

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
STATE OF IDAHO



MICHAEL McLAUGHLIN
DISTRICT JUDGE
(208) 287-7551
FAX (208) 287-7529

ADA COUNTY COURTHOUSE
200 W. FRONT STREET
BOISE, IDAHO 83702-7300

To: All Applicants and Defendants participating in the Ada County Mental Health Court

From: Judge Michael McLaughlin, Presiding Judge
Ada County Mental Health Court

Dear Applicant and Ada County Mental Health Court Defendant:

This letter is to inform you of one of the rights that a graduate of any Idaho mental health court has upon graduation from the Court. I have attached Idaho Code § 19-2604, which governs the discharge of a defendant and the amendment of a judgment. All of you have legal counsel who will represent you diligently throughout the process of your application into the Ada County Mental Health Court and, if you are accepted into the Ada County Mental Health Court, throughout the process of your involvement with the Court. If you have concerns or questions about this process please contact your attorney.

To date, all of the graduates of the Ada County Mental Health Court have been afforded the opportunity to have their charges dismissed or reduced to a misdemeanor; however, as the statute clearly requires, the Court must make a finding that a discharge or an amendment of the judgment must be "compatible with the public interest." Your attorney certainly may give you additional insight into that language.

The standard for our court is that upon graduation, you are placed on unsupervised probation for a period of six (6) months. This means that you do not have to report to a probation officer, nor do you have to pay the costs of supervision. At the end of the six months, you can make application to the Court for a discharge of the felony or amendment of your judgment to a misdemeanor. What this means is that if this request is granted, your probation would be terminated, your charge would be either dismissed or reduced to a misdemeanor and you would be restored all of your civil rights, with the exception of your right to purchase, possess or carry on your person firearms or weapons.

The right to keep and bear arms is a federal right that is governed by federal law and you may wish to inquire of your attorney as far as any further steps that could be taken to restore that right to you through the federal agencies that govern this right.

Some of you should be aware of the fact that your discharge or a reduction of your case to a misdemeanor can be delayed for the following reasons:

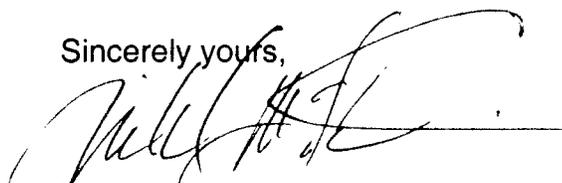
(1) You may still owe restitution that must be paid back in full before the Court will grant such a request.

(2) During the six month time period there may be a relapse or there may be contact with law enforcement or other violations of your probation which could result in a delay or a denial of a request to discharge or reduce your case to a misdemeanor.

(3) There are some crimes, specifically, Driving Under the Influence of Intoxicants where the Court will not discharge the offense but will reduce the offense to a misdemeanor. The reason for this is that obviously, Driving Under the Influence carries enhanced penalties. If the Court were to completely dismiss the charge and if you were to violate the law with another DUI, this could result in the State not being able to pursue either an enhanced misdemeanor charge or a felony charge. This Court has determined that that is not compatible with the public interest to completely dismiss a DUI for these reasons. There may be other crimes or charges that will fall into this category and they will be taken on a case by case basis.

I hope that this letter clarifies for you the rights that you have and will be of assistance to you in your further participation in the Ada County Mental Health Court. If you have any additional questions please contact your attorney.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael McLaughlin", written over a horizontal line.

Michael McLaughlin
District Judge

§ 19-2604. Discharge of defendant--Amendment of judgment

(1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended during the first one hundred eighty (180) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of > section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) Subsection (2) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in > section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in > section 18-8304, Idaho Code, shall not be subject to dismissal or reduction under this section. A conviction for the purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.