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June 16, 2017

## Press Release - For Immediate Release

Defendant's Name: Marcelle Cesen-Shemkunas  
Age: 53  
State of residence: Madison, OH  
Criminal File Number: 16-454  
Incident Date: December 24, 2016  
Indictment Date: February 2, 2017  
Arraignment Hearing: May 8, 2017  
Charges Files: Ct 1: Ingestion of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5.1, a class 5 felony;  
Ct 2: Possession of Marijuana, a violation of SDCL 22-42-6, a class 6 felony; and  
Ct 3: Possession of Drug Paraphernalia, a violation of SDCL 22-42A-3, a class 2 misdemeanor  
Change of Plea Date: May 8, 2017  
Date of Sentencing: May 8, 2017  
Convicted of: Ct 1: Ingestion of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5.1, a class 5 felony;  
Arresting Officer: Trooper Cody Jansen  
Defense Attorney: Thomas Frieberg  
Prosecution Attorney: Jerry A. Miller

### Case Synopsis:

On December 24, 2016, Trooper Cody Jansen of the South Dakota Highway Patrol, was conducting stationary radar on I-29 near mile marker 2 at around 9:14 p.m. A vehicle was stopped for traveling 74 mph in a 65 mph zone. The driver was unable to find his license. As the stop progressed the driver become increasingly nervous. The driver then began to sweat and breath heavy. The driver then stated that the passenger had smoked marijuana but not in the car. The driver and the passenger were on a road trip from California to Minnesota, however despite telling the officer about car issues, the driver and passenger decided to take a trip from Sioux Falls, SD to Sioux City, IA.

Marcelle Censen-Shemkunas was asked about marijuana and told the officer that there was marijuana in the vehicle and that there was paraphernalia in the vehicle as well. Censen-Shemkunas told the officer that she did know that it was illegal in SD. Besides finding more than 2 ounces of marijuana in the vehicle, Trooper Jansen found a meth pipe with meth residue. Censen-Shemkunas was asked to provide a urine sample which tested positive at 131 ng/ml of THC (marijuana), 10,769 ng/ml of amphetamine, and 73,370 ng/ml of methamphetamine.

### Sentencing Synopsis:

The Court then sentence Censen-Shemkunas on count I, Ingestion of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5.1, a class 5 felony to serve Five (5) years in the South Dakota State Penitentiary with a SUSPENDED EXECUTION of that sentence by Five (5) years. The Court further ordered Censen-Shemkunas to satisfy the following terms and conditions while on **supervised probation** for Three (3) years:

1. Censen-Shemkunas shall be placed under the supervision of the Chief Court Officer, or his representative, for a period of Three (3) years. The Defendant shall sign and comply with all terms of Adult Probation Agreement.
2. Censen-Shemkunas's supervision may be transferred to the State of Ohio for supervision.
3. Censen-Shemkunas shall obey all federal, state and local laws.
4. Censen-Shemkunas shall not possess or use any alcoholic beverages, or use or possess any controlled drugs or illegal substances, including marijuana, while on probation with the exception of medications lawfully prescribed and ingested according to the doses prescribed by a licensed physician.
5. Censen-Shemkunas shall waive his/her Fourth Amendment right against warrant-less random search and seizure by his/her Probation Officer and/or any law enforcement officer upon request, to include the Defendant's person, vehicle, and residence. This waiver shall include the Defendant submitting to a UA, breathe or other bodily substance upon request. The Defendant shall remain responsible for the costs of all UA's or any other substance tests.
6. Censen-Shemkunas shall obtain a Chemical Dependency Evaluation and she shall successfully complete any and all treatment and aftercare, and follow all the recommendations of the treatment provider.
7. Court Services shall have the discretion to require the Defendant to participate in the CBISA program, MRT program or other classes and programming as Court Services may direct during the term of probation.
8. Censen-Shemkunas shall be regularly employed or otherwise attending educational classes approved by Court Services as a condition of probation.
9. Censen-Shemkunas shall pay all monetary obligations as Ordered by this Court as a term of satisfying Defendant's probation. The Defendant shall work with her probation officer and establish a minimum monthly payment plan and forward payments to the Clerk of Courts.

Censen-Shemkunas was ordered to serve a sentence of Sixty (60) Days in the Union County Jail. It is further ORDERED that Court shall SUSPEND the EXECUTION of any of the remaining Fourteen (14) days of Censen-Shemkunas's sentence under the condition that Censen-Shemkunas gets accepted in Ohio for probation. The Court further Ordered Censen-Shemkunas shall receive credit for Forty-Six (46) days that the Defendant spent incarcerated prior to disposition.

Censen-Shemkunas shall pay the following amounts: Court Costs of One Hundred Four (\$104.00) Dollars; Costs payable to (South Dakota Drug Control Fund, 1302 East Highway 14, Suite 5, Pierre, SD 57501) in the amount of Eighty (\$80.00) Dollars; and Prosecution Costs in the amount of Two Thousand Two Hundred Ninety-Two (\$2,292.00) Dollars; and a Fine in the amount of Two Thousand (\$2,000.00) Dollars.

Censen-Shemkunas shall pay the following amounts: Court Appointed Attorneys Fees in the amount of Three Hundred Twenty-Six Dollars and Sixty (\$326.60) Cents. It is further

ORDERED that Union County is awarded a Judgment for said Court Appointed Attorney Fees in this matter.

**Criminal History Synopsis:**

This is Censen-Shemkunas's has criminal files in Ohio, California, and South Dakota. Censen-Shemkunas has an extensive criminal record including a DUI, probation violations and at least one felony conviction. Censen-Shemkunas record includes fifty separate items, of which many were dismissed.