

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

Case No. CR01-35

vs.

JUDGMENT AND SENTENCE

GEORGE HARLEN DURYEA,
Defendant.

HEARING DATE: April 5, 2002.

APPEARANCES:

For plaintiff: David M. Streich, Special Cherry County Attorney.
For defendant: defendant with counsel, Dana Hanna.

CHARGES: Count 1: Assault in the Third Degree; § 28-310(1)(b); Class I misd.
Count 2: Assault in the Third Degree; § 28-310(1)(b); Class I misd.
Count 3: Second Degree Criminal Trespass; § 28-521(1); Class III misd.

PROCEEDINGS:

Prior Proceedings: 9 reviewed by court;
9 no motions;
9 motion for _____ considered,
9 no evidence, 9 evidence for defendant, 9 evidence for plaintiff,
argument for defendant: 9 heard 9 waived,
argument for plaintiff: 9 heard 9 waived,
motion is 9 denied 9 granted, further relief _____

Restitution Hrg: 9 plaintiff previously waived restitution.
Presentence: 9 presentence report disclosed to defendant
9 defendant has reviewed report
9 defendant has not reviewed report, granted add'l time, recess taken
9 defendant has not reviewed report, waives further review
defendant's objections, additions, corrections: 9 none 9 stated, ruling
on record
plaintiff's objections, additions, corrections: 9 none 9 stated, ruling on
record

Evidence: plaintiff: 9 has no evidence 9 adduces evidence on sentencing
defendant: 9 has no evidence 9 adduces evidence on sentencing

Arguments: argument of plaintiff's counsel is: 9 heard 9 waived
argument of defendant's counsel is: 9 heard 9 waived

Allocution: upon inquiry by Court, defendant:
9 makes no statement 9 exercises right of allocution

FINDINGS: 9 stated on record 9 not specifically stated

SENTENCE: IT IS THE JUDGMENT AND SENTENCE OF THE COURT that the

defendant is sentenced:

- On Count No. 1:
- 9 to imprisonment and committed to the Cherry County Jail for a period of 88 days, with no credit due for time served, because none was served on this case before sentencing;
 - 9 to pay, to the clerk of this court, a fine of \$ 500.00, to be paid in monthly installments of \$ 50.00 commencing on the first day of the month following release from imprisonment and on the first day of each month thereafter until paid;
 - 9 to pay court costs of \$ _____ to the clerk of this court, to be paid within 180 days from defendant's release from imprisonment.

- On Count No. 2:
- 9 to imprisonment and committed to the Cherry County Jail for a period of 88 days, with no credit due for time served, because none was served on this case before sentencing, to be served concurrently with the sentence(s) imposed on Count(s) No(s). 1 and 3 herein.

- On Count No. 3:
- 9 to imprisonment and committed to the Cherry County Jail for a period of 88 days, with no credit due for time served, because none was served on this case before sentencing, to be served concurrently with the sentence(s) imposed on Count(s) No(s). 1 and 2 herein.

- Remand/
Commitment:
- 9 It is therefore ordered that the defendant be remanded to the custody of the Sheriff of Cherry County, Nebraska, for execution of sentence, and commitment is hereby ordered accordingly and shall be immediately issued by the court clerk under seal of this court.

- Further App.:
- 9 It is further ordered that in the event the defendant shall fail to pay any fine or costs as ordered above, the defendant shall appear at the first regular session of this court after the expiration of time for payment thereof, and show cause, if any there be, why the defendant should not be held in contempt of court and punished for failure to comply therewith.

- Good Time:
- 9 As required by law, the court advised the defendant on the record of the time required to be served on the sentence, assuming no good time for which the defendant is eligible is lost, before attaining mandatory release

- Bond:
- After deduction of any statutory fees, the defendant's bond:
- 9 shall be released upon defendant's acceptance in writing of terms and conditions of probation.
 - 9 is hereby released, discharged, and any surety thereon exonerated.
 - 9 was previously forfeited.

Stay:

Upon defendant's motion, and after consideration of any objections thereto and arguments thereon, the:

- 9 request for stay of execution is denied.
- 9 execution of sentence is stayed until _____, 20____, at _____ .M., at which time the defendant shall appear and surrender to the said sheriff for execution of sentence, and bond is continued to secure such appearance and surrender.
- 9 the execution of sentence is stayed, upon verbal notice of intention to appeal, until the first to occur: (1) the expiration of time for appeal if no appeal is timely filed and perfected, or, (2) entry of judgment upon the mandate of the appellate court if appeal is timely filed and perfected. Upon expiration of stay, commitment shall issue in accordance with the final judgment and the defendant shall appear and surrender to the said county sheriff for execution of sentence.
- 9 Upon any failure to appear and surrender, upon appropriate affidavit and motion, the defendant shall be subject to: (1) forfeiting bond, (2) prosecution for the separate crime of Failure to Appear, and/or (3) arrest upon bench warrant.

Other:

9 _____.

Signed at **Valentine**, Nebraska, on **March 26, 2002**;
DEEMED ENTERED upon file stamp date by court clerk.

BY THE COURT:

If checked, the court clerk shall:

- 9 Mail a copy of this judgment to all counsel of record and any pro se parties.
Done on _____, 20____ by _____.
- 9 Immediately transcribe trial docket entry dictated in open court.
Done on _____, 20____ by _____.
- 9 Deliver certified copy of judgment and original commitment to sheriff for execution of sentence.
Done on _____, 20____ by _____.
- 9 Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20____ by _____.
- 9 Enter judgment on the judgment record.
Done on _____, 20____ by _____.

William B. Cassel
District Judge

Mailed to: