

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**ANTHONY TIMMERMAN,**  
Defendant.

Case No. CR01-30

**JUDGMENT OF INTENSIVE  
SUPERVISION PROBATION**

**DATE OF SENTENCING:** November 18, 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, Burglary, a Class III felony on October 15, 2001, sentenced to probation on December 17, 2001, and on September 30, 2002, adjudged to have violated probation. Allocution had: defendant showed no sufficient reason why sentence should not be pronounced.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Order of Probation entered on December 17, 2001, is revoked, and the the defendant is resented as upon the original conviction to Intensive Supervision Probation for a period of four (4) 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. Not have any contact with Billy D. Gardner, defendant in companion case No. CR01-32.
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. With regard to amounts of money ordered paid by defendant under this order, such amounts shall be paid in compliance with a reasonable installment payment schedule at the rate of \$100.00 per month, the first installment due on the first day of the month following the date of commencement of probation, and a like payment on the first day of each consecutive month thereafter until paid in full. The amounts received shall be applied by the clerk in the following order: first, to court costs taxed in paragraph 23 below; second, to chemical testing fees taxed in paragraph 14D below; third, to ISP electronic monitoring fees taxed in paragraph 17E below; fourth, to defense counsel reimbursement taxed in paragraph 24 below; fifth, to jail reimbursement taxed in paragraph 19 below; sixth, to restitution on Count No. 1; seventh, to restitution on dismissed Count No. 2; eighth, to restitution on dismissed Count No. 3; and, finally to any other amounts ordered herein.
6. Obtain and maintain suitable full-time employment of at least 32 hours per week, or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
7. 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.
8. [not used]

9. Obtain permission from this court or the probation officer before any change of address or employment.
10. 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.
11. Not leave the State of Nebraska without written permission of the court or the probation officer.
12. 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.
13. 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.
14. 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 \$240.00 (based upon \$5.00 per month) for chemical testing while on probation, less \$185.00 for such chemical testing paid in advance under the original probation order, or a balance of \$55.00. 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.

15. [not used]
16. 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.
17. Regarding Intensive Supervised Probation:
  - A. Serve 180 days, less 24 days credit for jail time served before resentencing, on electronic monitoring, after successful completion of the Work Ethic Camp.
  - B. Pay for electronic monitoring equipment if damaged or lost.
  - C. Agree to abide by, and thereafter comply with, all ISP program regulations, copies of which are attached to and made a part of this judgment;
  - D. During and following the period of electronic monitoring, abide by the curfew required by the ISP program regulations at the highest level required by the regulations. The probation officer may reduce the curfew level at any time during the term of probation.
  - E. Pay to the clerk of the sentencing court the electronic monitoring fee of \$5.00 per day for a total of \$780.00, to be in installments as above specified.
18. Regarding Work Ethic Camp:
  - A. Enter the Work Ethic Camp at McCook, Nebraska, immediately after sentencing.
  - B. Comply with all program facility rules.
  - C. Satisfactorily complete the program.
  - D. Follow all program after-care recommendations as directed during the course of the probationary sentence within the community.
  - E. Pending admission into the Work Ethic Camp, maintain residency as approved by the probation officer and abide by any curfew set by the probation officer.

- F. Upon successful completion of Work Ethic Camp, immediately return to to the residence approved by the probation officer and be placed on electronic monitoring as specified above.
19. Pay to the clerk of the sentencing court the amount of \$360.00, representing partial reimbursement of the cost of imprisonment for 24 days in the Holt County Jail at \$15.00 per day, for disbursement to Holt County. This paragraph replaces and supersedes the judgment for such amount entered in the previous probation order.
  20. The defendant has accomplished the apologies ordered in the prior probation order.
  21. The defendant shall pay to the clerk of the sentencing court restitution in the amounts of:
    - A. \$1,118.00, for disbursement to O'Neill Car Wash, the victim of the crime on Count No. 1;
    - B. \$801.36, for disbursement to Pepsi Co. and The City of O'Neill, Nebraska, d/b/a O'Neill Swimming Pool, the victims of the crime on Count No. 2, which was dismissed but for which restitution is ordered pursuant to the plea bargain; and,
    - C. \$1,211.06, for disbursement to Pepsi Co. and Gibson's Discount Store, the victims of the crime on Count No. 3, which was dismissed but for which restitution is ordered pursuant to the plea bargain.
  22. The defendant shall be entitled to a credit against the amounts ordered in the foregoing paragraph, up to a maximum of 50% of the total of such amounts, for any amounts actually paid upon restitution in Case No. CR01-32 by the defendant therein, Billy D. Gardner.
  23. The costs of \$93.00 taxed in the original probation order have been paid. Pay to the clerk of the sentencing court the additional costs of prosecution on the probation violation proceeding taxed in the amount of \$\_\_\_\_\_.
  24. 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 \$600.00, representing \$400.00 as originally ordered for the initial proceedings and \$200.00 for the probation violation proceedings, less a credit of \$272.00 paid during under the original probation order, leaving a balance of 328.00 remaining.
  25. 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, and,
    - (5) emergencies.
  - B. This period of impoundment shall be for a period of two (2) years from date of commencement of the new term of probation.
  - 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.
26. For a period of two years from the commencement of the new term probation, the defendant shall maintain a curfew and shall not be present outside of the defendant's home and its curtilage between the hours of 11:00 PM and 5:00 AM, except for emergencies, work-related activities approved in advance in writing by the probation officer, or other special family, church, or community activities approved in advance in writing by the probation officer. To the extent that the Intensive Supervision Probation also provides for a curfew, the more restrictive provision at any point in time shall be applicable.
27. The defendant previously caused a display advertisement to be published, and that publication shall suffice for this new term 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:

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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.

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Defendant