

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

**THE STATE OF NEBRASKA,**  
Plaintiff,

vs.

**ROBERT E. McCART,**  
Defendant.

Case No. CR99-11

**JUDGMENT OF PROBATION**

**DATE OF SENTENCING:** November 24, 2003.

**APPEARANCES:**

For plaintiff: Thomas P. Herzog, Holt County Attorney.  
For defendant: Defendant personally without counsel, reaffirming prior waiver of counsel.

**THIS CASE CAME ON FOR SENTENCING.** The Court finds that the defendant was previously adjudged guilty of the charge(s) of Possession of a Controlled Substance, a Class IV felony, and sentenced to probation on January 6, 2000. On July 28, 2003, the defendant was 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 January 6, 2000, is revoked and the defendant is hereby resentenced as upon the original conviction to Probation for a period of three years from and after the commencement of this term 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 permission from this court or the probation officer before any change of address or employment.
6. 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.
7. 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.
8. 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 \$180.00 (based upon \$5.00 per month) for chemical testing while on probation, to be paid in full within six months after commencement of probation. Within such six month period, also pay to the clerk of the sentencing court the unpaid substance abuse testing fee of \$25.00 from the prior order of 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. This provision shall be deemed as satisfied by the defendant's recent in-patient treatment. (§ 28-416(14))
  - F. Comply with and successfully complete the after-care program specified by the SOS facility after the defendant's recent in-patient treatment program. Provide written verification from time to time of such compliance to the probation officer upon request.
9. 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.
10. There were 63 day(s) jail time served before the original sentencing and no additional jail time served before this resentencing.
11. The defendant is sentenced to 93 days, less 63 days credit for time served before sentencing, in the Holt County Jail, to be served on the first Friday of each month for the next 30 consecutive months after commencement of probation, as follows:
- A. For purposes of this judgment, the first Friday of the month shall be deemed to commence on the first Friday of the calendar month at 7:00 p.m. and end on the following day (Saturday) at 7:00 p.m.
  - B. The defendant shall appear and surrender to the sheriff for execution of sentence at the time for commencement of each 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.
  - 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 7 days.
  - D. Because 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.
  - E. This portion of the jail sentence is not subject to waiver.

12. No restitution was sought by the plaintiff.
13. Pay to the clerk of the sentencing court the additional costs of prosecution taxed in the amount of \$\_\_\_\_\_, to be paid within six months after commencement of this term of probation.
14. Pay to the clerk of the sentencing court the probation administrative enrollment fee of \$30.00, to be paid immediately upon commencement of probation.
15. 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.
16. No cost was incurred for defense counsel, as the defendant waived counsel.
17. The defendant shall have no contact with Terri Monahan, whether by telephone, in writing, in person, or through a third party, except for contact through a third person approved by the probation officer solely for child visitation purposes. The defendant shall not use any means, directly or indirectly, to circumvent the prohibition imposed by the first sentence of this paragraph.

**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