
March 30, 2018

Press Release - For Immediate Release

Defendant's Name: Austin Housham-Terhark
Age: 20
City and State of residence: Sioux City, IA
Criminal File Number: 17-348
Date of Offense: July 1, 2017
Date of Indictment: July 19, 2017
Date of Arraignment: September 11, 2017
Offense(s) Charged: Ct. 1: Possession of a Schedule I or II Controlled Substance,
SDCL 22-42-5, a class 5 felony;
Change of Plea: February 16, 2018
Convicted of: **Ct. 1: Possession of a Schedule I or II Controlled Substance,
SDCL 22-42-5, a class 5 felony;**
Date of Sentencing: February 16, 2018
Officer: Officer Andrew Ryan – NSC PD
Officer F. Mahlke
Defense Attorney: Zachary Hindman
Prosecutor: Jerry Miller & Erin Handke

Original Case Synopsis:

On 07/01/2017, I, Officer Andrew Ryan, observed a red in color Ford Mustang traveling faster than the posted speed limit of 40 miles per hour. Radar indicated a target speed of 49 miles per hour. A traffic stop was conducted near the intersection of Streeter and Wycoff at approximately 1817 hours.

The front passenger was later identified as Austin Lee Housham-Terhark by his IA Driver's License. The driver, Jairo Deanda-Oliyaes, was identified by his IA DL. The officer detected the odor of marijuana emanating from the vehicle. Jairo admitted to speeding.

Jairo stated that he had smoked marijuana about an hour ago (prior to the stop) in his car with his passenger/friend Austin. Jairo stated that Austin also smoked marijuana with him. Jairo stated that there was some marijuana and a pipe in the center console. Jairo stated that all of the paraphernalia and marijuana was his.

Austin stated that he last used marijuana one month ago. This information did not match what Jairo had admitted to. Austin then admitted to smoking marijuana. Austin stated that there were no more drugs/drug paraphernalia in the vehicle.

Officer Mahlke complete a vehicle impound search form on Jairo's vehicle. During the inventory, a prescription pill container without a label was found. There were two different types of pills in the container. Also located during the search was a grinder, a pipe, and two small white baggies filled with marijuana. Austin stated that the pills were his. Jairo stated that the marijuana, the grinder, and the pipe were all his. Austin stated that the pills were a mix of

Hydrocodone and Tramadol. Austin stated that he had a prescription for the Tramadol but stated that he took the Hydrocodone from his parents who did have a prescription for the medicine. There were five and a half pills of Tramadol and three pills of Hydrocodone. Jairo and Austin were transported and booked in at the Union County Jail.

Original 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 **Count 1: Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony**, 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

IT IS HEREBY ORDERED, as to **Ct 1: Possession of a Schedule I or II Controlled Substance, a violation of SDCL 22-42-5, a class 5 felony**, that the Defendant shall be imprisoned in the Union County Jail for the term of **30** days with **0** days credit for time served. The remaining 30 days shall be served as follows: **30** days to be served beginning **July 1, 2018 at 9:00 a.m.** The Defendant's Court Services officer may recommend to the Court that any of these jail terms be waived, but unless the court signs a written order waiving any of these jail terms, each of the jail terms shall be served by the Defendant.

IT IS FURTHER ORDERED that subject to the rules of the Union County Jail, Defendant shall be entitled to work release, release for education or release for chemical dependency treatment or aftercare, with the Defendant to pay all costs of these releases.

IT IS FURTHER ORDERED that the Defendant may served the jail sentence in Iowa, at the Defendant's cost.

IT IS FURTHER ORDERED that the Defendant is placed on probation for a term of **2** (two) years. 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**; Fine of **\$200.00**; and UA fee of **\$45.00** 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 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 other 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 perform _____ hours of community service to be completed by _____.
11. Defendant shall have no contact with the victim, _____.
12. Defendant shall write a letter of apology to the victim, _____, which letter shall be approved by court services.

Criminal History:

This is Austin Housham-Terhark's first felony offense that he admitted to before any court. In this case, the Court used its judicial clemency powers and granted a suspended imposition of sentence. Austin Housham-Terhark 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. Austin Housham-Terhark from receiving this benefit. If Mr. Austin Housham-Terhark 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. Austin Housham-Terhark's file is sealed, no agency will be able to acknowledge this file.