

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

THAD JUNGE,
Defendant.

Case No. CR02-24

JUDGMENT OF PROBATION

DATE OF SENTENCING: January 6, 2003.

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. 13, Violation of Harassment Protection Order, a Class II misdemeanor, Count No. 16, Driving Under the Influence, first offense, a Class W misdemeanor, and Count No. 20, Possession of a Controlled Substance, a Class IV felony, on August 26, 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 concurrent terms of Probation on Counts Nos. 13 and 16 for two years and on Count No. 20 for four years, all such terms to run concurrently 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. With regard to each amount ordered paid by the defendant, such amount 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 clerk shall apply receipts to: first, court costs; second, drug testing; third, fine; fourth, jail reimbursement; fifth, defense counsel reimbursement; and, finally, any other amounts required by judgment.
6. Obtain and maintain suitable employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment. If the probationer's self-employment proves insufficient to satisfy his obligations under this order, he shall obtain and maintain suitable employment by another.
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. 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.

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) (included in installment payments) for chemical testing while on probation. 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. (§ 28-416(14))
 - F. Complete the after-care program specified by the Seekers of Serenity as previously documented by the facility.
 - G. Attend at least two meetings per week of Alcoholics Anonymous or NA, and provide written verification of attendance to the probation officer by the 10th day of each calendar month regarding attendance for the preceding calendar month.
15. 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.
16. Pay to the clerk of the sentencing court a fine, pertaining to Count No. 16, in the amount of \$400.00 (included in installment payments).
17. The defendant is sentenced to 180 days, less 3 days credit for time served before sentencing, in the Holt County Jail, to be served on consecutive days commencing on Monday, January 13, 2003, at 9:00 a.m., as follows:
- A. The jail sentence is not subject to waiver. The defendant shall be eligible for work release between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, subject to the administrative regulations of the sheriff attached hereto and incorporated herein by reference.
 - B. 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 124 days, less 3 days credit for time served before sentencing, on the sentence before mandatory release.
 - 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 four days.
 - D. 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.

18. Pay to the clerk of the sentencing court the amount of \$1,860.00 (included in installment payments), representing partial reimbursement of the cost of imprisonment for 124 days in the Holt County Jail at \$15.00 per day, for disbursement to Holt County.
19. The defendant shall not have contact with, or attempt to contact, the victim of the crime on Count No. 13, [deleted], by any method or means, directly or indirectly.
20. No restitution was sought by the plaintiff.
21. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____ (included in installment payments).
22. 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 \$1,500.00 (included in installment payments).
23. Concerning Count No. 16, the defendant shall surrender defendant's motor vehicle operator's license(s) to the clerk of the sentencing court for impoundment prior to commencement of probation, and shall not operate a motor vehicle for any purpose for a period of 60 days from the date of commencement of probation.
24. After the period of impoundment specified in the previous paragraph, the driving privileges of the defendant are limited and the defendant's motor vehicle operator's license(s) shall continued under impoundment for an additional period of 240 days, as follows: the defendant shall not operate a motor vehicle except to drive directly between the place of residence and employment, during 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, and emergencies.
25. For a period of 12 months after completion of the jail sentence, the defendant shall maintain a curfew and shall not be present outside of the defendant's home and its curtilage between the hours of 10:00 p.m. and 5:00 a.m., 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.
26. The defendant shall, within 20 after the commencement of probation, cause a display advertisement to be published:
 - A. In the Holt County Independent, or other newspaper in general circulation in O'Neill, 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 charges of violation of harassment protection order, driving under the influence, and possession of a controlled substance;
 - (4) a statement that the defendant has been placed on probation, including 180 days in jail with work release;
 - (5) any public apology the defendant desires to include that does not dispute the essential nature of the conviction or the convicted offenses;
 - (6) a statement that the defendant's probation prohibits the defendant from:
 - (a) using or possessing alcohol or controlled substances except by prescription;
 - (b) operating a motor vehicle for any purpose for 60 days, and thereafter from 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, and, emergencies;
 - (c) violating curfew by being outside of the defendant's residence and its curtilage between the hours of 10:00 p.m. and 5:00 a.m., except for approved employment or with special permission;
 - (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 _____, 2003.

Defendant