

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

**THE STATE OF NEBRASKA,**

Plaintiff,

vs.

**BOBBY GENE DEBOLT,**

Defendant.

Case No. CR02-3

**JOURNAL ENTRY ON TRIAL**

**DATE OF TRIAL:** October 22-23, 2002.

**APPEARANCES:**

For plaintiff: David M. Streich, Brown County Attorney.  
For defendant: Bill Quigley with defendant.

**SUBJECT:** Jury Trial.

**PROCEEDINGS:**

Tuesday, October 22, 2002:

The clerk displayed the juror orientation video. After introductory comments, the court administered the examination oath to the jury panel. The names of 24 prospective jurors and three prospective alternate jurors were duly drawn by the clerk and voir dire examination conducted by the court. During the court's examination, the court admonished the panel and recessed the trial for the mid-morning recess.

Following the recess, the court resumed and concluded the examination. During the court's examination, the court excused thirteen prospective jurors and one prospective alternate juror for cause, several of whom were only tentatively excused because of personal concerns. The clerk drew replacement jurors and the court examined the replacement jurors. Counsel for plaintiff conducted voir dire examination. The plaintiff passed the panel for cause. Counsel for defendant conducted voir dire examination. The defendant passed the panel for cause. Counsel for plaintiff and defendant alternately

exercised peremptory challenges to the panel of 24 prospective jurors, and the trial jury of 12 persons, consisting of:

[deleted]

was thereby selected. The court administered the trial oath to the trial jury. Both counsel waived additional voir dire examination of the prospective alternate jurors. Counsel for plaintiff and defendant alternately exercised peremptory challenges, and the alternate juror, [deleted], was thereby selected. The court administered the trial oath to the alternate juror. The court admonished the trial jury and the alternate juror, discharged the remainder of the jury panel, and recessed the trial for lunch.

Following the lunch recess, the court read preliminary instructions to the jury. Counsel for plaintiff and counsel for defendant presented opening statements.

The plaintiff adduced evidence. Reagan Wiebelhaus testified upon oath. At the conclusion of direct examination, the court admonished the jury and declared a mid-afternoon recess. In the absence of the jury, but with both counsel and the defendant present, the plaintiff verbally moved to designate Reagan Wiebelhaus as a person whose presence is essential to the presentation of the plaintiff's cause pursuant to Rule 615(3). Counsel presented arguments. The court granted the motion over the defendant's objection. The recess continued.

Following the recess, counsel resumed and concluded the examination. Galen Svoboda testified upon oath. At the plaintiff's request, the court admonished the jury and declared a brief recess. Following the recess in the absence of the jury, after attending to certain procedural matters, the plaintiff rested. The defendant moved for directed verdict. Both counsel presented arguments on the motion. The court denied the motion. The defendant reported his intention to rest without additional evidence. The jury returned, and the plaintiff formally rested in the presence of the jury. The defendant rested without additional evidence. The court admonished the jury, and excused the jury for the night, to return on Wednesday, October 23, 2002, at 9:00 a.m.

The court conducted an informal instruction conference in chambers with counsel. Thereafter the court conducted a formal instruction conference in the courtroom with both counsel and the defendant present. Neither party made any motions at the close of all of the evidence. The court provided the parties with proposed Instructions Nos. 1 through 11, inclusive, and the proposed verdict form. Neither party objected to any instruction. Neither party requested any additional instructions. After consultation and without objection, the court established time limits for closing argument of 30 minutes per side. The court advised the defendant of the requirement that he remain present in the courtroom wing of the courthouse during all jury deliberations unless in jail. The court recessed the trial until Wednesday, October 23, 2002, at 9:00 a.m.

Wednesday, October 23, 2002:

With both counsel and the defendant present, the jury returned, and counsel for plaintiff and counsel for defendant presented closing arguments. The court read the written instructions to the jury and submitted the cause at 10:27 a.m. The court discharged the alternate juror. The court directed the bailiff to conduct the jury to the jury room to commence deliberations. The trial was recessed.

At 1:54 p.m., with both counsel and the defendant personally present, the jury returned and reported that it had reached a verdict. The court reviewed the signed verdict form. The clerk duly filed the signed verdict, and read the verdict aloud in open court, wherein the jury found the defendant guilty of the lesser-included crime of Possession of a Controlled Substance. Upon inquiry by the court, all 12 jurors responded by show of hands that it was their unanimous verdict. Both counsel waived further polling of the jury. The court accepted the verdict, and adjudged the defendant as stated below in accordance therewith. The jury was discharged with the thanks of the court.

**ORDER:**

IT IS THEREFORE ORDERED that:

1. Pursuant to verdict, the defendant, Bobby Gene Debolt, is adjudged guilty on Count No. 1 of the lesser-included crime of Possession of a Controlled Substance, a Class IV felony.

2. Sentencing is deferred and set for **Friday, December 20, 2002, at 9:05 a.m.**, or as soon thereafter as the same may be heard.

3. A presentence investigation is ordered, and the clerk is directed to notify the probation officer.

4. The defendant is remanded to custody pursuant to another matter. The defendant remains subject to release on the bond previously posted in this case, which bond is continued.

5. The jury is discharged.

Signed at **Ainsworth**, Nebraska, on **October 23, 2002**;  
DEEMED ENTERED upon file stamp date by court clerk.  
If checked, the court clerk shall:

Mail a copy of this order to all counsel of record and any pro se parties.  
Done on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

(Trial docket entry dictated.)

**BY THE COURT:**

\_\_\_\_\_  
**William B. Cassel**  
**District Judge**

Mailed to: