



Cemetery owner receives 4 years-plus

Judge rejects plea deal, delivers prison sentence in trust fund theft case.

By John Green - The Hutchinson News - jgreen@hutchnews.com

A judge Thursday rejected a plea agreement in the case of a Hutchison cemetery owner accused of embezzling money from cemetery trust funds, instead sentencing her to more than 4 1/2 years in prison.

District Judge Richard Rome ordered the cumulative 58-month sentence against Sharon McDonough, 71, executed immediately, denying a request for a 10-day delay.

On her way from the courtroom, a well-dressed and smiling McDonough, her hands cuffed in front of her, thanked prosecutors and then stuck her tongue at a television camera recording the proceedings.

The 2 p.m. sentencing hearing took about 70 minutes, with most of the time devoted to the state and defense questioning court-appointed receiver Edward Nazar about checks and property deeds McDonough turned over just hours before the hearing, and about items of furniture she'd removed from her home prior to Thursday.

Prosecutors filed a motion last week to depart from the plea agreement for noncompliance by McDonough in turning over property but withdrew the motion prior to the sentencing.

The defense also argued its motion for a durational departure from state sentencing guidelines.

McDonough previously pleaded no contest and was found guilty May 20 on 16 counts related to taking more than \$600,000 from two trust funds at Fairlawn Burial Park. Under a plea agreement, prosecutors agreed to recommend the court depart from sentencing guidelines to grant McDonough three years' probation.

McDonough declined to make a statement to the court.

"I've thought about this case a long, long time," Rome said. "I've gone over it and gone over it. It's my decision. At this time, Mrs. McDonough, I do not feel that there are substantial and compelling reasons for me to make the necessary findings in the border box matter. Nor do I find substantial and compelling reasons to depart in any way in this case."

In cases where the standard sentence falls in a "border box," the judge has the discretion to send a defendant to prison, or grant probation.

Rome sentenced McDonough to two concurrent 32-month sentences in prison for felony theft; a consecutive 12 months for misuse of a permanent maintenance fund; four concurrent eight-month sentences for providing false information, to run consecutive with the first two counts; four concurrent six-month sentences for perjury, also consecutive with the other counts; and four concurrent 12-month

jail terms for misdemeanor counts of failure to comply with the Cemetery Merchandise Act, to run concurrent with the first counts.

Rome also ordered McDonough to pay \$653,400 in restitution, though he imposed no fines.

The sentence was 10 months shy of the maximum 68 months Rome could have handed down, Senior Reno County Assistant District Attorney Stephen Maxwell noted after the hearing. He said prosecutors entered the plea agreement in an effort to recover as much money for victims and taxpayers as possible.

"In my opinion, Ms. McDonough's actions did not uphold one of the virtues most of us believe in - to honor the dead," Rome said following the hearing. "She desecrated the dead buried there, and their families. She did a lot of harm to people in this community and to people we'll never know. I did what I feel was fair and just under all the circumstances."

Wichita attorney Stephen Joseph, representing McDonough, cited four grounds for dispositional departure: that it was part of a plea agreement; that his client had one DUI conviction 10 years ago, but no other criminal convictions; that McDonough, by complying with terms of the plea agreement, in turning over personal assets "accepted responsibility for her actions"; and that she made "extraordinary efforts to provide full restitution."

"Mrs. McDonough did indeed commit misconduct," Joseph said. "But as I note in my departure motion, it didn't result in direct personal benefit to her you see in a normal embezzlement case. She did not misappropriate it for personal benefit, but for the operation and maintenance of the cemetery. It had been losing money for many years now. Based on my assessment, the money was used from the trust to keep the cemetery open and running. It was used for cash flow. It didn't buy a million-dollar house or Rolexes."

Among assets McDonough turned over to the state were: \$115,763 from retirement and trust fund accounts; the deed to her home at 226 Countryside Drive, which Joseph said should net the state about \$60,000; the deed to her car; jewelry; all of her stock in Fairlawn Burial Park and Heritage Funeral Home, which she operated with her son; her stock in a holding company in Missouri; a life insurance policy she's had since 1963; any commissions that are outstanding from a separate company she operated as an agent of Great Western Insurance; and a diamond wedding ring that she used as collateral for a bond to remain free from jail since she was charged.

McDonough also relinquished her rights to both the cemetery and funeral home, so they could be sold as a package, Joseph said.

Items removed from the home prior to it going to the receiver, which prosecutors contended shouldn't have been, included a pool table, living room hutch, some chairs and bedroom furniture. Both parties agreed to have the receiver assess the value of the removed property and determine whether it could appropriately be given to family members.

"I think Judge Rome was very fair," said Diane Minear, legal counsel for the Secretary of State's office, which initiated the investigation into the cemetery funds several years ago. "The Secretary of State's position has always been the trust fund should be fully replenished. On the criminal side, we have no opinion."