

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT
OF MISSOURI WESTERN DIVISION

United States of America, Plaintiff,

-vs-

Thomas J. Pendergast, Defendant.

No. 14,567

ORDER TOUCHING CONDITIONS OF PROBATION

The conditions of probation in the case of Thomas J. Pendergast which have heretofore been stated generally in orders filed in this case are now stated specifically in the Memorandum hereto attached and made a part hereof by reference. Probation officers will supply the said Thomas J. Pendergast with a copy of this Memorandum, explaining it fully to him, and give him such further instructions and directions, consistent with the Memorandum, as they shall deem fit and proper. They will also supply him with at least one blank form of his monthly written report and instruct him to have the Memorandum and form in his possession at all times for his guidance.

SO ORDERED.

Merrill E Otis, District Judge

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT
OF MISSOURI WESTERN DIVISION

United States of America, Plaintiff,

-vs-

Thomas J. Pendergast, Defendant.

No. 14.567.

MEMORANDUM TOUCHING THE CONDITIONS OF PROBATION OF THOMAS J.
PENDERGAST

On May 22, 1939, Thomas J. Pendergast entered pleas of guilty in the District Court for the Western District of Missouri to two counts of an indictment charging attempts to evade the payment of an income tax. A penitentiary sentence was imposed as to Count I. The sentence as to Count II was as follows:

The Sentence Count II

It is the sentence and judgment of the court, upon the plea of guilty to Count II of the indictment, that the defendant, Thomas J. Pendergast, shall pay a fine of \$10,000 and that he shall be committed to the custody of the attorney general to be confined in a federal penitentiary during a period of three years.

Service of this sentence is suspended and the defendant is placed on probation for a period of five years, which period of probation shall begin on the day when the defendant is released from actual institutional custody under the sentence imposed in connection with Count I.

The conditions of this probation, in addition to the usual conditions, are these:

1. The defendant will pay the fine imposed.

2. During the period of probation the defendant will obey all laws, national, state and municipal, to which he may be subject.

3. The defendant will promptly pay to the United States of America the full amount, with legal penalties, of all income taxes which have been or may be assessed against him for the two years referred to in this indictment, unless, before the period of probation begins, he already has paid such amounts; provided, however, that it will not be considered to be a violation of this condition if the defendant pays less than the full amounts assessed, through any concession or waiver made by the taxing authorities of the United States; and, provided, further, that probation will not be revoked for failure to comply with this condition if it shall be proved to the court that the defendant is not financially able to comply with the condition and that he was not financially able to pay the taxes due on the date the indictment in this case was returned.

4. During the period of probation the defendant will report to the probation officers of this court in such manner, concerning such matters, and at such times as, under the supervision of the court, they shall direct.

The Conditions

The "usual conditions" of probation referred to in the foregoing sentence (sometimes called "general conditions" of probation) are immediately subjoined. In connection with each of several of these conditions, in parentheses following the statement of the condition, is set out a partial interpretation thereof for the Probationer's more accurate information and also such additions thereto as are specially imposed in this case.

1. The Probationer will refrain from any violation of state and federal penal laws. (The special conditions in this case include also violations of municipal laws, of all laws of state and nation whether penal or otherwise, and any contempt of any order of court applicable to the Probationer).

2. The Probationer will lead a clean, honest and temperate life. (This condition will be interpreted to exclude any kind of dishonest practices in business or social relations, to exclude gambling or wagering in any form whatever at any time or place, and to exclude the use to excess of intoxicating liquors).

3. The Probationer is required to keep good company and good hours. (This condition will be considered to have been violated if the Probationer associates with or voluntarily continues in the company of men who have been convicted of crimes or who have bad reputations).

4. The Probationer will keep away from all undesirable places. (This condition will be interpreted as prohibiting the Probationer from being at or visiting 1908 Main Street or any other place whatsoever at which, in the judgment of the probation officers, activities are carried on similar in character to those of 1908 Main Street at the time of and before the imposition of sentence in this case. Further this condition will be interpreted as prohibiting the Probationer from being at any place where gambling is permitted or where wagering is carried on).

5. The Probationer will work regularly. When out of work he will notify the Chief

Probation Officer at once. (The Probationer's work must be at honorable, reputable, and lawful private business activities. Any participation, direct or indirect, during the period of probation, in political activities of any kind or character, including conferences, discussions, recommendations, suggestions, advising, contributions, solicitations, is prohibited absolutely. The Probationer further is prohibited from having any connection with any business taking or having contracts with any governmental subdivision, which contracts have not been secured in strict accordance with the spirit and letter of applicable laws. If at any time the Probationer has no employment nor any remunerative business of his own, he must work regularly at non-remunerative tasks selected by himself and approved by the Chief Probation Officer. Any course of idleness, unless required by the state of Probationer's health, will be considered a violation of this condition of probation).

