

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

NATHAN JAMES DVORAK,
Defendant.

Case No. CR01-28

ORDER OF PROBATION

DATE OF SENTENCING: January 7, 2002.

APPEARANCES:

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

For defendant: Rodney W. Smith with defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Sexual Assault on a Child, a Class IIIA felony, on October 22, 2001. 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 four 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. As conditions of probation, the defendant shall:

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. If the defendant is arrested or cited for any violation of law, report such arrest or citation to the probation officer by the next working day.
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 each amount ordered paid by the defendant, such amount shall be paid in compliance with a reasonable installment payment schedule at the rate of \$50.00 per month, the first installment due on the first day of the month following the date of commencement of probation, and a like payment on the first day of each consecutive month thereafter until paid in full.
6. Obtain and maintain suitable employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
7. If required by the probation officer, such proof of search for employment 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.
8. 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.
9. Obtain permission from this court or the probation officer before any change of address or employment.
10. Furnish the Clerk of the District Court for this county, 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.
11. Not leave the State of Nebraska without written permission of the court or the probation officer.
12. Not have possession of any firearms, ammunition, or illegal weapons. Not be personally present with anyone who has possession of any firearms, ammunition, or illegal weapons.
13. 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.
14. [Not used.]
15. 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.
16. The defendant is sentenced to 94 days in the Holt County Jail, to be served on the first weekend of each month for the next 47 consecutive months, as follows:

- (1) For purposes of this order, the first weekend of the month shall be deemed to commence on the first Friday of the month at 7:00 p.m. and end on the following Sunday at 7:00 p.m. Assuming no delay in the commencement of probation, the first such period would commence on Friday, February 1, 2002, at 7:00 p.m. and end on Sunday, February 3, 2002, at 7:00 p.m.
 - (2) There was no jail time served before sentencing.
 - (3) The defendant shall appear and surrender to the sheriff for execution of sentence at the time for commencement of each portion of the 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.
 - (4) Commitment to the Holt County Jail shall issue as soon as possible by the clerk of the court, under seal, in form to be submitted by the county attorney within 7 days.
 - (5) Because the sentence does not provide for any period of imprisonment for 14 consecutive days, there is no reduction in sentence required under Neb. Rev. Stat. § 47-502.
 - (6) The jail sentence is not subject to waiver.
 - (7) The defendant shall be eligible for work release with the consent of the sheriff.
17. Pay to the clerk of the sentencing court the amount of \$1,410.00 (included in installment payment above), representing partial reimbursement of the cost of imprisonment for 94 days in the Holt County Jail at \$15.00 per day, for disbursement to Holt County.
 18. The defendant shall apologize in writing to [deleted], the victim of the crime, or other designated person approved by the probation officer, within 30 days after the commencement of probation; and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished.
 19. No restitution was sought by the plaintiff.
 20. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____ (included in installment payment above).
 21. The defendant provided his own defense counsel.
 22. The defendant shall fully and timely comply with all provisions of the Nebraska Sex Offender's Registration Act.
 23. The defendant shall fully and timely comply with all provisions of the Nebraska DNA Detection of Sexual and Violent Offenders Act, as implemented by Title 272, Chapter 20, of the Nebraska Administrative Code. The defendant shall appear and consent to the drawing of a DNA sample at a qualified institution pursuant to § 29-4106. The probation officer shall notify the defendant of the time and place for such DNA sample. The defendant shall pay all expenses in connection with the drawing of such sample.

24. He shall not permit or allow any female person under the age of 16 years to enter his place of residence at any time unless such female person is accompanied at all times by such person's parent or guardian or another responsible adult. He shall report all such instances in writing to the probation officer within 30 days listing the date and time of occurrence, the name of the female child, and the name of the parent, guardian, or other responsible adult.
25. 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 and/or other authorized punishment. I do hereby waive extradition to the State of Nebraska if, at the time of my apprehension, I am in another state. If probation supervision is transferred to another state, I do hereby agree to abide by additional rules and regulations that may be imposed by the receiving state.

I received a copy of the above order on _____, 2002.

Defendant