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May 25, 2018

## Press Release - For Immediate Release

Defendant's Name: Joseph McCurry  
Age: 20  
City and State of residence: Sioux City, IA  
Criminal File Number: 17-348  
Date of Offense: September 16, 2017  
Date of Indictment: October 18, 2017  
Date of Arraignment: October 23, 2017  
Offense(s) Charged: Count 1: Possession of Marijuana More Than 2 oz., But Less Than a Pound, a violation of SDCL 22-42-6, a Class 6 felony  
Count 2: Ingestion, a violation of SDCL 22-42-15, a Class 1 misdemeanor  
Count 3: Careless Driving, a violation of SDCL 32-24-8, a Class 2 misdemeanor  
Count 4: Possession of Drug Paraphernalia While in a Motor Vehicle, a violation of SDCL 22-42A-3 and 32-12-52.3, a Class 2 misdemeanor  
Change of Plea: January 8, 2018  
Convicted of: **Count 1: Possession of Marijuana More Than 2 oz., But Less Than a Pound, a violation of SDCL 22-42-6, a class 6 felony**  
**Count 3: Careless Driving, a violation of SDCL 32-24-8, a Class 2 misdemeanor**  
Date of Sentencing: March 23, 2018  
Officer: Deputy James Prouty  
Officer Eric Fay  
Defense Attorney: Gretchen Cooper  
Prosecutor: Jerry Miller & Erin Handke

### Case Synopsis:

On 9-16-17 a vehicle driven by Joseph McCurry, travelling northbound on I-29, collided with another vehicle, approximately 2 miles south of Elk Point. The drivers left the interstate and stopped in the parking lot of Dakota Alert, then summoned police assistance. When police arrived on scene the other driver informed Officer Eric Fay that Joseph told him the collision occurred because Joseph dropped his marijuana joint and bent down to pick it up. The other driver also informed Officer Fay that Joseph had tossed a black bag in the bushes.

Officer Fay questioned Joseph in his patrol vehicle, where the odor of burnt marijuana emanated from Joseph's person. Joseph admitted the collision occurred because he bent down to pick up the joint. Officer Fay informed Joseph he was aware of the black bag in the bushes, and Joseph admitted to ownership of the bag, and stated there was marijuana in it. Officer Fay took possession of the black bag, and searched it, locating marijuana and paraphernalia. Union County Deputy Prouty later arrived on scene, placed Joseph under arrest and transported him to Union County Jail.

**Sentencing Synopsis:**

IT IS HEREBY ORDERED that as to the crime of **Ct 1: Possession of Marijuana, More Than 2 oz., But Less Than a Pound, SDCL 22-42-6, a Class 6 felony**, that the Defendant shall serve **2 (two)** years in the South Dakota State Penitentiary.

It is further ORDERED that Court shall SUSPEND the EXECUTION of the **2 (two)** years 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 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 as directed by your Court Service Officer and submit to testing in the form of twice daily PBTs (24/7) program) 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.

IT IS FURTHER ORDERED that the Defendant is placed on probation for **3 (three)** 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 be imprisoned in the Union County Jail for the term of **61 (sixty-one)** days, with **1 (one)** day credit for time served. The remaining **60 (sixty)** days shall be served as follows: **30 (thirty)** days to be served beginning **July 1, 2018** at 9:00 a.m.; **30 (thirty)** days to be served beginning **January 1, 2019** 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 waving any of these jail terms, each of the jail terms shall be served by the Defendant.

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 serve the jail sentence in Iowa, at the Defendant's cost.

IT IS FURTHER ORDERED as to the crime of **Ct 1: Possession of Marijuana, More Than 2 oz., But Less Than a Pound, SDCL 22-42-6, a Class 6 felony**, that the Defendant shall pay court costs of **\$104.00**; grand jury transcript fees of **\$10.00**; a Fine of **\$0**; and UA and Testing fees of **\$45** 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 as to the crime of **Ct. 3: Careless Driving, SDCL 32-24-8, a Class 2 misdemeanor**, that the Defendant shall pay court costs of **\$66**; grand jury transcript fees of **\$0**; a Fine of **\$200**; and UA and Testing 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) due six months from the date of sentencing; it is further that the cost shall be paid within **6 (six)** months from the date of sentencing which will be 5:00 on September 23, 2018.

**Criminal History Synopsis:**

Joseph McCurry has no prior arrests or convictions.