

**IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA**

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**ROY D. LOWER,**  
Defendant.

Case No. CR99-15

**ORDER OF PROBATION**

**DATE OF HEARING:** December 17, 1999.

**APPEARANCES:**

For plaintiff: Eric A. Scott, Cherry County Attorney.

For defendant: Thurman Gay with defendant.

**THIS CASE CAME ON FOR SENTENCING.** The Court finds that the defendant was adjudged guilty of the charge(s) of: Count No. 1, Theft By Unlawful Taking, a Class I misdemeanor; Count No. 2, Theft By Unlawful Taking, a Class I misdemeanor, and Count No. 3, First Degree Criminal Trespass, a Class I misdemeanor, on October 22, 1999. Allocution had: defendant showed no sufficient reason why sentence should not be pronounced.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the defendant is hereby sentenced to concurrent terms of Probation on each count for a period of two (2) years under the supervision of a State Probation Officer. The defendant shall meet the following conditions of probation:

1. Not violate any laws, and refrain from disorderly conduct or acts injurious to others.
2. Avoid social contact with those persons having criminal records or who are on probation or parole.
3. Report to your probation officer in person at least as required by the probation officer, at such reasonable times and places to be fixed by the probation officer.
4. Truthfully answer questions and allow the probation officer to visit you at all reasonable times and places. Generally cooperate with the reasonable requests of the probation officer for information. Show ordinary business courtesy toward the probation officer.
5. Obtain and maintain suitable employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment. Such proof shall include, at a minimum, registration with the Nebraska Job Service, and weekly reports in writing of at least two (2) bona fide personal contacts with prospective employers listing:

- a. the name of the prospective employer;
  - b. the name of the person contacted;
  - c. the date and time of the contact;
  - d. the position for which employment was sought;
  - e. the job description of such position or a list of the skills required therefor; and,
  - f. such additional reasonable information as the probation officer may require from time to time.
  - g. In the alternative, the probationer may attend school in a suitable program approved by the probation officer directed toward completion of specific program or attainment of a specific diploma or degree.
6. Meet your family responsibilities. If you have been or are hereafter ordered by any court to pay child or spousal support, pay all such amounts as directed by the court before the same become delinquent.
  7. Obtain permission from this court or the probation officer before any change of address or employment.
  8. Furnish the Clerk of the District Court of Cherry County, Nebraska, in writing, with defendant's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, and the name, address, and telephone number of defendant's employer. The defendant shall also be required to advise the Clerk in writing of any changes in such information between the time of entry of this order and release from probation, within ten (10) days after the effective date of such change.
  9. Submit, from time to time, to any reasonable search and seizure of premises, person or vehicle, with or without probable cause, by or upon request of the probation officer or any law enforcement officer.
  10. The defendant shall perform 100 hours of community service.
    - a. Within 14 days after date of sentencing, the defendant shall propose one or more suitable and qualified agencies for whose benefit the service is to be performed, which shall be subject to the approval of the probation officer.
    - b. These hours shall be performed in compliance with a reasonable schedule to be developed by the defendant with the approval of the probation officer.
    - c. The schedule shall specify the rate and timing of performance of community service hours. The schedule shall be structured to assure that performance is completed at least three (3) months prior to release from probation, and shall utilize an even rate of performance throughout the schedule.
    - d. If approved, the probation officer shall file a copy of the schedule with the court clerk within 5 days after establishment thereof. If not approved, the probation officer shall notify the court in writing and a hearing will be held after which the court will establish a performance schedule.
  11. There were 37 days of jail time served before sentencing.

12. The defendant shall apologize in writing to David Grooms of Dave's Pawn Shop, the victim of the crime, or other designated person approved by the probation officer, within 30 days; and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished.
13. If initialed by the court:
  - a.  The defendant shall pay to the clerk of the sentencing court, for disbursement to David Grooms of Dave's Pawn Shop, the victim of the crime, restitution in the amount of \$\_\_\_\_\_.
  - b.  No restitution was sought by the plaintiff.
14. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$\_\_\_\_\_, to be paid within 90 days from date of sentencing.
15. The defendant shall not have any contact, directly or indirectly, with Jeff Bare or Nicholas McGee, except as may be specifically approved in writing by the probation officer. This provision does not apply to testimony in court by the defendant as a witness.
16. In addition to any order of revocation, suspension, or limited driving imposed by law, the driving privileges of the defendant are limited as follows:
  - a. The defendant shall not operate a motor vehicle, except:
    - (1) to drive between the place of residence and employment by the most direct route,
    - (2) during the course of employment for employment purposes only,
    - (3) to and from probation and counseling appointments by the most direct route,
    - (4) to and from AA/NA meetings by the most direct route, and,
    - (5) in an emergency.
  - b. This period of limited driving shall be for a period of six (6) months from date of sentencing.
  - c. The probation officer may terminate this limitation at any time, or may grant exceptions from time to time.
  - d. The defendant shall deliver his motor vehicle operator's license to the probation officer, who shall hold the same during the period of this limitation, and who shall provide the defendant with a photocopy thereof with these restrictions endorsed thereon.
  - e. This paragraph does not grant any driving privileges and does not affect any more restrictive order of revocation, suspension, or non-driving entered pursuant to law.
17. The defendant shall, within 20 days after commencement of the probationary term, cause a display advertisement to be published:
  - a. In the Valentine Midland News, or other newspaper in general circulation in Valentine, Nebraska approved by the probation officer;
  - b. Consisting of at least 18 column inches;
  - c. With the form and content to be approved by the probation officer, but to include, at a minimum:
    - (1) the defendant's name;

- (2) a picture of the defendant showing a reasonable likeness to the defendant's then current appearance;
  - (3) a statement that the defendant has pleaded guilty to the charges of theft and criminal trespass;
  - (4) a statement that the defendant has been placed on probation;
  - (5) a statement that the defendant's probation prohibits the defendant from from operating a motor vehicle for any purpose other than driving between the place of residence and employment by the most direct route, during the course of employment for employment purposes only, to and from probation and counseling appointments by the most direct route, to and from AA/NA meetings by the most direct route, and, emergencies;
  - (6) the name, address, and telephone number(s) of the probation officer(s) having supervisory responsibility for the defendant;
  - (7) requesting any member of the public observing any violation of probation to immediately report the matter to the probation officer or any law enforcement officer; and,
  - (8) a statement that the advertisement is being published at the defendant's expense by order of the District Court of the Eighth Judicial District as a condition of probation.
- d. The defendant shall, within 10 days after date of publication, provide a copy of the published notice from the newspaper to the probation officer.
  - e. The defendant shall pay all costs of publication and copying.
18. Bail, if any, shall be released upon defendant's acceptance in writing of the terms and conditions of probation.

**IT IS FURTHER ORDERED** that during the term of this probation, the Court, upon application of the probation officer or the defendant, or upon its own motion, may modify or eliminate any of the above conditions or add further conditions.

BY THE COURT:

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William B. Cassel, District Judge

I hereby accept probation and agree to abide by all the conditions of probation ordered by the court. Any violation of the above conditions is cause for revocation of my probation and may result in a

sentence to confinement. I do hereby waive extradition to the State of Nebraska if, at the time of my apprehension, I am in another state.

I received a copy of the above order on \_\_\_\_\_, 1999.

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Defendant