

IN DISTRICT COURT, BARNES COUNTY, NORTH DAKOTA

State of North Dakota,	)	
	)	
Plaintiff,	)	<b>SENTENCING ORDER</b>
vs.	)	
	)	02-2015-CR-391
Brian Mindt,	)	
	)	
Defendant.	)	

[¶1] The court has considered the parties' sentencing memoranda. The defendant is requesting a deferred imposition of sentence. The State opposes that request and filed affidavits by the victim, Sergio Hidalgo, and another Fed Ex driver stating the defendant had been abusive and threatening on other occasions. The general purposes and objectives of North Dakota's criminal laws are stated in Century Code Section 12.1-01-02. Subsection 1 identifies ensuring public safety as a primary purpose, which includes vindicating public norms by imposing merited punishment, deterring the defendant and others from engaging in such conduct, and promoting rehabilitation of the defendant.

[¶2] In this case, Brian Mindt's actions were an affront to community standards of conduct, and vindication of those standards and deterrence are the primary considerations. The defendant has no criminal record and has been active in charitable and community activities, so rehabilitation is not a major concern. Moreover, given this record, and the fact that Mindt did not attempt to physically harm Mr. Hidalgo during his outlandish and offensive fit of temper, I conclude that the defendant should have an opportunity to clear his record and his reputation. I am not persuaded that Fed Ex will be unable to protect its drivers if Mindt is given a deferred imposition of sentence.

[¶3] Imposition of sentence will be deferred for 360 days. The defendant is placed on unsupervised probation subject to all of the following conditions:


1. The defendant will commit no criminal offenses.
2. The defendant will pay a fine of \$500, an administrative fee of \$125, a facility fee of \$100, and a \$25 victim witness fee. All fines and fees must be paid in full by July 1, 2016.
3. The defendant will not possess any firearms, explosive devices, or other dangerous weapons.
4. The defendant will write a letter of apology to Sergio Hidalgo by June 1, 2016.
5. If Fed Ex continues to deliver to the Iron Stallion, the defendant shall not make any demand that the driver(s) use a "secret knock," nor will he threaten or attempt to intimidate the driver(s).

[¶4] The State also asks the court to order Mindt to complete anger management counseling. The defendant is a middle-aged man. I do not believe a few therapy sessions can or will change the beliefs, attitudes, and temperament that led to Mindt's outrageous verbal attack on Sergio Hidalgo. Such changes can only come from a deeper reflection of conscience and, for lack of a better word, soul. I can only punish and try to deter the defendant from engaging in the conduct.

[¶5] IT IS HEREBY ORDERED that an order deferring imposition of sentence shall enter in accordance with this opinion.

Dated: May 11, 2016.

BY THE COURT:

  
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Jay Schmitz, Judge of the District Court