

January 13, 2017

Press Release - For Immediate Release

Defendant's Name: Cassandra Grate
Age: 27
City and State of residence: Vermillion, SD
Criminal File Number: 16-322
Date of Offense: September 1, 2016
Date of Indictment: September 7, 2016
Arraignment: November 9, 2016
Offense(s) Charged: Ct. 1: 3rd Offense, Driving Under the Influence, 32-23-1 (F6)
Ct. 2: Driving While Revoked 32-12-65(1) (M1)
Change of Plea Date: October 3, 2016
Convicted of: Ct. 2: Driving While Revoked 32-12-65(1) (M1)
Date of Sentencing: October 3, 2016
Officer: Trooper Kayne Weaver – SDHP
Defense Attorney: Tom Frieberg
Prosecutor: Alexis Tracy

Case Synopsis:

On September 1, 2016, Trooper Weaver observed a vehicle with a cracked windshield without a front license plate. The trooper identified by the back-license plate that the vehicle was licensed in SD, and as SD requires two plates are displayed, the trooper pulled the vehicle over at mile marker 37 on Interstate 29. The driver was identified as Cassandra Grate. GRATE admitted that she did not have a license as her license was revoked. The trooper detected the odor of alcohol coming from GRATE. GRATE was asked to participate in field sobriety tests to determine if she was too intoxicated to drive. Following the sobriety tests, the trooper determined that GRATE was under the influence. GRATE tested at a .091 on the trooper's PBT. A search warrant was required to obtain a sample of GRATE's blood. It took over an hour to secure the search warrant. The blood sample tested at .035% blood alcohol content (BAC). Pursuant to the chemistry of alcohol absorption rates and the amount of time it takes a body expel alcohol, the state chemist advised that GRATE was not over the legal limit on September 1, 2016. The officer's report, the State's Attorney's office determined that it could not prove a DUI case based upon GRATE being under the influence by her actions. The trooper in this case did not observe and or document a behavior of driving that would be consistent with a person who is under the influence.

A person can be found guilty because there is more than .08% of alcohol in the person's blood, or they can be found guilty if there is alcohol in their blood and they are impaired. In this case, the evidence shows that neither could be proven. As such, the State dismissed the 3rd offense DUI, and pursued the Driving while Revoked Charge.

Original Sentencing Synopsis:

On October 3, 2016, the Court sentenced GRATE on the class 1 misdemeanor charge of driving while revoked. The Court considered the arguments of the State and the Defense, the Court ORDERED that GRATE be sentenced to serve three days in the Union County Jail. The Court Further Ordered that GRATE shall pay all monetary obligations. GRATE was ordered to pay \$84 in Court Costs; and a fine of \$300. GRATE was ORDERED to serve 25 days in the Union County Jail. The Court ordered that GRATE could use six days of her jail credit at \$60 per day to pay her court costs and fine. The Court suspended 16 day of the GRATE's jail sentence on the term and condition that she pay \$331.20 to the County to repay her Court-Appointed Attorney Fees.

Criminal History:

This is felony file was resolved with GRATE admitting to and being convicted of a class 1 misdemeanor offense of Driving While Revoked. GRATE's previous criminal history includes Failure to Identify / Giving False / Fictitious Information; Theft; Simple Assault; Resisting Arrest; a Felony Burglary conviction; and two previous DUI convictions.