

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

DARREL H. JOHNSON,
Defendant.

Case No. CR02-2

JUDGMENT OF PROBATION

DATE OF SENTENCING: May 3, 2002.

APPEARANCES:

For plaintiff: Eric A. Scott, Cherry County Attorney.

For defendant: James H. Quigley with defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Criminal Attempt of Possession of a Controlled Substance, a Class I misdemeanor, on February 22, 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 Probation for a period of two years 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 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. 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.
11. 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 date of commencement of probation and a like amount on the first date of each consecutive month thereafter until paid in full. 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.
 - 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.
- 12. 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.
 - 13. Pay to the clerk of the sentencing court a fine in the amount of \$500.00, payable in installments at the rate of \$25.00 per month commencing on the date of commencement of probation and like installment on the same date of each consecutive month thereafter until paid in full.
 - 14. There was/were 13 day(s) jail time served before sentencing.
 - 15. No restitution was sought by the plaintiff.
 - 16. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid within six months after the commencement of probation.
 - 17. Pay to the clerk of the sentencing court, for disbursement to Cherry County for partial reimbursement of the cost of defense counsel, the sum of \$200.00, payable in installments at the rate of \$10.00 per month with the first installment due on the date of commencement of probation and like installment on the same date of each consecutive month thereafter until paid in full.
 - 18. 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) emergencies, and,
 - (6) special occasions approved by the probation officer in advance in writing.
 - B. This period of impoundment shall be for a period of one (1) years from date of sentencing.

- 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.
19. The defendant shall, within 20 days after commencement of the probationary term, cause a display advertisement to be published:
- A. In the Valentine Midland News, or other newspaper in general circulation in Valentine, 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 pleaded guilty to the misdemeanor charge of Criminal Attempt of Possession of a Controlled Substance;
 - (4) a statement that the defendant has been placed on probation, including payment of \$500 fine, costs, and \$200 attorney reimbursement, 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, approved special occasions, 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