

March 30, 2018

Press Release - For Immediate Release

Defendant's Name:	Brad DeBaere
Age:	42
State of residence:	South Sioux City, NE
Criminal File Number:	17-363
Incident Date:	September 26, 2017
Indictment Date:	November 8, 2017
Arraignment Hearing:	November 20, 2017
Change of Plea Date:	December 4, 2017
Date of Sentencing:	December 4, 2017
Convicted of:	Ct 1: Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony; Ct. 2: Possession of Marijuana – Less than 2 Ounces, a violation of SDCL 22-42-6, a class 1 misdemeanor.
Arresting Officer:	Trooper Stuart Griffin
Defense Attorney:	Sam Nelson
Prosecution Attorney:	Jerry A. Miller & Erin Handke

Case Synopsis:

Trooper Stuart Griffin stopped a vehicle on Interstate 29 near MM 2 in Union County, South Dakota due to a tail light that was emitting a white light in violation of South Dakota Law. The driver appeared frightened when he was approached. The driver exited the vehicle with his hand in his pocket and quickly removed it. The trooper heard a noise consistent with an object he believed to be a marijuana pipe hitting the road. The driver was identified as Brad DeBaere. DeBaere eventually admitted that there might be some marijuana on the pipe that came from his pocket. Following a search incident to arrest, the trooper found a black case in DeBaere's pocket that also contained a glass pipe with white residue, commonly associated with Methamphetamine. As the search continued the trooper found a plastic jeweler's bag with a white crystalline substance that the trooper recognized as Methamphetamine based upon his training and experience. A search of the DeBaere's vehicle uncovered a plastic bag with a green leafy substance that the trooper also recognized as being Marijuana. The trooper also recovered the pipe the defendant dropped from under the vehicle. It had the odor of burnt marijuana. DeBaere was arrested on several charges and booked into the Union County Jail. No UA was requested on this file.

Sentencing Synopsis:

The Court being satisfied that the ends of justice and the best interests of the public as well as the Defendant will be served thereby and the Defendant having pled guilty to the crime of **Ct 1: Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony; and Ct. 2: Possession of Marijuana – Less than 2 Ounces, a violation of SDCL 22-42-6, a class 1 misdemeanor**, which is not punishable by life imprisonment and the Court being satisfied that the Defendant has never before having been convicted of a crime which would constitute a felony in this state, this Court elects to exercise its judicial clemency under SDCL §23A-27-13, and with the consent of the Defendant, therefore,

AS to COUNT 1: Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony; IT IS HEREBY ORDERED, that the Defendant is placed on probation for **8** (Eight) months. Defendant shall sign the standard probation agreement with court services and shall obey all conditions imposed by court services even though those conditions may not have been specifically set out by the court. Defendant shall execute a wage assignment form if requested to do so by court services.

IT IS FURTHER ORDERED, that the Defendant shall pay court costs of **\$104.00**; grand jury transcript fees of **\$10.00**; a Fine of **\$0**; and UA fees of **\$252.00** to the South Drug Control Fund; to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025); it is further

IT IS FURTHER ORDERED that the imposition of sentence is suspended upon the following terms and conditions:

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 court services, and if requested by court services, 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 court services.
5. Defendant shall submit to urinalysis, breath or blood testing at any time requested to do so by Defendant's court services 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 court services officer or law enforcement officer upon reasonable suspicion that Defendant is violating any provision of this court's order or of any probation 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 probation, 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 another approved South Dakota county sheriff's office and submit to testing in the form of twice daily PBTs or by SCRAM equipment, and the Drug Patch, and Defendant shall pay all costs of

such programs. Court services may discontinue or restart these programs at their discretion.

9. Defendant shall enroll in and successfully complete counseling , MRT, etc. as required by court services.
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 by _____.
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 court services.

IT IS FURTHER ORDERED, that the Defendant complete the Prime for Life program.

IT IS FURTHER ORDERED, that the Defendant shall pay his/her Court-appointed attorney's fees of \$564.00 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.

AS to COUNT 2: Possession of Marijuana – Less than 2 Ounces, a violation of SDCL 22-42-6, a class 1 misdemeanor; IT IS HEREBY ORDERED, that the Defendant shall pay court costs of **\$84.00**; grand jury transcript fees of **\$0**; a Fine of **\$200.00**; and UA fees of **\$0** to the South Drug Control Fund; to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025); it is further

IT IS FURTHER ORDERED that the Defendant has 90 (Ninety) days to pay his financial obligations on his misdemeanor charge.

Criminal History Synopsis:

This is Brad DeBaere's first felony offense that she admitted to before any court. In this case, the Court used its judicial clemency powers and granted a suspended imposition of sentence. Brad DeBaere would not have qualified for this benefit if his criminal record had shown a previous felony conviction or a previous suspended imposition of sentence in any other jurisdiction. Misdemeanor convictions would not preclude Mr. DeBaere from receiving this benefit. If Mr. DeBaere is successful on probation, her official court file will be sealed from the public view. The Court will issue an order at that time advising all law enforcement agencies including the State's Attorney's Office to seal its files. If Mr. DeBaere's file is sealed, no agency will be able to acknowledge their official agency file.