IN THE IOWA DISTRICT COURT FOR       COUNTY

|  |  |
| --- | --- |
| STATE OF IOWA, Plaintiff,vs.     , Defendant. |  No.        **DEFERRED JUDGMENT**   |

APPEARANCES:

Attorney       for the State

Attorney       for the Defendant, and Defendant in person

On the       day of      , 20     , Defendant

[ ]  pled guilty

[ ]  was found guilty following trial of the offense(s) shown below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Case No. | Count | Offense Date | Iowa Code Section | Offense |
|       |       |       |       |       |
|       |       |       |       |       |

**PSI** Pursuant to Iowa Code §901.2-.4

[ ]  **A presentence investigation** **report** is on file and has been distributed to counsel of record.

[ ]  **Defendant waived use of a presentence investigation**, waived time for sentencing, waived the right to file a Motion in Arrest of Judgment and requested immediate sentencing. The Court hereby orders that the Judicial District Department of Correctional Services prepare a presentence investigation report, file it with the Clerk of Court, and distribute copies as provided by law.

Based on the record made, and pursuant to Iowa Code §901.6, **IT IS NOW ORDERED AND ADJUDGED** as follows:

1. **Deferred** **Judgment**. Pursuant to Iowa Code §907.3(1), judgment in this matter is deferred.

2. **Probation.** The defendant is placed on probation pursuant to Iowa Code §§907.5, 907.6, 907.7 and 907.8, to the Third Judicial District Department of Correctional Services (“Dept.”) for a period of       (     ) years (two years min/five years max) subject to the rules and conditions of probation imposed by the Dept., plus the following special conditions of probation:

[ ]  Defendant shall within 5 days from today register for probation and sign any and all documents requested by the Department of Correctional Services’ probation offices. Defendant shall comply with all terms and conditions of the probation agreement and pay all monies required by the probation agreement.

[ ]  Defendant shall obtain a substance abuse and/or mental health evaluation and undergo all treatment recommended by the health care professionals and/or probation officer. If the defendant is already undergoing substance abuse/mental health treatment, the defendant shall continue said treatment at the direction of the probation officer.

[ ]  Defendant shall complete the Cognitive (victim) Empathy course.

[ ]  Defendant shall be placed in the Residential Treatment Facility (and follow all rules of said facility and successfully complete the program) if, in the discretion of the probation officer, completion of the RTF program becomes necessary and appropriate, based on the defendant's acts and/or omissions subsequent to today.

[ ]  Defendant shall be placed in the Residential Treatment Facility (and follow all rules of said facility and successfully complete the program) when a bed becomes available. Until that time:

[ ]  Defendant shall remain in the custody of the County Jail  a work release pursuant to the rules and regulations of the jail.

[ ]  Defendant shall be released pending an opening at RTF under the supervision of the probation officer.

[ ]  Defendant shall attend and successfully complete the Drug Court Program if eligible for the program and the evaluator concludes that the defendant is an appropriate person to participate in the Drug Court Program.

[ ]  Defendant has signed “Consent to Drug Court Program” and record made concerning 3-day jail sentence.

3. **Statutory Civil Penalty**. Pursuant to Iowa Code §907.14, Defendant shall pay the statutory civil penalty of:

 [ ] 902.9(4), $1,000.00

[ ] 902.9(5), $750.00

[ ]  other \_\_\_\_\_\_\_\_\_\_\_\_

The above civil penalty (See *State v. Blagg,* 2008 WL375245 (Iowa App. 2-13-2008))

[ ]  is not suspended.

[ ]  is suspended.

[ ]

[ ]  Pursuant to Iowa Code §909.3A, the Court in its discretion orders the defendant to perform community service work of an equivalent value to the fine and surcharge. The fine plus surcharge divided by the minimum wage ($7.25) shall be the minimum number of community service hours. Hours less than the minimum will not satisfy the fine and surcharge, and the Clerk will record an amount still due and owing. Defendant shall perform       hours of unpaid community service hours.

