

Union County State's Attorney

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Press Release - For Immediate Release

Defendant's Name: Timothy Nabity
Age: 21
City and State of residence: Alcester, SD
Criminal File Number: 13-210
Original Convicted of: Ingestion of a Schedule I or II Substance (F5), 22-42-5.1
Possession with Intent to Distribute Marijuana to a Minor (F5),
22-42-7
Original Date of Sentence: November 25, 2013
Arresting Officer: Chief Ryan Knutson, Alcester City Police
Probation Violation: August – October of 2014
Violations: Arrested by Lincoln Co. for possession of marijuana and paraphernalia
Failed 7 different drug patches – for illegal use
Initial Appearance: May 18, 2015
Admission to Violation: May 18, 2015
Disposition of PV: July 20, 2015

Original Case Synopsis:

Nabity was subject of an investigation when the mother of two children found text messages on one of her children's phone relating to the purchase or gift of marijuana from Mr. Nabity. The juvenile admitted that she had received marijuana from Nabity and that she had given him a phone to use. Nabity was interviewed and admitted to having possession of the phone, and to having given the juvenile the marijuana. The State charged Mr. Nabity with delivery of marijuana with consideration and alternatively without consideration as the State believed that it was a jury question as to whether or not the use of the cell phone constituted payment and or consideration for the marijuana. While out on bond, Nabity was required to wear a sweat patch to check if he was keeping sober and abstaining from all forms of drugs. Nabity's post arrest sweat patch result indicated a positive result for continued use of Marijuana at 75.8 ng/ml. Nabity's urine sample taken at the time of his arrest tested positive for Methamphetamine at 6,100 ng/ml; Amphetamine at 810 ng/ml; and Marijuana at 227 ng/ml.

Probation Violation Synopsis:

Nabity had seven failed drug patch violations through August to October of 2014. Furthermore, on August 3, 2014, Nabity was arrested by the Lincoln County Sheriff's Office for the possession of marijuana and paraphernalia. A no bond warrant was issued for his arrest which was not served upon Nabity until May 9, 2015.

Original Sentencing Synopsis:

On the charge of possession of a schedule I or II controlled substance charge, Nabity received a five year suspended sentence to the state penitentiary. Nabity was also sentenced to serve a term of five years on supervised probation. The Court further sentenced Nabity to serve

ninety days in the Union County Jail. The Court further ordered that Nabity pay all fines, court costs, prosecution costs, and court-appointed attorney fees.

On the charge of possession with intent to distribute marijuana to a minor without consideration charge, Nabity received a consecutive two year suspended sentence to the state penitentiary. Nabity was also sentenced to serve a term of two years on supervised probation. The Court further sentenced Nabity to serve ninety days in the Union County Jail with credit for the twenty-six days the spent incarcerated prior to sentencing. The Court further ordered that Nabity pay all fines, court costs, prosecution costs, and court-appointed attorney fees.

Disposition of Probation Violation:

On the charge of possession of a schedule I or II controlled substance charge, Nabity received a five year suspended sentence to the state penitentiary. Nabity was also sentenced to serve a term of four years on supervised probation. The Court further sentenced Nabity to serve twelve days in the Union County Jail with credit for the twelve days he served from the time he was arrested on the warrant until he was sentenced on his probation violation. All other terms of the original probation were reinstated as well.

Criminal History Synopsis:

This is Mr. Nabity's first probation violation on his first and second career felony convictions.