

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**ROBERT JON CLIFFORD,**  
Defendant.

Case No. CR01-39

**JUDGMENT OF PROBATION**

**DATE OF SENTENCING:** April 29, 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, Driving Under the Influence of Drugs, 1<sup>st</sup> offense, and, Count No. 2, Possession of a Controlled Substance, a Class IV felony, on February 25, 2002. 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 concurrent terms of Probation on each count, for a period of two years on Count No. 1, and for a period of four years on Count No. 2, from and after the commencement of probation under the supervision of a State Probation Officer. The terms 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 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. Obtain permission from this court or the probation officer before any change of address or employment.
8. 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.
9. Not leave the State of Nebraska without written permission of the court or the probation officer.
10. 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.
11. 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.
12. 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 due on the date of commencement of probation and a like amount on the same date of each consecutive month thereafter during 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 within 30 days after such certification is mailed to defendant.
- E. Attend mandatory drug abuse treatment and counseling conducted by one of the community mental health facilities authorized by Chapter 71, article 50, of the Nebraska Revised Statutes, or other licensed drug treatment facility. (§ 28-416(14)) Commence such treatment and counseling within 20 days after the commencement of probation, and successfully complete such treatment and counseling in accordance with the program requirements.
- F. If directed by the probation officer in writing at any time during the term of probation, initiate in-house drug and/or alcoholism treatment at a facility approved by the probation officer within seven (7) days after being so directed, and complete the required program. Complete any after-care program specified by the facility approved by the probation officer.
- G. Attend at least one meeting per week of Narcotics Anonymous.
- H. Within 30 days after commencement of probation, obtain an NA sponsor and notify the probation officer in writing of the identity of such sponsor. Notify the probation officer in writing within 10 days after the effective date of any change in sponsor.
- 13. 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, before being released from probation.
- 14. Pay to the clerk of the sentencing court a fine in the amount of \$400.00, to be paid in installments at the rate of \$20.00 per month, the first installment due on the date of commencement of probation and a like installment on the same date of each consecutive month thereafter until paid.
- 15. The defendant is sentenced to 90 days, less 2 days credit for time served before sentencing, in the Holt County Jail, to be served on consecutive days commencing on April 29, 2004, at 10:00 a.m., as follows:
  - A. Upon request of the probation officer, the court may advance the date for service of this portion of the jail sentence at any time without further hearing.

- B. This portion of the jail sentence may be waived by the court upon the recommendation of the probation officer.
  - C. This portion of the sentence is subject to reduction under Neb. Rev. Stat. § 47-502. Assuming no good time for which defendant is eligible is lost, the defendant must serve 62 days, less 2 days credit for time served before sentencing, on this portion of the sentence before mandatory release.
  - D. Unless advanced or waived, commitment shall issue by the clerk on or before April 25, 2004, for execution of sentence by the sheriff. If advanced or waived, the clerk shall issue commitment as directed by such order. If advanced, the clerk shall mail a copy of the order advancing sentence to the defendant's last known address by regular mail.
  - E. Unless the sentence is waived, the defendant shall appear and surrender to the Holt County Sheriff at the time required by this judgment or by the order advancing date of 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.
- 16. Pay to the clerk of the sentencing court the amount of \$30.00, representing partial reimbursement of the cost of imprisonment for 2 days in the Holt County Jail at \$15.00 per day, for disbursement to Holt County, to be paid in full within six months from the date of commencement of probation.
  - 17. No restitution was sought by the plaintiff.
  - 18. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$\_\_\_\_\_, to be paid in full within six months from the date of commencement of probation.
  - 19. 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 \$400.00, payable in installments at the rate of \$10.00 per month. The first installment shall be paid on the date of commencement of probation, and a like installment on the same date of each consecutive month thereafter until paid in full.
  - 20. The defendant shall surrender defendant's motor vehicle operator's license(s) to the probation officer for impoundment immediately, and shall not operate a motor vehicle for any purpose for a period of 60 days beginning on the date of commencement of probation.
  - 21. After the period of no driving set forth above, and 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,

- (5) special occasions approved in advance in writing by the probation officer, and,
    - (6) emergencies.
  - B. This period of impoundment shall be for a period of 16 months from date of end of the period of impoundment provided in the preceding paragraph.
  - C. The probation officer may terminate this period of impoundment 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 during the period thereof.
  - 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.
22. If the defendant ceases to reside at his parents' residence at St. Edward, Nebraska, and returns to any county in the Eighth Judicial District, the defendant shall, within 20 days after resuming residence in the Eighth Judicial District, cause a display advertisement to be published:
- A. In the generally recognized local newspaper in general circulation in his county of residence 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 pleaded guilty to the charges of driving under the influence of drugs and possession of a controlled substance;
    - (4) a statement that the defendant has been placed on probation, including 90 days in jail, a \$400.00 fine, and mandatory drug treatment and counseling;
    - (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;
    - (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:

\_\_\_\_\_  
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.

\_\_\_\_\_  
Defendant