

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**SHANE DEMPSEY,**  
Defendant.

Case No. CR01-7

**JUDGMENT OF INTENSIVE  
SUPERVISION PROBATION**

**DATE OF SENTENCING:** April 22, 2002.

**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:

- Count No. 1, Burglary, a Class III felony;
- Count No. 3, Criminal Mischief, a Class IV felony;
- Count No. 4, Unauthorized Use of a Propelled Vehicle, a Class III misdemeanor;
- Count No. 5, Criminal Mischief, a Class II misdemeanor;
- Count No. 7, Willful Reckless Driving, a Class III misdemeanor; and,
- Count No. 8, Failure to Report Accident, a Class IV misdemeanor,

on September 20, 2001. 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 concurrent terms of Intensive Supervision Probation for a period of five years each on Counts Nos. 1 and 3, from and after the commencement of probation, and to concurrent terms of Intensive Supervision Probation for a period of two years each on Counts Nos. 4, 5, 7, and 8, to be commenced three years after the commencement of probation on Counts Nos. 1 and 3 and served concurrently with the last two years of probation on said Counts Nos. 1 and 3, all of which terms of intensive supervision probation shall be under the supervision of a State Probation Officer. The terms of probation on Counts Nos. 1 and 3 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 judgment 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 judgment. 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. Obtain and maintain suitable employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
6. 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.
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 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 judgment 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 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. Not use or possess any controlled substance except when prescribed by a licensed physician.
  - C. 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.
  - D. Pay to the clerk of the sentencing court \$5.00 per month for chemical testing while on probation, the first installment to be paid on the first day of the month following the discharge from Work Ethic Camp and a like amount on the first day of each month thereafter during the term of probation. If additional testing is required by this judgment 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. Obtain and complete a referral to an appropriate Mental Health Center approved by the probation officer for outpatient individual counseling. All costs shall be paid by the probationer. He shall submit the name, address, and telephone number of an acceptable center within 120 days after commencement of probation, and obtain approval of the probation officer of the proposed center within 30 days thereafter. The probation officer may extend the times allowed for such submission and/or approval.
15. Obtain a GED within 18 months from the commencement of probation, unless the defendant sooner graduates from high school and obtains a valid high school diploma.
16. Pay for the costs of any tests, evaluations, treatments, counseling, programs, classes, courses, meetings, or exercises required under the terms of this judgment or as required by the probation officer as a part of the administration of the terms of probation.
17. Regarding Work Ethic Camp:
  - A. Enter the Work Ethic Camp at McCook, Nebraska, on or before Monday, April 29, 2002.

- B. Comply with all program facility rules.
  - C. Satisfactorily complete the program for a period not to exceed 180 days.
  - D. Follow all program after-care recommendations as directed during the course of the probationary sentence within the community.
  - E. Pending admission into the Work Ethic Camp, maintain residency as approved by the probation officer under electronic monitoring for a period of 120 days at a cost of \$5.00 per day. The period of electronic monitoring shall be suspended upon admission into the Work Ethic Camp.
  - F. Upon successful completion of Work Ethic Camp, immediately return to to the residence approved by the probation officer and resume electronic monitoring for the balance of the 120 days at a cost of \$5.00 per day.
18. Regarding Intensive Supervised Probation:
- A. Serve 120 days on electronic monitoring as specified above.
  - 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 judgment;
  - 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 or the curfew separately required by condition of probation set forth below, whichever is more restrictive. The probation officer may reduce the curfew level at any time during the term of probation, but may not reduce the curfew level to be less restrictive than the curfew requirement set forth below.
  - E. Pay to the clerk of the sentencing court the electronic monitoring fee of \$5.00 per day for a total of \$600.00, to be paid monthly by the first day of the following month and on the first day of each month thereafter.
19. All credit for jail time served before sentencing was allowed in Case No. CR01-8 and there is no additional credit for time served in this case.
20. The defendant shall apologize in person to a designated representative of William Krotter Co. and to Dale Neumiller and David Wirges, the victims of the crimes, in the presence of the probation officer, at one or more times and places to be designed by the probation officer before admission to or after release from the Work Ethic Camp. If the particular 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. Pursuant to Attachment "A" attached hereto and incorporated by reference, the defendant shall pay to the clerk of the sentencing court:

