

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**MICHAEL D. WALSH,**  
Defendant.

Case No. CR99-32

**ORDER OF PROBATION**

**DATE OF HEARING:** December 19, 1999.

**APPEARANCES:**

For plaintiff: Thomas P. Herzog, Holt County Attorney.

For defendant: Rodney W. Smith, Holt County Public Defender, with defendant.

**THIS CASE CAME ON FOR SENTENCING.** The Court finds that the defendant was adjudged guilty of the charge(s) of Terroristic Threats, a Class IV felony, on October 27, 1999. Allocation 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 Probation 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 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.
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 Holt 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. Not leave the State of Nebraska without written permission of the court or the probation officer.
  10. Not have in your possession any firearms or illegal weapons.
  11. 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.
  12. Not use or possess any alcoholic liquor or beverages; not use or possess any controlled substance or any mind or mood altering material or chemical, whether illegal or a "designer drug," except when prescribed by a licensed physician.
  13. Not intentionally or knowingly be in the presence of any person who is then consuming, or who may be reasonably expected in the immediate future to consume, any alcoholic beverage. If the defendant becomes aware that, without the defendant's prior knowledge, such person begins to consume, or is about to begin consuming, any alcoholic beverage, the defendant shall immediately leave and depart from the presence of such person.
  14. Submit to the following tests and examinations:
    - a. Roadside sobriety test;
    - b. Alco-sensor test;
    - c. Chemical test for alcohol or drug content of your blood, breath or urine; and/or,
    - d. Tests to determine the loss of mental function or physical agility due to the use of alcohol or drugs.
    - e. Such tests may be administered at any time and from time to time, with or without probable cause, upon request of the probation officer, or any law enforcement officer. Failure to submit to tests shall constitute a violation of probation.

15. Pay to the clerk of the sentencing court \$5.00 per month for chemical testing while on probation. If additional testing is required by this order which is not included in the standard fee above, pay to the clerk of the sentencing court the actual cost of such testing as certified by the probation officer from time to time.
16. Complete the following therapeutic, educational, rehabilitative, or punitive measures:
  - a. Evaluation by a qualified alcoholism facility approved by the probation officer, and if therapy is recommended by the facility, complete the required course. The evaluation shall be initiated within 21 days. The cost of such evaluation and any required therapy shall be paid by the defendant in compliance with the arrangements approved by the facility at the time of commencement of the evaluation.
  - b. Any After-care program specified by the facility approved by the probation officer.
  - c. Attend at least one meeting per week of Alcoholics Anonymous and provide written verification of attendance to the probation office.
17. Pay for the costs of any tests, evaluations, treatments, counseling, programs, classes, courses, meetings, or exercises required under the terms of this order or as required by the probation officer as a part of the administration of the terms of probation.
18. The defendant is sentenced to 60 days, less 8 days credit for time served before sentencing, in the Holt County Jail, to be served on consecutive days commencing on Friday, June 2, 2000, at 9:00 a.m., as follows:
  - a. Such jail time shall be served concurrently with any other sentence or commitment which may be in effect at, or become effective during, the time of execution of this sentence.
  - b. Upon request of the probation officer, the court may advance the date for service of this portion of the jail sentence at any time without further hearing.
  - c. The jail sentence may be waived by the court upon the recommendation of the probation officer.
  - d. The sentence is subject to reduction under Neb. Rev. Stat. § 47-502. Assuming no good time for which defendant is eligible is lost, the defendant must serve 42 days, less 8 days served before sentencing, before mandatory release.
  - e. Unless advanced or waived, commitment shall issue by the clerk, under the seal of the court in form provided by the county attorney, on or before June 1, 2000, for execution of sentence by the sheriff. If advanced or waived, the clerk shall issue commitment as directed by such order. If advanced, the clerk shall mail a copy of the order advancing sentence to the defendant's last known address by regular mail.
  - f. Unless the sentence is waived, the defendant shall appear and surrender to the Holt County Sheriff at the time required by this order or by the order advancing date of sentence. Failure to appear and surrender shall constitute a violation of probation, with such consequences as may be imposed by law, and may further result in a separate prosecution for the crime of Failure to Appear with a separate and additional penalty, and may also result in the issuance of a bench warrant.

19. The defendant shall apologize in writing to Michael Parks, the victim of the crime, within 30 days; and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished.
20. No restitution was sought by the plaintiff.
21. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$\_\_\_\_\_, to be paid within 60 days.
22. Pay to the clerk of the sentencing court, for disbursement to Holt County for partial reimbursement of the cost of defense counsel, the sum of \$200.00, to be paid within one year from the date of sentencing.
23. The defendant shall, within 20 days after commencement of the probationary term, cause a display advertisement to be published:
  - a. In the Holt County Independent, or other newspaper in general circulation in O'Neill, 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 charge of terroristic threats;
    - (4) a statement that the defendant has been placed on probation;
    - (5) a statement that the defendant's probation prohibits the defendant from using or possessing alcohol;
    - (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 within 30 days after the date of publication.
24. 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 \_\_\_\_\_.

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Defendant