulations and agreements contained herein. I am also in agreement with the same.

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Presented and Agreed:

{INSERT DEFENSE COUNSEL'S NAME}
Attorney for Defendant

{INSERT DPA'S NAME},
Deputy Prosecuting Attorney

III. COURT'S ACCEPTANCE OF STIPULATION, FINDINGS, AND ORDER

This court held a hearing today in which this document and the stipulations herein were presented to the undersigned Judge. Respondent, {INSERT JUVENILE'S NAME}, signed, or acknowledged signing, the foregoing certificate in open court and in the presence of counsel and the undersigned Judge. The Respondent asserts he had previously read the certificate.

I find Respondent's decision to enter this agreement, and the stipulations herein, to be knowingly, intelligently and voluntarily made. The Respondent understands the consequences of waiving the mandatory decline hearing and submitting the case to the juvenile court under the above terms.

The undersigned Judge has independently reviewed this document and the stipulations made. The undersigned Judge has independently considered the facts of this case and the conclusions as stipulated, and has reached a finding in this case. Based upon the foregoing stipulations and agreements, including consideration of all factors set forth in *Kent v. United States*, supra, the Court hereby adopts all relevant facts and conclusions set forth in Section I of this document. Based on those facts and conclusions, this Court finds retention of juvenile court jurisdiction is in the best interest of both the juvenile and public.

The Court concludes the mandatory decline hearing required by RCW 13.40.110 should be waived and Respondent should remain under the jurisdiction of the {INSERT COUNTY} County Juvenile Court.

HEREBY ORDERED, the mandatory decline hearing required by RCW 13.40.110 is waived and the Respondent is retained under the jurisdiction of the {INSERT COUNTY} County Juvenile Court for further proceedings consistent with this document.

DATED this {INSERT DATE}.

{INSERT JUDGE'S NAME}
SUPERIOR COURT JUDGE