4.  **Surcharges**. Pursuant to Chapter 911, the **defendant shall pay all applicable surcharges.**

 \*Check all applicable code sections. (The descriptive parentheticals are only to aid in preparing the document and are not substantive parts of this order.)

**DARE Surcharge.** Pursuant to §911.2, the Drug Abuse Resistance Education surcharge for violation of Iowa Code(s) §321J or §124, division IV**:**

[ ]  is not applicable or not applicable because judgment is suspended or deferred. See §911.2(2).

[ ]  is applicable. Pursuant to Iowa Code §911.2, the defendant is ordered to pay $10.

**Domestic Abuse Assault, Sexual Abuse, Stalking, and Human Trafficking surcharge**. Pursuant to §911.2B, a domestic abuse assault, sexual abuse, stalking, and human trafficking victim surcharge for violation of §§708.2A, 708.11, or 710A.2 or Chapter 709:

[ ]  is applicable. Pursuant to Iowa Code §911.2B(1), the defendant is ordered to pay $100. If multiple offenses, surcharges shall apply for each offense.

**Domestic Abuse Protective Order Contempt surcharge**. Pursuant to §911.2C, a domestic abuse protective order contempt surcharge for violation of a domestic abuse protective order issued pursuant to Chapter 236:

[ ]  is applicable. Pursuant to Iowa Code §911.2C(1), the defendant is ordered to pay $50. If multiple offenses, surcharge shall apply for each offense.

**LEIS Surcharge.** Pursuant to §911.3, the Law Enforcement Initiative Surcharge for a violation of Iowa Code(s) §§124; 155A; 453B; 713; 714; 715A; 716; 719.7; 719.8; 725.1; 725.2; or 725.3:

[ ]  is applicable and the defendant shall pay $125. If multiple offenses, surcharge shall apply for each offense.

1. **Victims.**

[x]  **Pecuniary damages** pursuant to Iowa Code §915.100:

[ ]  to the victim(s) as defined at Iowa Code §915.10(3) as follows:      ; or

[x]  If no pecuniary statement of damages is available or only a partial statement is available at sentencing, the county attorney, pursuant to Iowa Code §910.3, shall provide a statement no later than thirty (30) days after sentencing and provide a permanent, supplemental order, setting the full amount of restitution.

[ ]  Defendant believed no one suffered pecuniary damages (see Iowa Code §910.3)

**[x]  No Contact Order**. Pursuant to Iowa Code §§664A.2 and 664A.5, a No Contact Order:

[x]  is not applicable or not needed or not requested. Any No Contact Order entered in this case, if any, is terminated.

[ ]  is applicable. Defendant shall have no contact with       for five (5) years, from the date of this judgment. The Court will issue a separate order to further implement this paragraph, if requested.

6. **Restitution.** Pursuant to Iowa Code §910.3, the defendant shall pay and judgment is imposed against the defendant as follows: (check all that apply)

[x]  **Fines, penalties and surcharges** to the Clerk of Court as set forth above.

[ ]  **Crime Victim Assistance** P**rogram. (**See Iowa Code §13.31). Reimbursement pursuant to Iowa Code §910 and §915 in the amount of $     .

[ ]  To public agencies pursuant to Iowa Code §321J.2(13)(b).

[x]  **Court costs** in an amount that will be later certified by the Clerk of Court.

 [ ]  **Correctional fees** pursuant to Iowa Code §356.7 in the amount of $      . DO NOT order room and board fees unless an amount is known and the defendant’s financial ability to pay has been considered. See *State v Siemer*, 2013 WL 5498077.

[x]  **Court-appointed attorney’s fees.** Per Iowa Code §815.9, if the defendant is receiving court-appointed legal assistance, the Court finds upon inquiry, review of the case file and any other information provided by the parties, the defendant has the reasonable ability to pay restitution of fees, including expense of the public defender.

 [x]  in the amount approved by the State Public Defender

 [ ]  or $\_\_\_\_\_\_\_\_\_\_\_\_ whichever is less.

[ ]  Reasonable Ability to Pay Adjustment Option: Pursuant to Iowa Code §910.2(1), the Court finds upon inquiry, review of the case file and any other information provided by the parties, that the defendant has the reasonable ability to pay restitution for the above items of $       .

