
December 22, 2017

Press Release - For Immediate Release

Defendant's Name: Cleo Mccauley
Age: 53
City and State of residence: Sioux City, IA
Criminal File Number: 17-326
Incident Date: August 31, 2017
Crimes Charges: Ct. 1: Driving Under the Influence, SDCL 32-23-1(2), (M1) 1/2
Ct. 2: Driving with a Revoked License, SDCL 32-12-65(1), (M1) 1/2
Ct. 3: Open Container in a Motor Vehicle, SDCL 35-1-9.1, (M1) 1/2
Part II for prior offenses
Indictment Date: September 6, 2017
Arraignment Date: September 11, 2017
Change of Plea Date: November 6, 2017
Convicted of: Ct. 1: Driving Under the Influence, SDCL 32-23-4, (F6) 2/4
Part II for prior offenses
Sentencing Date: December 8, 2017
Officer: Trooper Jerry Kastein SDHP
Trooper Eric Peterson SDHP
Trooper Luis Tapia SDHP
Defense Attorney: Tom Frieberg & Sam Nelson
Prosecution Attorney: Jerry Miller

Case Synopsis:

On August 31, 2017, a trooper pulled over on Interstate 29 near mile marker 34 on the northbound side to assist a motorist. As the trooper approached the vehicle, he observed that the driver was slumped over and the trooper could smell the strong odor of alcohol coming from the vehicle. The driver had to be roused from her sleep. The trooper noticed damage on the driver's side of the vehicle. Besides being tired, the driver slurred her speech and the officer could detect the odor of alcohol coming from her breath. The driver was identified as Cleo McCauley. McCauley kept falling asleep while in the patrol car. Due to her level of intoxication, the trooper did not have McCauley perform any out-side field sobriety tests to avoid the potential of harm to Ms. McCauley due to inability to even stand. McCauley's PBT test was .172% BAC and her blood test is 174% BAC.

Sentencing Synopsis:

IT IS HEREBY ORDERED the court found on the record aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation, to wit:

1. That the Defendant has a significant criminal history, including numerous assaults;
2. That the Defendant poses a significant risk to the public by drinking and driving; and
3. That the Defendant's most recent prior OWI offense and conviction occurred in June of 2017.

IT IS FURTHER ORDERED that as to the crime of **Ct. 1: 3rd Offense of Driving Under the Influence, SDCL 32-23-1(2), a class 6 felony**, that the Defendant shall serve **2** (two) years in the South Dakota State Penitentiary, there to be kept, fed, and clothed according to the rules and regulation governing that institution.

IT IS FURTHER ORDERED that Defendant shall abide by the rules and regulations of the board of pardons and paroles, shall sign the required parole agreements, and shall obey all conditions imposed by them even though the conditions may not have been specifically set out by the court.

It is further ORDERED that Court shall SUSPEND the EXECUTION of **6** (six) months of the Defendant's sentence upon the Defendant satisfying the following terms and conditions [checked boxes]:

1. Defendant shall obey all federal, state, tribal and local laws and be a good law-abiding citizen in all respects.
2. Defendant shall pay all fines, costs, restitution, and attorney's fees as ordered by the court. Defendant shall work out a payment schedule with Parole, and if requested by Parole, the Defendant shall execute a wage assignment form.
3. Defendant shall not consume nor possess any alcoholic beverages of any kind, and Defendant shall not enter establishments where the sale of alcoholic beverages is the primary business.
4. Defendant shall not consume, purchase, possess, or distribute marijuana, nor controlled drugs or substances of any kind, and Defendant shall not be present where such substances are being used. Defendant shall also not possess drug paraphernalia. Verification of any prescribed medication must be provided

by

Defendant to parole.

5. Defendant shall submit to urinalysis, breath or blood testing at any time requested to do so by Defendant's parole officer or law enforcement officer and Defendant shall be responsible for the costs of that testing.
6. Defendant, and Defendant's person, residence, vehicles and personal property,
shall be subject to random search and seizure by any parole officer or law enforcement officer upon reasonable suspicion that Defendant is violating any provision of this court's order or of any parole agreement.
7. Defendant shall obtain a chemical dependency evaluation and comply with the evaluator's and the court's services officer's recommendations for treatment and aftercare.
8. Throughout the entire period of parole supervision, Defendant shall enroll in and
comply with the terms of the 24/7 Sobriety Program as set up through the Union County Sheriff's office or as directed by your parole officer and submit to testing in the form of twice daily PBTs (24/7 program) or by SCRAM equipment, and Defendant shall pay all costs of such programs. Parole may NOT discontinue these programs during parole supervision.
9. Defendant shall enroll in and successfully complete counseling , MRT, etc.
as
required by parole.
10. Defendant shall not participate in games of chance or enter establishments where gambling is present.
11. Defendant shall perform hours of community service to be completed
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12. Defendant shall have no contact with the victim, .
13. Defendant shall write a letter of apology to the victim, , which letter
shall
be approved by parole.

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

IT IS FURTHER ORDERED, that the Defendant shall be credited for the **98** (ninety-eight) days that the Defendant spent incarcerated prior to sentencing.

IT IS FURTHER ORDERED, that the Defendant shall pay court costs of **\$104.00**; grand jury transcript fees of **\$10.00**; a DUI surcharge of **\$50.00**; a Fine of **\$0.00**; and Blood Alcohol Fees of **\$125.00** to the Union County as prosecution costs; to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025).

IT IS FURTHER ORDERED, that the Defendant shall pay his/her Court-appointed attorney's fees of \$747.30 directly to the Union County Auditor, (209 East Main Street, ~ Suite 200, Elk Point, SD 57025). It is further ORDERED that Union County is awarded a Judgment for said Court Appointed Attorney Fees in this matter.

IT IS FURTHER ORDERED that the Defendant's South Dakota driving privileges shall be revoked for a period of **1 (one)** year from the date of any existing license revocations or suspensions end.

Criminal History:

This is Cleo McCauley's sixth career felony offense. Ms. McCauley has an extensive criminal history to include felony convictions for Aggravated Assaults, Felony level OWI convictions. Some of her violent offenses include the use of a weapon. McCauley has seven career offenses involving driving while intoxicated. McCauley also has thirteen convictions involving assaults and two more offenses involving child abuse. McCauley also has at least two instances involving escape.