

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

MAHLON W. SHEARER,
Defendant.

Case No. CR03-1

JUDGMENT OF PROBATION

DATE OF SENTENCING: March 17, 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. 1, Possession of a Firearm by a Felon, a Class III felony; Count No. 2, Possession of a Controlled Substance, a Class IV felony; and, Count No. 3, Operating Motor Vehicle During Time of Suspension, a Class II misdemeanor, on January 13, 2003. 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 concurrent periods of five years each on Counts Nos. 1 and 2 and two years on Count No. 3 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 \$75.00 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 payments: first, to court costs; second, to drug-testing expenses; third, to defense counsel reimbursement; fourth, to any fine; and finally, to any other amounts required by this judgment.
6. Obtain and maintain suitable employment or self-employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment. Self-employment which does not provide sufficient resources to provide for defendant to maintain his own support and meet his financial obligations, including but not limited to the installment payments required under this judgment, shall not be considered as suitable self-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. 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 \$300.00 (based upon \$5.00 per month) for chemical testing while on probation (included in installment payments). 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. If directed by the probation officer in writing at any time during the term of probation, initiate in-house drug or alcoholism treatment at a facility approved by the probation officer within five days after being so directed, complete the required program, comply with any after-care program specified by the facility, and pay the costs of such treatment to the facility before being released from probation.
13. 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.
 14. Pay to the clerk of the sentencing court a fine in the amount of \$2,000.00 (included in installment payments).
 15. There was one day of jail time served before sentencing.
 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 \$_____ (included in installment payments).
 18. 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 \$1,000 (included in installment payments).
 19. Comply with all existing orders of revocation, suspension, or impoundment of the defendant's motor vehicle operator's license. The defendant shall not operate any motor vehicle for any purpose for a period of one year and the defendant's operator's license shall be revoked for a like period, which orders shall be administered upon the date of any revocation of this judgment 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 _____, 2003.

Defendant