

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

DANNY WACKLER,
Defendant.

Case No. CR03-6

JUDGMENT OF PROBATION

DATE OF SENTENCING: July 1, 2003.

APPEARANCES:

For plaintiff: Eric A. Scott, Cherry 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 Theft by Unlawful Taking, a Class IV felony, on March 28, 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 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 self-employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
6. 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, and as to any existing delinquency comply with any existing plan to cure the delinquency.
7. Obtain permission from this court or the probation officer before any change of address or employment.
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 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.
10. 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.
11. 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.
12. The defendant is sentenced to 120 days, less 12 days credit for time served before sentencing, in the Cherry County Jail, to be served on consecutive days, commencing on December 1, 2004, as follows:
 - A. Upon request of the probation officer, the court may advance the date for service of the jail sentence at any time without further hearing.
 - B. The jail sentence may be waived by the court upon the recommendation of the probation officer.

- C. 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 84 days, less 12 days credit for time served before sentencing, on the sentence before mandatory release.
 - D. Unless advanced or waived, commitment shall issue by the clerk on or before November 20, 2004, for execution of sentence by the sheriff, in form to be submitted by the county attorney prior to that date. If advanced or waived, the clerk shall issue commitment as directed by such order. If advanced, the clerk shall mail a copy of the order advancing sentence to the defendant's last known address by regular mail.
 - E. Unless the sentence is waived, the defendant shall appear and surrender to the Cherry County Sheriff at the time required by this judgment or by the order advancing date of 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.
13. Pay to the clerk of the sentencing court the amount of \$120.00, representing partial reimbursement of the cost of imprisonment for 12 days in the Cherry County Jail at \$10.00 per day, for disbursement to Cherry County, to be paid within one year from commencement of probation.
 14. The defendant shall apologize in writing to the victim of the crime in form to be approved in advance by the probation officer. Such apology shall be accomplished within 30 days after the commencement of probation; and the defendant shall provide satisfactory written proof to the probation officer within 10 days thereafter that the apology has been delivered.
 15. The court determines from the evidence adduced at the restitution hearing that no pecuniary loss was established by the evidence presented by the plaintiff. This determination shall not preclude any civil action by the victim against the defendant for any civil cause of action relating to the convicted charge in this case.
 16. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid within six months after the commencement of probation.
 17. Pay to the clerk of the sentencing court the probation administrative enrollment fee of \$30.00, to be paid immediately upon commencement of probation.
 18. Pay to the clerk of the sentencing court the monthly probation programming fee of \$25.00 per month, to be paid by the 10th day of each month, for the duration of probation.

19. Pay to the clerk of the sentencing court, for disbursement to Cherry County for partial reimbursement of the cost of defense counsel, the sum of \$2,000.00, to be paid within 30 months 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 _____, 2003.

Defendant