- A. \$708.35 restitution on Count No. 1 for disbursement to William Krotter Co., to be paid in weekly installments of \$3.03 commencing on Friday, September 6, 2002, and on the Friday of each week thereafter until paid, and in any event, to be paid in full within 59 months after the date of judgment or defendant's final release date from imprisonment, whichever is later;
  - B. \$487.88 restitution on Count No. 3 for disbursement to Motors Insurance Co., to be paid in weekly installments of \$2.08 commencing on Friday, September 6, 2002, and on the Friday of each week thereafter until paid, and in any event, to be paid in full within 59 months after the date of judgment or defendant's final release date from imprisonment, whichever is later;
  - C. \$377.24 restitution on Count No. 4 for disbursement to Motors Insurance Co., to be paid in weekly installments of \$1.61 commencing on Friday, September 6, 2002, and on the Friday of each week thereafter until paid, and in any event, to be paid in full within 59 months after the date of judgment or defendant's final release date from imprisonment, whichever is later;
  - D. \$1,320.43 and \$69.50 on Count No. 5 for disbursement to William Krotter Co. and Motors Insurance Co. respectively, to be paid in weekly installments of \$5.64 and \$0.30 respectively commencing on Friday, September 6, 2002, and on the Friday of each week thereafter until paid, and in any event, to be paid in full within 59 months after the date of judgment or defendant's final release date from imprisonment, whichever is later; and,
  - E. \$138.60, \$231.00, and \$785.40 on Count No. 7 for disbursement to Dale Neumiller, State Farm Insurance, and David Wirges respectively, to be paid in weekly installments of \$0.59, \$0.99, and \$3.36 respectively commencing on Friday, September 6, 2002, and on the Friday of each week thereafter until paid, and in any event, to be paid in full within 59 months after the date of judgment or defendant's final release date from imprisonment, whichever is later.
  - F. All payments received by the clerk for restitution in Cases Nos. CR01-7 and CR01-8 shall be applied to the restitution amounts ordered in both cases in the percentages specified in the column "OVERALL %" in Attachment "A" and shall be disbursed at least quarterly.
22. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$\_\_\_\_\_, to be paid within one year after commencement of probation.
23. In addition to any order of revocation, suspension, or limited driving imposed by law, the defendant's motor vehicle operator's license shall be impounded and the driving privileges of the defendant shall be 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 impoundment shall be for a period of four (4) years from commencement of probation.
  - C. 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.
  - D. 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.
24. For a period of four years from the commencement of probation, the defendant shall maintain a curfew and shall not be present outside of the defendant's home and its curtilage between the hours of 11:00 PM and 5:00 AM, except for emergencies, work-related activities approved in advance in writing by the probation officer, or other special family, church, or community activities approved in advance in writing by the probation officer.
25. The defendant shall, within 20 days after discharge from the Work Ethic Camp, 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 20 column inches;
  - C. With the form and content to be approved in advance by the probation officer, and 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 of burglary and other charges;
    - (4) a statement that the defendant has been placed on probation;
    - (5) any public apology the defendant desires to include that does not dispute the essential nature of the conviction or the convicted offense;
    - (6) a statement that the defendant's probation prohibits the defendant from:
      - (a) using or possessing alcohol;
      - (b) 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;

- (c) violating curfew by being outside of the defendant's residence and its curtilage between the hours of 11:00 P.M. and 5:00 A.M., except for approved employment or special occasions;
  - (7) the name, address, and telephone number(s) of the probation officer(s) having supervisory responsibility for the defendant;
  - (8) 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,
  - (9) 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.

**IT IS FURTHER ORDERED AND ADJUDGED** 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 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 judgment on \_\_\_\_\_, 2002.

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Defendant