
November 3, 2017

Press Release - For Immediate Release

Defendant's Name: Joseph A. Gardner
Age: 23
City and State of residence: Hudson, SD
Criminal File Number: 16-024
Violation Date: January 14, 2016
Indictment Date: February 10, 2016
Charges: Ct. 1) Possession of Drug Paraphernalia with the Intent to Deliver;
Ct. 2) Possession of a Schedule 1 or 2 Controlled Substance (Marijuana Wax);
Ct. 3) Possession of a Schedule 1 or 2 Controlled Substance (Methamphetamine);
Ct. 4) Possession of Marijuana;
Ct. 5) Possession of Drug Paraphernalia.
Arraignment Date: February 29, 2016
Change of Plea Date: June 13, 2016
Plead to the Following: Ct. 2) Possession of a Schedule 1 or 2 Controlled Substance, (F5);
Sentencing Date: August 1, 2016
Law Enforcement Involved: Trooper Brandon Hansen
Defense Attorney: Tom Frieberg
Prosecuting Attorney: Alexis Tracy

Probation Violation # 1 Date: September – December of 2016
PV # 1 – Initial Appearance: June 5, 2017
PV # 1 – Change of Plea Date: June 5, 2017
PV # 1 – Disposition Date: June 5, 2017
PV # 1 – Violations: Tested positive for methamphetamine;
Missed Appointments with CSO;
Absconded from CSO;
Failure to complete a chemical dependency evaluation; and
Failure to make any payments.
Defense Attorney: Tom Frieberg
Prosecution Attorney: William Golden – SD AG's Office

Original Case Synopsis:

Troopers Hansen picked up Gardner after observing that his windshield had multiple cracks running across the driver's field of view. The vehicle was stopped in Alcester, SD. Hanson stated that he could smell the order of burnt marijuana while visiting with Gardner. While Gardner denied having used marijuana recently, his statement suggested knowing use in his past. A search of Gardner's vehicle revealed thirty-six (36) marijuana pipes. Some were

new and others were used with marijuana residue. Trooper Hansen also identified a ziploc bag with a white crystallized substance, which the officer identified as methamphetamine based upon his training and experience. The trooper also identified a substance known as marijuana wax.

Original Sentencing Synopsis:

On August 1, 2016, the Court granted Joseph Gardner a Judgment and Suspended Imposition of Sentence. In doing so, the Court exercised its judicial clemency to place Gardner on probation and withhold an actual sentence. If Gardner is successful on probation, this file will be sealed and treated as if it never happened. Gardner was ordered to complete the court ordered probation obligations, and he was further ordered to pay \$586.00 in fines, court costs, and prosecution costs. Gardner's was ordered to repay \$2,323.00 back to the county for his court-appointed attorney fees.

Probation Violation # 1 Fact Synopsis

Joseph Gardner has not made his required \$40.00 per month payments as ordered by the court since September of 2016. Joseph Gardner tested positive for methamphetamine on December 1, 2016. And Since December 2, 2016, Joseph Gardner has not been seen by his court services officer, which prompted a violation for absconding. Joseph Gardner also failed to complete a chemical dependency evaluation.

Probation Violation # 2 Sentencing Synopsis:

On June 5, 2017, the Court held a disposition hearing following Joseph Gardner's admission to the probation violation as it pertains to the one charge of Count II, Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5.1, a class 5 felon. The Court revoked Joseph Gardner's suspended imposition of sentence and entered a Judgment and Suspended Execution of Sentence in which Gardner received a suspended term of Five (5) years to the South Dakota State Penitentiary. Gardner was also placed on supervised probation for a term of Four (4) years. Gardner was given standard terms and conditions of probation. The Court further ordered that Joseph Gardner would have to serve One Hundred and Eight (180) days in the Union County Jail and he received credit for the One Hundred and Four (104) days he served prior to this sentencing. Gardner was also ordered to pay all the previous un-paid obligations as well as all new obligations. New obligations ordered include the Two Thousand Three Hundred Dollars (2,300) with Union County receiving a Judgment for that amount.

Criminal History:

This Joseph Gardner's first probation violation on his first career felony offense. This probation violation cost Mr. Gardner the ability to have his record cleared. This file will remain on his criminal history.

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