[ ]  Community Service Option: Pursuant to Iowa Code §910.2(2) and Rule 26.4, the Court finds: (1) the total court debt owed is greater than $300; and (2) that community service will be prudent and effective for the defendant, and that the community service can be administered within existing court resources; and (3) the defendant is not reasonably able to pay the above       and, accordingly, shall perform       hours of public service at a governmental agency or for a private nonprofit agency which provides service to youth, elderly or poor of the community. The Judicial District Department of Correctional Services or designated individual shall provide for the assignment to perform the required service. The hours ordered are “approximately equivalent value to those costs.”

1. **Notice Regarding Financial Obligations:**

**All fines and costs, unless otherwise ordered, shall be paid on the day imposed.** Payment of any fines, surcharges, court costs, restitution, or court-appointed attorney’s fees may be paid: (1) **By mail**: Send your payment by check, cashier’s check, certified check, or money order; (2) **In person**: At the Clerk of Court’s office using the same payment methods listed above, including cash; (3) **By Phone**: Using VISA, MasterCard or Discover; and (4) **Online** at [www.iowacourts.gov](http://www.iowacourts.gov) using VISA, MasterCard or Discover. If unable to pay your court debt by any of the above methods, see options below.

[ ]  **Rule 26.2** **Installment Payment Option IF court debt exceeds $300.**  Defendant shall pay $      down and pay $      (must be at least $50 per month) with the first payment due within 30 days (Iowa Code §909.3) of the date of this order and each month thereafter OR otherwise in accordance with a probation plan of payment adopted and approved in accordance with §907.8 or §910.7 until all that is owed is paid in full. A judge may not order an installment plan for any debt that is already delinquent, cannot forgive any installment payments, cannot modify, block, or rescind any installment plan made by the Court’s third-party collection agency, county attorney, DOT, county treasurer or other entities collecting delinquent court debt. Rule 26.2 (7). The Court’s third-party collection agency and some county attorneys can arrange ONE installment plan for all delinquent court debt owed. The judge CANNOT do so. A judge can arrange one installment plan for all court debt owed if it is all current. Rule 26.2(12).

**If any payment or installment payment is more than 30 days past due**, the Clerk of Court will turn the matter over to a third-party collection agency. You may make arrangements for payment of delinquent court debt by calling (866) 857-1845. Their hours are: Monday – Thursday, 8-8; Friday, 8-5; and Saturday, 8-noon. **Note:** A late penalty of up to 25% will added to the unpaid delinquent amount under this payment option.

**Failure to Pay Consequences:** Defendant’s motor vehicle registration or suspension of Defendant’s driver’s license, or both, may be initiated. The State of Iowa may intercept any state income tax refund due to the defendant, any vendor amounts due the defendant by the State of Iowa, or monetary amounts held by the Clerk of Court and payable to the defendant, even if installment payments are current. See Rule 26.6-Form 1 Note.

**Contempt For Failure to Pay:** Unless Defendant fully complies with all the requirements ordered in this judgment, including payment of the restitution, fine, surcharges, and court costs within the required time, the defendant may be ordered to appear in person before this court and show cause why the defendant should not be held in contempt of court. If the defendant is held in contempt of court, a jail term may be imposed. Defendant shall supply the Clerk of Court with his/her residential and mailing addresses and telephone numbers. Changes in any of this information shall be reported to the Clerk of Court whenever they occur. In any subsequent action, upon sufficient showing that diligent effort has been made to ascertain the location of the defendant, the Court may deem due process requirements for notice and service of process to be met upon the delivery of a written notice to the most recent residential address filed with the Clerk of Court. If Defendant fails to pay court debt owing, the State may file an application for rule to show cause and a warrant may be issued for the defendant’s arrest.

