
December 30, 2017

Press Release - For Immediate Release

Defendant's Name: Desmond McPhail
Current Age: 34
City and State of Residence: Sioux Falls, SD
Criminal File Number: 16-399
Information Date: November 5, 2016
Information Date: November 18, 2016
Charges: 1) Possession of a Schedule 1 or 2 Controlled Substance (F5)
2) Possession of a Schedule 3 or 4 Controlled Substance (F6)
3) Possession of Marijuana (M1)
4) Ingestion (M1)
5) Possession of Drug Paraphernalia (M2)
6) Failure to Wear a Safety Belt (PO)
Arresting Officer: November 18, 2016
Change of Plea Date: November 28, 2016
Convicted of: 1) Possession of a Schedule 1 or 2 Controlled Substance (F5)
2) Possession of a Schedule 3 or 4 Controlled Substance (F6)
Date of Sentencing: December 19, 2016
Arresting Officer: Deputy Stephanie Ryan – Union County Sheriff Office
Defense Attorney: Katie Johnson
Prosecutor: Jerry A. Miller & Alexis A. Tracy
Probation Violation Date: March 3, 2017
Probation Violations: Failed to complete treatment
Initial Appearance: September 11, 2017
Admission Date: September 11, 2017
Disposition Date: September 11, 2017
Defense Attorney: Katie Johnson
Prosecutor: Jerry A. Miller

Original Case Synopsis:

On November 5, 2016, Deputy Sheriff Stephanie Ryan stopped a vehicle that did not have valid license plates tags. Gregg REDDEN was identified as a driver of the vehicle. Desmond MCPHAIL was also identified as a passenger. MCPHAIL appeared to be sleeping in the vehicle. REDDEN kept the officer waiting while he was on the phone with someone. The deputy asked REDDEN if there were drugs in the vehicle. REDDEN denied any drugs in the vehicle that he knew of, but could not speak for MCPHAIL. REDDEN history was checked and it came back with a warrant for his arrest out of Colorado. REDDEN knew that Colorado would not extradite him. The deputy confirmed that Colorado would not extradite, so REDDEN was not arrested for the outstanding warrant. The deputy made contact with MCPHAIL. MCPHAIL consented to be

searched and the deputy detected the odor of marijuana coming from MCPHAIL. The deputy also found a scale. MCPHAIL admitted that he smoked marijuana on November 4, 2016. Inside of MCPHAIL's backpack was a methamphetamine pipe that had been used and contained residue, and razor blades. A through search of MCPHAIL's person revealed a small matchbox containing two green pills, a small bag of marijuana, and methamphetamine. The green pills were identified as Clonazepam. MCPHAIL provided a urine sample which takes about two months to receive the results. MCPHAIL and REDDEN's urine sample results have not been received by the State at the time of this press release.

Original Sentencing Synopsis:

On December 19, 2016, the Court addressed the class 5 felony charge in Count 1, for Possession of a Schedule 1 or 2 Controlled Substance. The Court considered the arguments of the State and the Defense, and determined that MCPHAIL should be sentenced to a suspended 5-year sentence to the penitentiary with an order to complete a 4-year term of supervised probation. MCPHAIL was further ordered to serve 180 days with 43-days credit for the days that he spent incarcerated prior to sentencing. The Court suspended the 137 remaining days on the term and condition that MCPHAIL being accepted by the interstate compact to the State of Iowa for supervision. MCPHAIL was ordered to pay \$104 in Court Costs; \$45 dollars to the South Dakota Drug Control Fund; and \$680.80 to the county for his Court Appointed Attorney Fees.

On December 19, 2016, the Court addressed the class 5 felony charge in Count 2, for Possession of a Schedule 3 or 4 Controlled Substance. The Court considered the arguments of the State and the Defense, and determined that MCPHAIL should be sentenced to a suspended 2-year sentence to the penitentiary with an order to complete a 2-year term of supervised probation. MCPHAIL was further ordered to serve 180 days with 43-days credit for the days that he spent incarcerated prior to sentencing. The Court suspended the 137 remaining days on the term and condition that MCPHAIL being accepted by the interstate compact to the State of Iowa for supervision. MCPHAIL was ordered to pay \$104 in Court Costs. MCPHAIL's sentence in count 2 shall run concurrent with his sentence in Count 1.

Probation Violation Case Synopsis:

Defendant was released from the Union County Jail on March 3, 2017. As of March 13, 2017, the Defendant has failed to remain in contact with his Court Services Officer and has thought

to have absconded. Defendant failed to report to the Glory House on March 3, 2017, as he was directed. As of March 13, 2017, the Defendant has failed to report for his recommended treatment at the Glory House.

1st Probation Violation Disposition Synopsis:

AS TO THE CHARGE of Count I, Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant shall be sentenced to Four (4) years in the South Dakota State Penitentiary with the sentence to begin **immediately**.

IT IS FURTHER ORDERED that the Defendant shall receive credit for One Hundred Thirty-one (131) days that the Defendant spent incarcerated prior to disposition.

IT IS FURTHER ORDERED that the Defendant shall pay the following amounts to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025): **Previous** Court Costs in the amount of One Hundred (\$104.00) Dollars; and **Previous** Prosecution costs in the amount of Forty-five (\$45.00) Dollars.

AS TO THE CHARGE of Count II, Possession of a Schedule III or IV Controlled Substance, a violation of SDCL 22-42-5, a class 6 felony, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant 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 One Hundred Thirty-one (131) days that the Defendant spent incarcerated prior to disposition.

IT IS FURTHER ORDERED that the Defendant shall pay the following amounts to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025): **Previous** Court Costs in the amount of One Hundred (\$104.00) Dollars.

IT IS FURTHER ORDERED that the Defendant shall pay the following amounts to the Union County Auditor (209 East Main Street, ~ Suite 200, Elk Point, SD 57025): **New** Court Appointed Attorneys Fees in the amount of Three Hundred Nineteen Dollars and Sixty (\$319.60) Cents; and Previous Court Appointed Attorneys Fees from the Judgment and Suspended Execution Sentence dated January 3, 2017 in the amount of Three Hundred Eighty Dollars and Eighty (\$680.80) Cents. It is further ORDERED that Union County is awarded a Judgment for said Court Appointed Attorney Fees in this matter totaling One Thousand Dollars and Forty (\$1,000.40) Cents.

IT IS FURTHER ORDERED that the Defendant shall follow all conditions of parole and any recommendations and orders made by his/her parole officer.

IT IS FURTHER ORDERED that the Defendant shall pay all monetary obligations as Ordered by this Court as a term of satisfying Defendant's parole.

IT IS FURTHER ORDERED that the Defendant's Count II sentence shall run **concurrent** to his Count I sentence.

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:

This is MCPHAIL's first probation violation on his second and third career felony conviction. MCPHAIL's criminal history also includes a misdemeanor conviction for a possession of drug paraphernalia, possession of marijuana, DWI, and unlawful possession of prescription pills. MCPHAIL's criminal history also included a felony conviction for 1st degree rape.