

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**ROBERT E. McCART,**  
Defendant.

Case No. CR99-11

**ORDER OF PROBATION**

**DATE OF HEARING:** January 6, 2000.

**APPEARANCES:**

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

For defendant: Mark Johnson with defendant.

**THIS CASE CAME ON FOR SENTENCING.** The Court finds that the defendant was adjudged guilty of the charge(s) of Possession of a Controlled Substance, a Class IV felony, on August 30, 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 four (4) 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. With regard to amounts of money ordered paid by defendant under this order, this paragraph shall apply unless this order specifies the date by which, or the length of time during which, the payment is to be made.
  - a. With regard to each amount ordered paid by the defendant, such amount shall be paid in compliance with a reasonable installment payment schedule to be proposed by the defendant in writing within 10 days after the date of sentencing.
  - b. The schedule shall specify the rate and timing of all payments.

- c. The schedule shall be structured to assure that all payments are completed within one year from the date of sentencing and shall provide for approximately equal installments throughout the schedule.
  - d. The schedule shall be subject to the approval of the probation officer. If approved, the probation officer shall file a copy of the payment 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 payment schedule.
6. Obtain and maintain suitable employment or self-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.

Self-employment shall not be deemed to be “suitable” unless the defendant is able to generate sufficient net income from self-employment to provide for his own support, to meet his family responsibilities including payment of child and/or spousal support, and to fully and promptly comply with the requirements of this order. Employment by another shall not be deemed to be “suitable” unless the defendant is able to generate sufficient net income from employment to provide for his own support, to meet his family responsibilities including payment of child and/or spousal support, and to fully and promptly comply with the requirements of this order, or unless the probation officer determines that the defendant is employed to the full extent of his abilities and qualifications.

- 7. 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.
- 8. Obtain permission from this court or the probation officer before any change of address or employment.
- 9. 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.

10. Not leave the State of Nebraska without written permission of the court or the probation officer.
11. Not have in your possession any firearms or illegal weapons.
12. 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.
13. 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.
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 \$240.00 (based upon \$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. Obtain and complete a referral to an appropriate Mental Health Center for further individual psychological counseling as approved by the probation officer. All costs shall be paid by the probationer. He shall submit the name, address, and telephone number of an acceptable center within 10 days, and obtain approval of the probation officer of the proposed center within 10 days thereafter. The probation officer may extend the times allowed for such submission and/or approval. The defendant shall not discontinue such counseling unless recommended by the center or approved by the probation officer.
17. As required by Section 28-416(14), the probationer shall attend mandatory treatment and counseling conducted by one of the community mental health facilities provided by Chapter 71, article 50, or other licensed drug treatment facility approved by the probation officer. Such counseling and treatment shall be commenced within 60 days from the date of sentencing, and shall be completed in accordance with the schedule determined by the approved facility.
18. The defendant shall attend at least one meeting per week/month of AA or NA, and provide written verification of attendance to the probation officer.
19. If so directed by the probation officer at any time during the term of probation, the defendant shall commence in-house alcoholism or drug addiction treatment at a facility approved by the probation

officer within 10 days after being so directed, successfully complete the required course of treatment, and pay the costs of such treatment to the facility before being released from probation. The defendant shall further comply with any after-care program specified by the facility approved by the probation officer.

20. 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.
21. The defendant shall have no contact with Terri Monahan, whether by telephone, in writing, in person, or through a third party. The defendant shall not use any means, directly or indirectly, to circumvent to prohibition imposed by the previous sentence.
22. There were 63 days jail time (including commitment for evaluation) served before sentencing.
23. No restitution was sought by the plaintiff.
24. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$\_\_\_\_\_.
25. 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 been found guilty by a jury of possession of a controlled substance;
    - (4) a statement that the defendant has been placed on probation, including mandatory drug counseling and treatment;
    - (5) a statement that the defendant's probation prohibits the defendant from using or possessing alcohol, or from using or possessing any controlled substance except as prescribed by a licensed physician;
    - (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.
26. The defendant shall provide the probation officer in writing with duly signed releases and/or authorizations as may be reasonably requested at any time during the term of probation to determine compliance with the terms and conditions of probation.
27. 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 \_\_\_\_\_, 2000.

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Defendant