1. In the event of any material violation by the defendant of the terms and conditions of probation, the probation officer shall make a written report to the court, whereupon the court may enter an adjudication of the defendant's guilt and proceed as otherwise provided by law.
2. The probation officer shall file a written report with the court upon completion of the period of probation or at such earlier time as the probation officer may determine that the purposes of probation have been fulfilled, whereupon this court may discharge the defendant from probation without entry of judgment. Upon the discharge of the defendant from probation, the clerk shall expunge this court's criminal record with reference to the deferred judgment. Before the case will be expunged, a defendant must have paid all the victim restitution, civil penalties, court costs, fees, or other financial obligations ordered by the Court or assessed by the Clerk of the District Court in the case that includes the deferred judgment.

If financial obligations are outstanding, probation can be discharged upon a payment plan, as provided by §907.9(4)(a). The deferred judgment will not be expunged until all financial obligations are paid in full.

1. **DNA Profiling**. Pursuant to Iowa Code §§81.2 and 901.5(8A)(a), the defendant shall submit a physical specimen for DNA profiling.
2. **Bonds Exonerated**. All outstanding bonds are exonerated.
3. **Dismissal of Other Counts and Cases.** Upon the recommendation of the State and/or under the terms of the plea agreement and/or by reason of acquittal, **the following counts/cases are dismissed**:

[ ]        is/are dismissed and is/are identified as related charges for purposes of potential expungement pursuant to Iowa Code §907.9(4)(c)(2) and 907.4.

 [ ]        is/are dismissed.

Defendant is ordered to pay court costs on these counts/cases unless otherwise ordered. Pursuant to the plea agreement, if restitution is due on any of these counts/cases, the defendant is ordered to pay such restitution.

**IOWA CODE 901C.6 NOTICE:** Under Iowa Code§901C, you may be entitled to have any dismissed or acquitted cases expunged from your record. After 180 days has passed from entry of the judgment of acquittal or order dismissing the case and if all court costs, fees and other financial obligations ordered by the court or assessed by the Clerk of District Court have been paid, you may make a formal written request to the court for expungement. If an objection or request for hearing is filed by the prosecutor, the matter will be set for a court hearing. This provision applies to Iowa Code §692.1, public offenses only. It does not apply to non-indictable offenses under Chapter 321 or local traffic ordinances.

13. Pursuant to Iowa Code §§907.3, 907.5, 901.3 and 901.5, the reasons supporting this sentence include those set forth on the record and:

[ ]  The maximum opportunity for the rehabilitation of the defendant.

[ ]  Protection of the community from further offenses by the defendant and others.

[ ]  Defendant's age.

[ ]  Defendant's prior record (or lack thereof) as to convictions and deferments.

[ ]  Defendant's employment circumstances.

[ ]  Defendant's family circumstances.

[ ]  Nature of the offense committed.

[ ]  Contents of the presentence investigation.

[ ]  Plea agreement.

[ ]  The financial condition of the defendant.

[ ]  A weapon or force was used.

[ ]  Comments from the victim(s) of the crime.

[ ]  The sentences are consecutive based upon:

[ ]  the separate and serious nature of the offenses

 [ ]  in order to carry out the plea agreement

[ ]  to provide the defendant maximum incentive to comply with the terms and conditions of probation

[ ]  crime of escape under §719.4 or crime committed while Defendant confined at a detention facility or penal institution (consecutive sentences are mandatory under Iowa Code §901.8)

[ ]  crime committed while Defendant on parole/probation (*See* Iowa Code §908.10)

[ ]  If Juvenile offender: The Court finds this sentence is not cruel and unusual. The Court has considered: (1) the age of the offender and the features of youthful behavior, such as “immaturity, impetuosity, and failure to appreciate risk and consequences”; (2) the particular “family and home environment” that surround the youth; (3) the circumstances of the particular crime and all the circumstances relating to youth that may have played a role in the commission of the crime; (4) the challenges for youthful offenders in navigating through the criminal process; and (5) the possibility of rehabilitation and the capacity for change. See *State v Lyle*, 854 N.W.2d 378 (Iowa 2014), footnote 10.

[ ]  Other factors:

1. **Other.**

[ ]

[ ]

**So ordered this       day of** **, 20****.**

Revised 1.27.2016