

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

**DEREK A. CLOSSON a/k/a DEREK A.
HARKINS,**
Defendant.

Case No. CR00-10

ORDER OF PROBATION

DATE OF HEARING: August 3, 2000.

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 Burglary, a Class III felony on March 16, 2000. 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 Probation for a period of five (5) years from and after the commencement of probation under the supervision of a State Probation Officer. The term of probation shall be deemed to commence upon the first to occur of the following: (1) defendant's acceptance in writing of the conditions of probation, (2) the expiration of 30 days from the date of entry of this order if no appeal is taken, or, (3) the entry of judgment upon the mandate of the appellate court if appeal is timely perfected within 30 days after the date of entry of this order. 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 one (1) time per week, or more often 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 at least six (6) months prior to release from probation 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 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.
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, and after completion of in-house alcohol treatment shall reside at a location in Holt County, Nebraska, approved by 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; neither be found in nor enter any tavern, club, bar, or restaurant wherein there is an on-sale liquor license in effect; 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 \$300.00 (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. Complete the following therapeutic, educational, rehabilitative, or punitive measures:
 - a. In-house alcoholism treatment at a facility approved by the probation officer to be commenced as soon as placement can be accomplished (including accomplishing any preadmission alcohol evaluation which may be required by the facility as soon as possible), to complete the required treatment program as prescribed by the facility, and pay the costs of such treatment to the facility before being released from probation;
 - b. Any After-care program specified by the facility approved by the probation officer;
 - c. Attend at least two (2) meetings per week of Alcoholics Anonymous;
 - d. Provide written verification of completion of GED to probation officer within 60 days after commencement of probation.
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 shall perform 312 hours of community service.
 - a. Within 60 days after date of commencement of probation, 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 thereafter be performed, commencing with the first calendar week (Sunday through Saturday) which begins at least 60 days after the commencement of the probationary term, at the rate of at least two (2) hours per calendar week, but not more than three (3) hours per calendar week, and continuing for each consecutive calendar week thereafter until the required number of hours have been accomplished.
 - c. At least once per month, the defendant shall provide to the probation officer written verification from each recipient agency of the dates and number of hours completed in the preceding month.
19. There was no jail time served before sentencing; however, the defendant was committed for evaluation for 60 days, for which the defendant is entitled to credit equivalent to time served.
20. The defendant shall apologize in writing to the Manager of the Central Farmers Coop, of Chambers, Nebraska, the victim of the crime, or other designated person approved by the probation officer, within 60 days of the commencement of probation, which apology shall be provided by the defendant to the probation officer to be sent to the victim.
21. In addition, the defendant shall apologize in person to Board of Directors of the Central Farmers Coop at a regular meeting of the Board within 120 days after the commencement of the probationary sentence, and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished.
22. If initialed by the court:
 - a. [X] The defendant shall pay to the clerk of the sentencing court, for disbursement to Central Farmers Coop, the victim of the crime, or Cooperative Mutual Insurance Company, the victim's insurer, as their interests may appear, restitution in the amount of \$1,715.92. The defendant shall be entitled to credit against such amount for any amounts of restitution actually paid by Lindsay Gartner, up to a maximum of 50% thereof.
 - b. ~~[] No restitution was sought by the plaintiff.~~
23. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____.
24. 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 \$300.00.
25. The defendant shall maintain a curfew between the hours of 9:00 P.M. and 5:00 A.M. and shall not leave his house and its curtilage during such hours except for employment approved by the probation officer or in the event of an emergency.

26. 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) emergencies.
 - b. This period of limited driving shall be for a period of two (2) years 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.
27. The defendant shall, within 60 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 21 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 burglary;
 - (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, from entering any tavern, bar, club, or restaurant where beer or liquor is sold by the drink, from leaving his house and grounds between 9:00 P.M. and 5:00 A.M., and 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.
28. 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:

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.

Defendant