
January 13, 2017

Press Release - For Immediate Release

Defendant's Name: Jonary Graciano
Age: 18
City and State of residence: South Sioux City, NE
Criminal File Number: 15-242
Arrest Date: July 21, 2015
Indictment Date: July 29, 2015
Arraignment Date: August 3, 2015
Change of Plea Date: October 15, 2015
Convicted of: Possession of Marijuana w/ the Intent to Distribute, (F6)
Sentencing Date: July 20, 2015

Probation Violation Date: August 13, 2013
File Number: PV #1 on 11-108; New Felony file on 13-245;
1st Probation Offense: Drug and probation violations and failing to obey all laws.
Initial Appearance Date: July 11, 2016
Change of Plea: July 11, 2016
Date of Sentence: September 12, 2016
Defense Attorney: Andrew Twinamatsiko
Prosecution: Jerry A. Miller

Case Synopsis:

Jonary Graciano was the passenger of a vehicle that was pulled over by a North Sioux City police officer. The vehicle was stopped for failing to drive within its lane and turning from an improper lane. As the officer was visiting with the occupants, a glass water bong was observed in plain view. The driver, who was identified as South Sioux City Juvenile, was questioned about where they were going. The driver did not know where they were going as he reported that he was following navigation directions from a phone app. The driver admitted that he had smoked marijuana earlier in the day and also admitted that he had used the water bong in that was observed in the vehicle.

At this time a Trooper with the SD Highway Patrol had stopped to assist the North Sioux City officer, each officer had contact with Jonary Graciano and both could smell the odor of marijuana coming from Graciano. A search of the vehicle recovered additional evidence including 6 individually wrapped baggies of marijuana. It was determined that both individuals in the vehicle were working together to find a specific party that they had heard about in North Sioux City, and that they intended to sell marijuana at this party. Graciano provided a urine sample which tested positive for 26 ng/ml of marijuana.

Sentencing Synopsis:

Following Jonary Garciano admission to the felony charge, the Court granted a suspended imposition of sentence and ordered that Garciano serve a three-year term of supervised probation. Garciano was ordered to serve thirty days in the Union County Jail and given credit for the thirteen days that he spent incarcerated prior to this sentencing. Garciano was taken into custody immediately following his sentencing to serve the balance of this jail sentence. The Court ordered Garciano to do and / or pay the following:

- \$104.00 in Court Costs;
- \$10.00 in Prosecution Costs;
- \$153.00 in fees to the lab for testing the substances found during the stop;
- \$300.00 in fines; and
- \$535.50 in Court-Appointed Attorney Fees.

1st Probation Violation Case Synopsis:

Jonary Graciano admitted to using methamphetamine, amphetamine, and marijuana while absent from supervision and tested positive for these substances on June 19, 2016. GRACIANO was required to participate and complete intensive outpatient treatment while on probation. GRACIANO failed his outpatient treatment program. GRACIANO missed mandatory drug testing on May 3, 2016, May 11, 2016, May 12, 2016, May 13, 2016 and May 15, 2016. GRACIANO also quit his job without prior approval and notification as required by the probation agreement. GRACIANO also left the state without previous permission. GRACIANO also failed to make payments.

1st Probation Violation Disposition Synopsis:

On September 12, 2016, the Court re-sentenced GRACIANO's probation violation on the original charge of possession of marijuana with the intent to distribute, a class 6 felony. GRACIANO revoked the previously granted suspended imposition of sentence and ordered that GRACIANO sentenced to suspended a two-year sentence and a two-year term of supervised probation. GRACIANO was ordered to serve 76 days in the Union County Jail and given credit for the 76 days that he spent incarcerated prior to this sentencing. GRACIANO was ordered to pay all outstanding and unpaid court ordered financial obligations, as well as new court-appointed attorney fees.

Criminal History:

This is GRACIANO's first probation violation on his first career felony offense conviction.