

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

Case No. CR01-8

vs.

JUDGMENT AND SENTENCE

SHANE DEMPSEY,
Defendant.

HEARING DATE: April 22, 2002.

APPEARANCES:

For plaintiff: Thomas P. Herzog, Holt County Attorney.
For defendant: defendant with counsel, Rodney W. Smith, Holt County Public Defender.

CHARGES:

Count 1: Theft By Unlawful Taking; § 28-511; Class II misd.
Count 2: Unauthorized Use of a Propelled Vehicle; § 28-516; Class III misd.
Count 3: Failure to Report Accident; § 60-696; Class IV misd.
Count 4: Reckless Driving; § 60-6,213; Class III misd.
Count 6: Criminal Mischief; § 28-519; Class II misd.

PROCEEDINGS:

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

Restitution Hrg: previous restitution hearing held.
 additional restitution hearing held:
additional evidence adduced for plaintiff defendant neither,
plaintiff's argument: heard waived,
defendant's argument: heard waived. See Attachment "A."

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

Evidence: plaintiff: has no evidence adduces evidence on sentencing
defendant: has no evidence 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 Holt County Jail for a period of 158 days with 109 days (21 jail and 88 evaluation) credit for time served before sentencing, to be served concurrently with all other sentences in this Case No. CR01-8, but to be served consecutively to any other sentence to imprisonment;

9 to pay \$29.09 restitution to the clerk of this court, for disbursement to Galyen Auto Sales, to be paid in weekly installments of \$0.13 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;

9 to pay court costs of \$_____ to the clerk of this court within one year after the date this judgment becomes final.

On Count No. 2: 9 to imprisonment and committed to the Holt County Jail for a period of 90 days with 109 days (21 jail and 88 evaluation) credit for time served before sentencing, to be served concurrently with all other sentences in this Case No. CR01-8, but to be served consecutively to any other sentence to imprisonment;

9 to pay \$9,786.41 and \$407.77 restitution to the clerk of this court, for disbursement to EMC Insurance Co. and Galyen Auto Sales respectively, to be paid in weekly installments of \$41.82 and 1.74 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.

On Count No. 3: 9 to pay, to the clerk of this court, a fine of \$100.00, to be paid on or before two years from the date this judgment becomes final.

On Count No. 4: 9 to imprisonment and committed to the Holt County Jail for a period of 90 days with 109 days (21 jail and 88 evaluation) credit for time served before sentencing, to be served concurrently with all other sentences in this Case No. CR01-8, but to be served consecutively to any other sentence to imprisonment;

9 to pay the restitution ordered in Count No. 2 above.

On Count No. 6: 9 to imprisonment and committed to the Holt County Jail for a period of 158 days with 109 days (21 jail and 88 evaluation) credit for time served before sentencing, to be served concurrently with all other sentences in this Case No. CR01-8, but to be served consecutively to any other sentence to imprisonment;

9 to pay \$72.73 restitution to the clerk of this court, for disbursement to Galyen Auto Sales, to be paid in weekly installments of \$0.31 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.

Remand/Commitment: 9 Because the defendant's sentence to imprisonment after reduction for good time credit is equal to or less than the amount of credit for time served, no further commitment is appropriate.

Further App.: 9 It is further ordered that in the event the defendant shall fail to pay any fine, costs, or restitution 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.

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 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 **O'Neill**, Nebraska, on **April 22, 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: