

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

DALE E. PAXTON,
Defendant.

Case No. CR02-6

JUDGMENT OF PROBATION

DATE OF SENTENCING: July 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 Criminal Attempt of Assault in the First Degree, a Class IIIA felony, on May 14, 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 five 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. 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.
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 shall be due on the date of commencement of probation, and a like amount on the first day of each consecutive month thereafter. 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.
13. Continue outpatient counseling concentrating on the area of anger control, and shall not discontinue counseling or change counselors without the written permission of the probation officer. All costs shall be paid by the probationer. The defendant shall provide the probation officer with written consent for release of periodic reports by the counselor to verify defendant's continuation of and attendance at counseling sessions and to provide detailed information on treatment progress.
14. 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.
15. There was no jail time served before sentencing.
16. The defendant is sentenced to 12 days in the Holt County Jail, to be served on the second weekend of each month for the next 6 consecutive months, as follows:
- A. For purposes of this judgment, the second weekend of the month shall be deemed to commence on the second Friday of the month at 7:00 p.m. and end on the following Sunday at 7:00 p.m. Assuming no delay in commencement of probation, the first such period shall commence on Friday, August 9, 2002, at 7:00 p.m. and end on Sunday, August 11, 2002, at 7:00 p.m.

- B. The defendant shall appear and surrender to the sheriff for execution of sentence at the time for commencement of each portion of the 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.
 - C. Commitment to the Holt County Jail shall issue as soon as possible by the clerk of the court, under seal, in form to be submitted by the county attorney within 7 days.
 - D. Because the sentence does not provide for any period of imprisonment for 14 consecutive days, there is no reduction in sentence required under Neb. Rev. Stat. § 47-502.
- 17. Pay to the clerk of the sentencing court the amount of \$15.00 per day for each day of imprisonment, totaling \$180.00, representing partial reimbursement of the cost of imprisonment, for disbursement to Holt County. The defendant shall pay \$30.00 to the clerk (or to the Sheriff for delivery to the clerk) prior to the beginning of each weekend of imprisonment.
 - 18. The defendant shall pay to the clerk of the sentencing court, for disbursement to Bob Lockmon and EMC Insurance Companies, the victim of the crime, restitution in the amount of \$5,000.00, to be paid in monthly installments of \$100.00 each, the first installment due on the first day of the month following the date of commencement of probation, and a like installment on the first day of each consecutive month thereafter.
 - 19. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid within one year after date of commencement of probation.
 - 20. 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 \$300.00, to be paid within one year after date of commencement of probation.

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