6. The Probationer will not leave or remain away from Kansas City without permission of the Chief Probation Officer.* (The permission of the Chief Probation Officer will be granted only upon an application in writing, presented in person by the Probationer at the office of the probation officers in the United States Courthouse. The application must set out where the Probationer desires to go, for what purpose, and exactly when he expects to return. Permission to leave the City of Kansas City will not be granted to the Probationer except for important and necessary business reasons or for treatment in some hospital outside of Kansas City. When permission to leave the city is granted, if the absence from Kansas City is to be longer than three days, the Probationer will be required to report to a United States Probation Officer at or nearest to the point to which he proposes to go, upon his arrival at his destination, and he will be expected to report to the chief probation officer in Kansas City in person immediately on his return).

7. The Probationer will immediately notify the chief probation officer if any time he intends to change his permanent address in Kansas City.

8. The Probationer will, if financially able to do so, contribute regularly to the support of those for whose support he is legally responsible.

9. The Probationer will follow the chief

*Whenever in this Memorandum any function is delegated to the chief probation officer, any other probation officer designated by the chief probation officer, may discharge that function.

probation officer's instructions and advice. (Any request for alteration of any of the conditions of probation which the Probationer or his counsel may desire to submit to the court, must be submitted first in writing to the chief probation officer who will transmit it to the court, together with his recommendation, in no event will the Probationer undertake directly to interview the judge of the court to secure a modification of any condition of his probation nor request others to do so).

10. The Probationer will report in person once each month at the office of the

probation officers in the United States Courthouse on the date fixed by the chief probation officer. If for any unavoidable reason he is unable to report on that date he will communicate that fact at once to the chief probation officer and report in person on such other date as may be fixed by such officer).

11. The Probationer will courteously receive at his home, or his place of business, any visit of a probation officer made for the purpose of inquiring into the Probationer's activities and his compliance with the conditions of his probation. (These visits will average one a month).

12. The Probationer will have available at all times for his study and attention a copy of this Memorandum.

In addition to the foregoing "usual conditions" of probation, the following special condition is imposed in this case by reason of the fact that since the imposition of sentence and the original statement of conditions of probation an offer in settlement of taxes due the United States has been accepted. In addition to the amounts already paid on that offer, installments are to be paid as follows: July 15, 1940, \$25,000; December 15, 1940, \$50,000; April 15, 1941, \$50,000. The payment of each of these installments, in the amount herein set out, on the date when it is due, is made a condition of probation.

Monthly Report in Writing The Probationer on his monthly appearance at the office of the probation officers in the United States Courthouse will make a report in writing upon a form substantially as follows. That report will be subscribed and sworn to by the Probationer. Any of the probation officers appointed by this court are hereby empowered and authorized to administer an oath to the Probationer.

Form of Report

I, Thomas J. Pendergast, being first duly sworn, upon my oath state -

That within twenty-four hours of the making and filing of this report on this the__ day of __, 194__, I have carefully read and considered each of the conditions of my probation as set out in the Memorandum supplied me on May 30, 1940, and that I now have them, and each of them, distinctly in mind.

I further state upon my oath that my answers to the following questions are true, full and complete:

1. Have you knowingly violated any of the conditions of your probation since May 30, 1940, and particularly since your last report?

Answer

2. If you have any doubt whatever that you may have violated some one of conditions of your probation, state your reasons for that doubt.

Answer

3. If any person has sought to induce you to do anything inconsistent with any of the terms of your probation, have you immediately called his attention to the fact that you are on probation, to the conditions thereof, and that by his action he is endangering both you and himself?

Answer

4. If any person has sought to induce you to do anything inconsistent with any of the terms of your probation, and having been cautioned by you, has persisted, give the name and address of such person, or persons.

Answer

Now, on this _ day of _, 194_, I, Thomas J. Pendergast, being first duly sworn, upon my oath, say that all of the statements made in this report and all of the answers made to the questions included therein are true to the best of my knowledge and belief, so help me God.

Subscribed and sworn to before me this _ day of _, 194_.

Probation Officer

A Final Word

The Probationer is assured that it is the earnest desire of the judge and the probation officers that he shall fully comply with the conditions of his probation. The probation officers will give him every assistance in their power. If any person undertakes to interfere with the Probationer's compliance with the conditions of his probation or to handicap the Probationer therein such person will be dealt with sternly and speedily. The Probationer is given warning, however, that it always has been the practice in this court, where a condition of probation is violated, to revoke probation at once and to order execution of the suspended sentence.

The Probationer is advised that if at any time during the term of his probation he becomes dissatisfied with the conditions imposed, is unwilling to comply with them, and would prefer the execution of the suspended sentence, he should so advise the chief probation officer, who will in turn advise the court.

FILED MAY 24 1940

A. L. ARNOLD, Clerk

By W.W. Caster