

IN THE DISTRICT COURT OF BROWN COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

KIM D. PIKE,
Defendant.

Case No. CR02-4

JUDGMENT OF PROBATION

DATE OF SENTENCING: October 25, 2002.

APPEARANCES:

For plaintiff: David M. Streich, Brown County Attorney.
For defendant: John P. Heitz with defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Possession of a Controlled Substance, a Class IV felony, on August 21, 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 three 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. Not leave the State of Nebraska without written permission of the court or the probation officer.
11. 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.

12. 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.
13. Concerning alcohol and drugs:
 - A. Not use or possess any controlled substance except when prescribed by a licensed physician.
 - B. 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.
 - C. Pay to the clerk of the sentencing court \$5.00 per month for chemical testing while on probation. The first installment shall be paid on the date of commencement of probation and a like installment on the first day 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.
 - D. 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))
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. The defendant is sentenced to 61 days, less 1 day credit for time served before sentencing, in the Brown County Jail, to be served as follows:

- A. 11 days, less 1 day credit for time served before sentencing, to be served on consecutive days commencing 40 days after the commencement of probation, subject to the following:
 - (1) This portion of the jail sentence is not subject to waiver.
 - (2) Because this portion of 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.
 - (3) Commitment to the Brown County Jail shall issue prior to the date of commencement of the jail term by the clerk of the court, under seal, in form to be submitted by the county attorney as soon as possible.
 - (4) The defendant shall appear and surrender to the sheriff for execution of sentence at the time for commencement of this 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.

 - B. 50 consecutive days to be served commencing on January 2, 2004, as follows:
 - (1) This portion of the jail sentence may be waived by the court upon the recommendation of the probation officer.
 - (2) 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 36 days on this portion of the sentence before mandatory release.
 - (3) Unless this portion of the sentence is waived, commitment shall issue by the clerk on or before December 31, 2003, for execution of sentence by the sheriff.
 - (4) Unless the sentence is waived, the defendant shall appear and surrender to the Brown County Sheriff at the time required by this judgment. 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. No restitution was sought by the plaintiff.
17. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid within one year after commencement of probation.

18. Pay to the clerk of the sentencing court, for disbursement to Brown County for partial reimbursement of the cost of defense counsel, the sum of \$500.00, to be paid in 25 monthly installments of \$20.00 each, the first installment to be paid by the first day of the first full calendar month after commencement of probation, and the final installment to be paid by the first day of the 25th full calendar month after 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