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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON

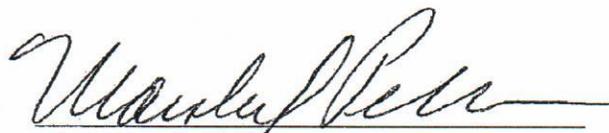
9 In Re:

10 PRETRIAL DIVERSION (NON-FELONY)

GENERAL ORDER  
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14 In recognition of the continuing success of a pretrial diversion program, as provided  
15 for in General Order of May 22, 1997, the Court endorses and approves the on-going  
16 utilization of PRETRIAL DIVERSION for certain non-felony cases, as provided for in the  
17 Pretrial Diversion Agreement as amended on July 17, 2013, attached hereto.

18 DATED this 11<sup>th</sup> of Sept., 2013.

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21 MARSHA J. PECHMAN  
22 Chief United States District Judge  
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PRETRIAL DIVERSION PROGRAM  
(Amended July 17, 2013)

Pretrial Diversion should be reserved for certain non-felony violations that are isolated, uncomplicated indiscretions, in contrast to the normal law-abiding lifestyle of the defendant.

BASIC CRITERIA

1. The case must have prosecutorial merit.
2. The defendant must be willing to admit the violation and agree that said admission can be used against him/her if the pretrial diversion is terminated.
3. The defendant must be willing to cooperate with Pretrial Services.
4. The loss or intended loss must be under \$2,000.
5. The case must be referred to Pretrial Services for investigation, by agreement between the prosecution and defense. No case will be referred without agreement between the parties.
6. The United States Attorney reserves the right to withdraw from this agreement in the event that the Pretrial investigation reveals a person fails to meet the basic criteria for the program.

GUIDELINES CASE REFERRAL

1. Pretrial Diversion should be considered in the following kinds of cases:
  - Employee theft - under \$500
  - Shoplifting - under \$1,000
  - Theft - under \$1,000
  - Theft of Services - under \$1,000
  - Malicious Mischief - under \$1,000
  - Property Damage - under \$1,000
2. Cases between \$1,000 - \$2,000 may be considered, if a presumption of unsuitability can be rebutted by an abundance of other positive indicators.
3. Cases over \$2,000 - pretrial diversion is not available.

4. Pretrial Diversion is not available for the following kinds of cases:

Domestic violence assault/sexual assault  
Protestor cases/civil disobedience  
Drug possession/paraphernalia  
Firearms/explosives/fireworks offenses  
Resource offenses  
National Park and Forest regulatory offenses  
Traffic offenses  
Trespassing  
Other offenses not specifically included in paragraph one of this section.

#### DEFENDANT REFERRAL GUIDELINES

1. A defendant seeking pretrial diversion must not have:
  - a. A prior felony conviction; or
  - b. A prior adult conviction for the same/similar offense under consideration for diversion; or
  - c. A prior pretrial diversion of any kind.

#### INITIAL PRETRIAL DIVERSION PROCEDURE

1. The case and the defendant must meet the above guidelines in order to be considered for Pretrial Services investigation.
2. The case must be jointly referred by the prosecution and defense.
3. The referral must be made before the filing of any pretrial motions.
4. The defendant must waive the right to a speedy trial while the case is under consideration for diversion.
5. The defendant must cooperate fully with the Pretrial Services investigation, to be completed after the signing of the Diversion Agreement. Failure to cooperate will result in the termination of the agreement.
6. The defendant must agree to the stipulation of the facts contained in the citation, police reports, or other investigation reports. The defendant must admit the offense and take responsibility for the crime. The original stipulation of facts, with attachments, will be filed with the Court.

7. In the event that the defendant is not suitable for Pretrial Diversion, nothing obtained by the Pretrial Services Officer may be used in the subsequent prosecution. (This applies only to a defendant found not suitable for the program, not subsequent prosecution after violation of Pretrial Diversion.)

#### PRETRIAL DIVERSION PROGRAM

1. Once all parties have signed the Pretrial Diversion Agreement, the case will then be referred to Pretrial Services for an investigation. Pretrial Services will notify the U.S. Attorney's Office within 30 days of the signing of the Agreement whether the case is found to be ineligible for Pretrial Diversion. If Pretrial Services and the United States Attorney's Office agree that a modification is needed within 30 days of signing the agreement, a modification of the terms of the agreement may take place. If the defendant does not agree to the modification, then he or she will be deemed ineligible for the program and the case will be placed back on the court docket for prosecution.
2. If the defendant is suitable for the program, Pretrial Services will commence diversion supervision for a period not to exceed 12 months, starting from the date of signing of the agreement.
3. If the defendant successfully completes Pretrial Diversion, Pretrial Services will notify the United States Attorney's Office. Upon receipt of the notice of successful completion, the United States Attorney's Office will file a motion to dismiss the pending case. Successful termination of Pretrial Diversion will not require a court appearance.
4. If at any time during the period of supervision the defendant does not abide by the Pretrial Diversion Agreement, the United States must give the defendant written notice of the intent to terminate, outlining the violation of Pretrial Diversion. Once notice is given, the defendant will be given an opportunity to respond. If the dispute cannot be worked out by the parties, the case will be resolved by the United States Magistrate Judge.
5. If a defendant is found to have violated the Diversion Agreement, the defendant will be brought back before the Court for a bench trial on the stipulation of facts previously executed by the parties and filed with the Court. No additional evidence will be presented at the trial other than the stipulation of facts and the Pretrial Diversion Report.
6. The national requirement of fingerprinting and processing a flash notice with the Federal Bureau of Investigation (FBI) for Pretrial Diversion participants is waived under this (non-felony) Pretrial Diversion Program.