
December 15, 2017

Press Release - For Immediate Release

Defendant's Name: Austin Gengler
Age: 26
City and State of residence: Le Mars, IA
Criminal File Number: 16-087
Offense Date: April 28, 2015
Indictment Date: March 2, 2016
Offenses Charged: Ct.1: Forgery, (F5)
Ct.2: Identity Theft (F6)
Ct.3: False Impersonation (M1)
Ct.4: Speeding (M2)
Arraignment Date: April 11, 2016
Change of Plea Date: May 23, 2016
Convicted of: Ct.2: Identity Theft (F6)
Ct.4: Speeding (M2)
Sentencing Date: May 23, 2016
Officer: Officer Nick Fahlberg – Beresford Police Department
Defense Attorney: Tom Frieberg
Prosecutor: Alexis A. Tracy
Probation Violation Date: December 2016
City and State of residence: Beresford, SD
Probation Violations: Ct 1: Forgery, a violation of SDCL 22-39-36, a class 5 felony;
Ct 3: False Impersonation to a Police Officer, a violation of SDCL
22-40-1, a class 1 misdemeanor; and
Ct 5: Speeding, a violation of SDCL 32-25-7, a class 2
misdemeanor
Initial Appearance: June 5, 2017
Admission Date: June 5, 2017
Disposition Date: July 31, 2017
Defense Attorney: Tom Frieberg
Prosecutor: Jerry Miller

Original Case Synopsis:

On April 28, 2015, Austin Gengler was stopped for a minor speeding violation in the city limits of Beresford, SD. Officer Fahlberg had his body camera on a recorded the entire event. GENGLER told the officer where he was coming from and who he was working for on the day in question. GENGLER also told officer Fahlberg that his name was Michael GENGLER. GENGLER (Michael) was issued a citation based upon the date of birth information that was provided to the officer. GENGLER stated that he did not have his license on his possession. The officer ran the name and date-of-birth information through dispatch and Michael GENGLER came back with a valid license.

The Michael GENGLER ticket was logged into the state system and Michael GENGLER failed to pay the citation. A warrant was issued for Michael GENGLER. Michael GENGLER was arrested on the warrant for his arrest. Michael GENGLER reported to the Beresford Police Department that he believed that his brother Austin GENGLER had used his identity to avoid a speeding ticket. Officer Fahlberg reviewed his body camera video and compared the video image to the driver's license photos of both Austin GENGLER and Michael GENGLER. Officer Fahlberg was able to clearly identify Austin GENGLER as the driver of the vehicle on April 28, 2015. Officer Fahlberg presented a report to the State's Attorney's requesting a warrant for Austin GENGLER for the above referenced charges. Austin GENGLER was arrested and convicted of the identity theft and the speeding offense.

Probation Violation Case Synopsis:

On December 12, 2016, Austin Gengler was stopped for a minor speeding violation in the city limits of Alcester, SD. The driver identified himself as Michael GENGLER. GENGLER (Michael) was issued a citation based upon the date of birth information that was provided to the officer. GENGLER stated that he did not have his license on his possession. The officer ran the name and date-of-birth information through dispatch and Michael GENGLER came back with a valid license.

The Michael GENGLER ticket was logged into the state system and Michael GENGLER failed to pay the citation. A warrant was issued for Michael GENGLER. Michael GENGLER was arrested on the warrant for his arrest. Michael GENGLER reported to the Alcester Police Department that he believed that his brother Austin GENGLER had used his identity to avoid a speeding ticket. Officer Nelson investigated and interviewed Austin GENGLER. Austin GENGLER admitted that he had used his brother's name during the stop. It was also determined that Austin GENGLER had been arrested in the State of Iowa and was facing charges in the State of Iowa for the same set of facts of using his brother's name during a traffic stop.

Probation Violation Disposition Synopsis:

AS TO THE CHARGE of Identity Theft, a violation of SDCL 22-40-8(1), a class 6 felony;IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant's shall be sentenced to Two (2) years in the South Dakota State Penitentiary with the sentence to begin **immediately**.

IT IS FURTHER ORDERED that the Defendant shall receive credit for Twenty-Four (24) days that the Defendant spent incarcerated prior to this disposition.

IT IS FURTHER ORDERED that the Defendant shall pay all of the previously Ordered financial obligations to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025): Remaining Court Costs, Prosecution Costs, Fines in the amount of Five hundred Thirty (\$530.00) Dollars.

IT IS FURTHER ORDERED that the Defendant shall pay the following amounts Ordered by the Court – To the Union County Auditor (209 East Main Street, ~ Suite 200, Elk Point, SD 57025): **Previous** Court Appointed Attorneys Fees in the amount of Five Hundred Twenty-four Dollars and Forty (\$524.40) Cents. It is further ORDERED that Union County is awarded a Judgment for said Court Appointed Attorney Fees and Prosecution Costs in this matter.

IT IS FURTHER ORDERED that the Defendant shall remain in the custody of the Union County Sheriff's Office until he can be transported to the South Dakota State Penitentiary at their earliest opportunity.

Criminal History Synopsis:

This is GENGLER's first probation violation on his second career felony conviction. GENGLER's criminal history includes three misdemeanor DUI convictions, and a Felony DUI conviction. In 2015 Gengler was sentenced in Iowa for a 3rd offense OWI. This file is nearly identical to third felony offense in 2017. The new felony file is 17-168 and is nearly identical to this 2016 felony file. The Court, in this file, sentenced Gengler to the penitentiary for 2 years to begin immediately. On the 17-168 file the Court sentenced Gengler to a term of 5 years of additional parole time. Collateral information after the arrest up to the time of sentencing, identified that Austin Gengler was harassing his brother and threatening physical violence against his brother for taking the position that Austin Gengler should receive penitentiary time. Austin Gengler also made statements that his brother should have just paid the tickets and kept his mouth shut. The State believes that these actions contributed to the Court's sentencing decision.