

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

COLIN STEVENS,
Defendant.

Case No. CR01-9

**ORDER OF INTENSIVE
SUPERVISION PROBATION**

DATE OF SENTENCING: February 11, 2002.

APPEARANCES:

For plaintiff: Thomas P. Herzog, Holt County Attorney.
For defendant: defendant without counsel, reaffirming prior waiver of right to counsel.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of: Count No. 1, Aiding and Abetting Criminal Mischief, a Class IV felony, Count No. 2, Aiding and Abetting Criminal Mischief, a Class IV felony, and Count No. 3, Aiding and Abetting Theft By Unlawful Taking, a Class I misdemeanor on March 12, 2001, and sentenced to probation on May 14, 2001. Thereafter, on September 17, 2001, the defendant was adjudged to have violated probation, and on this date the prior order of probation was revoked, and the defendant resentenced as upon the original convictions. 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 Intensive Supervision Probation for concurrent periods of five (5) years each on Counts Nos. 1 and 2, respectively, and to a concurrent period of two (2) years on Count No. 3, 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. This condition does not apply to anyone related within the first degree of consanguinity to anyone related to the defendant within the first degree of consanguinity.
3. Report to your probation officer in person at least once per week or more often 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 \$100.00 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. Installment payments shall be applied in the following order: first, to court costs; second, to electronic monitoring expense; third, to drug and alcohol testing expense; fourth, to jail reimbursement; fifth, to attorneys' fees reimbursement; sixth, to restitution; seventh, to any other amounts ordered under probation.
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. Obtain permission from this court or the probation officer before any change of address or employment.
9. 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.

10. Not leave the State of Nebraska without written permission of the court or the probation officer, except for work on any out-of-state jobs required for employment purposes by defendant's employer.
11. 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.
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. Concerning alcohol and drugs:
 - A. Not use or possess any alcoholic liquor or beverages.
 - B. Submit to the following tests and examinations:
 - (1) Roadside sobriety test;
 - (2) Alco-sensor test;
 - (3) Chemical test for alcohol or drug content of your blood, breath or urine; and/or,
 - (4) Tests to determine the loss of mental function or physical agility due to the use of alcohol or drugs.
 - (5) 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.
 - C. 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.
14. 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.
15. The defendant has served at total of 114 days of jail time or equivalent before this resentencing, consisting of: (a) 1 day before the original sentencing, (b) 9 days additional days pursuant to paragraph 17A of the May 14, 2001, order of probation, (c) 16 days after detainer for violation of probation, and, (d) 88 days upon commitment to NDCS for evaluation.
16. Regarding Intensive Supervised Probation:
 - A. Serve 75 days on electronic monitoring.
 - B. Pay for electronic monitoring equipment if damaged or lost.
 - C. Agree to abide by, and thereafter comply with, all ISP program regulations, copies of which are attached to and made a part of this order;

- D. During and following the period of electronic monitoring, abide by the curfew required by the ISP program regulations at the highest level required by the regulations. The probation officer may reduce the curfew level at any time during the term of probation.
 - E. Pay to the clerk of the sentencing court the electronic monitoring fee of \$9.00 per day for a total of \$675.00 (included in installment payments).
17. Have no contact with Shane Dempsey.
18. For the first 66 weeks of the term of probation after the completion of electronic monitoring, commencing with the first calendar week after completion of electronic monitoring, the defendant shall perform 45 hours per week of community service.
- A. However, the defendant shall receive credit against the community service requirement of 1 hour or fractional share thereof for each 1 hour or fractional share thereof of gainful employment, including sick time hours, vacation hours, or other hours paid by the defendant's employer(s).
 - B. The requirement shall be implemented by each calendar week. Any deficit in a calendar week shall be made up within the next three subsequent calendar weeks. However, no surplus may be carried forward. The defendant shall provide copies of his pay stubs to the probation officer at least monthly to verify any credit for employment.
 - C. Within 10 days after 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.
19. Pay to the clerk of the sentencing court the amount of \$150.00, less \$50.00 paid thereon during the original term of probation, representing partial reimbursement of the cost of imprisonment for 10 days in the Holt County Jail at \$15.00 per day, for disbursement to Holt County.
20. Unless the defendant has already done so during the original term of probation, the defendant shall apologize in person to Richard Galyen, the proprietor of Galyen Auto Sales, the victim of the crime, within 30 days after the commencement of probation; and the defendant shall notify written verification to the probation officer within 10 days thereafter that the apology has been accomplished. If the victim or representative shall request the apology to be furnished in writing or shall request that there be no personal contact with the defendant, the apology shall be in writing and not in person.
21. The defendant shall pay to the clerk of the sentencing court, for disbursement to Galyen Auto Sales, the victim of the crime, restitution: (a) in the amount of \$1,951.03 on Count No. 1, (b) in the amount of \$1,221.57 on Count No. 2, and, (c) in the amount of 545.93 for the conduct formerly charged in Count No. 3 and effectively dismissed by amendment of the Information. The defendant shall receive a credit against the amount thereof, up to 50% of the total amount, for amounts actually paid by any other person pursuant to a similar order for restitution with regard to such

amounts. The amount of such credit shall be entered by the court clerk upon the certification of the probation officer.

22. Pay to the clerk of the sentencing court the additional costs of prosecution taxed upon violation of probation in the amount of \$50.86 (included in installment payments). The defendant's payments on the original probation order have satisfied the original court costs.
23. 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 \$450.00, less \$54.50 credit for amounts paid thereon during the original probation (included in installment payments).
24. 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 one year from the commencement of probation.
 - 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.
25. In addition to the curfew requirement of Intensive Supervision Probation, the defendant shall maintain a curfew between the hours of 11:00 P.M. and 5:00 A.M., and shall not leave his residence and its curtilege during such hours, except for employment purposes approved by the probation officer or except upon special written permission of the probation officer.
26. 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