

March 30, 2018

Press Release - For Immediate Release

Defendant's Name: Travis Potts
Age: 27
City and State of residence: Fordyce, NE
Criminal File Number: 17-348
Date of Offense: September 16, 2017
Date of Information: February 26, 2018
Date of Arraignment: February 26, 2018
Offense(s) Charged: Ct. 1: Possession of a Schedule III or IV Controlled Substance, SDCL 22-42-5, a class 6 felony;
Ct. 2: Driving Under the Influence, SDCL 32-23-1(2), a class 1 Misdemeanor; and
Ct. 3: Reckless Driving, SDCL 22-42-15, a class 1 misdemeanor
Change of Plea Date: August 5, 2013
Convicted of: **Ct. 1: Possession of a Schedule III or IV Controlled Substance, SDCL 22-42-5, a class 6 felony;**
Ct. 2: Driving Under the Influence, SDCL 32-23-1(2), a class 1 Misdemeanor; and
Ct. 3: Reckless Driving, SDCL 22-42-15, a class 1 misdemeanor
Date of Sentencing: February 26, 2018
Officer: Trooper Kayne Weaver – SD Highway Patrol & Jeffrey Christie
Deputy Kyte – Clay Co. SO.
Defense Attorney: Craig Thompson
Prosecutor: Jerry Miller & Erin Handke

Original Case Synopsis:

On September 16th 2017 Union County dispatch received multiple calls over the 911 emergency line of a vehicle swerving from lane to lane traveling southbound on 1 29. The multiple callers stated that he went down into the ditch, hit two mile markers, and eventually slowing down to almost a stop on the interstate.

The callers stated the vehicle was a Red Lincoln with a license plate 7A2580, I got to the interstate near MM 26 and observed a long line of vehicles. I turned around and found the vehicle as it pulled into the Coffee Cup, I observed the vehicle had damage to the passenger side with dents and scratches, I also observed the passenger side mirror was broken off. The vehicle and grass inside the grill of the vehicle. I identified the driver as the above defendant. I asked him to my patrol car. While seated in my patrol car I noticed Potts had a slurred speech. Based on my observations and the manner in which the vehicle was operated asked demonstrated and had Potts perform a series of standardized tests and exercises. Potts performed poorly. I placed Potts under arrest for Driving Under the influence, Clay County Deputy Kyte said there was a package of pills in plain sight inside the vehicle. I identified the pills as Diazepam. Diazepam is a controlled

substance. The package didn't have any labels on it and was inside a zip lock baggie. I read Miranda to Potts and he waived his rights. Potts also said the pills were not prescribed to him.

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 plead guilty to the crimes of **Ct. 1: Possession of a Schedule III or IV Controlled Substance, SDCL 22-42-5, a class 6 felony, Ct. 2: Driving Under the Influence, SDCL 32-23-1(2), a class 1 misdemeanor, and Ct. 3: Reckless Driving, SDCL 22-42-15, a class 1 misdemeanor**, which are 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: IT IS HEREBY ORDERED, that the Defendant is placed on probation for **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 serve a term of imprisonment in the Union County Jail for **60** days with **0** days credit for time served. The remaining 60 days shall be served as follows: **30** days to be served beginning on July 15, 2018 at 9:00 a.m.; 30 days to be served beginning January 15, 2019 at 9:00 a.m. 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 the Defendant shall pay court costs of **\$104.00**; grand jury transcript fees of **\$10.00**; Prosecution cost of **\$0**, a Fine of **\$0**; and Lab Testing fees of **\$54** 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.

AS to COUNT 2: IT IS FURTHER ORDERED, that the Defendant shall pay court costs of **\$84.00**; grand jury transcript fees of **\$0**; Prosecution cost of **\$0**, a Fine of **\$350.00**; DUI Surcharge of **\$50**, and UA fees of **\$90** ; to the Union County Clerk of Courts (209 East Main Street, ~ Suite 230, Elk Point, SD 57025); to be paid by August 26, 2018; it is further

AS to COUNT 3: IT IS FURTHER ORDERED, that the Defendant shall pay court costs of **\$84.00**; grand jury transcript fees of **\$0**; Prosecution cost of **\$0**, a Fine of **\$300.00**; and Lab 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) to be paid by August 26, 2018.

Criminal History:

This is Travis Potts'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. Travis Potts 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. Travis Potts from receiving this benefit. If Mr. Travis Potts 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. Travis Potts's file is sealed, no agency will be able to acknowledge this file.