

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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4 State of Minnesota,

5 Plaintiff,

Plea Hearing

6 vs.

File No. 27-CR-22-13941

7 Tia Payne,

8 Defendant.

9 - - - - -

10 The above-entitled matter came before the Honorable
11 Kerry Meyer, Judge of District Court, at the Hennepin County
12 Government Center via zoom, Minneapolis, Minnesota, at 1:50 p.m.
13 on December 5, 2022.

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15 APPEARANCES

16 Kaitlin Anderson appeared personally on behalf of the State of
17 Minnesota.

18 The Defendant, Tia Payne, appeared personally and was
19 represented by their attorney, Mark Seeger Esq.

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25 Barbara Schultz, Central Monitoring Room Court Reporter.

1 P R O C E E D I N G S

2 THE COURT: We're on the record. State of
3 Minnesota versus Tia Payne. I know you said you go by
4 Tia Payne Peterson, right?

5 DEFENDANT: Tia Payne.

6 THE COURT: Okay. Just Tia Payne. Court file
7 number 27-CR-22-13941. Counsel, please note your
8 appearances.

9 MS. ANDERSON: Good afternoon, Your Honor. Kaitlin
10 Anderson, appearing on behalf of the State.

11 MR. SEEGER: Good afternoon, Your Honor. Mark
12 Seeger, appearing upon behalf of Ms. Payne, who is present on
13 the Zoom hearing. But I can't find the Zoom hearing right
14 here on my computer, so I -- you know as a risk of asking you
15 to hang just a second let me see if I can get back here.

16 THE COURT: We can see you.

17 MR. SEEGER: I can't see you. I can see my cat.

18 THE COURT: I'll have no cat discussion on Zoom.

19 MR. SEEGER: I'm not going to miss computers,
20 folks.

21 THE COURT: How are you going to harass granted if
22 we're not using computers.

23 MR. SEEGER: Oh, I'm gonna go in person. It will
24 be fun. I'm sorry. I am literally doing everything I can to
25 get back to Zoom here, and it is just not allowing me to do

1 it. I'm sorry, my friends. Give me just another moment.

2 There we go . All right. So I'm going through the whole
3 join thing again and I know I'm already there. So let's see
4 if it pushes me over Zoom.

5 THE COURT: We can see you still. You're totally
6 in the Zoom hearing.

7 So, Ms. Payne, because you're on a telephone, we can't
8 see you, but we can see your name and we can hear you when
9 you talk.

10 DEFENDANT: Oh, okay, ma'am. Thank you.

11 MR. SEEGER: Am I back?

12 THE COURT: Yes. You are back.

13 Okay. We're back on the record. We have the attorneys
14 noted. It's my understanding you've reached an agreement.
15 Please make a record of that.

16 MR. SEEGER: Oh, yes. Ms. Anderson, if you don't
17 mind, I'll go ahead.

18 MS. ANDERSON: Okay.

19 MR. SEEGER: Your Honor, there are two counts here.
20 There is a felony count of Assault 4, against police officer,
21 and misdemeanor count of Assault 5, against another victim.
22 The agreement is that there will be a plea to the assault
23 four count against police officer, which we hope will be
24 sentenced as a gross misdemeanor in order to avoid a felony
25 record. And as a result of that -- hang on. I'm pulling up

1 the petition here again. We hope that you will sentence as
2 follows after a presentence investigation: 365 days. This
3 is a durational departure because of a less onerous than
4 typical offense and an early resolution. We asked that you
5 will order 30 days of EHM, two years probation -- in line
6 with the idea that this will be a gross -- restitution if
7 any, dismiss Count 2 at sentencing, and look at the findings
8 of a presentence investigation.

9 There is no negotiation or request from either side with
10 regard to fine or other conditions. Those are being left to
11 the discretion of the Court. And I hadn't raised this with
12 Ms. Anderson, but there is a DANCO here, which we would ask
13 to resolve. The victim on the case that we are dismissing, I
14 am told will contact people to -- we can talk about that at
15 sentencing -- that person will talk to the proper authorities
16 to see if that matter can be addressed at sentencing.

17 THE COURT: All right. There may be a condition of
18 no contact for release, but there's not a domestic abuse no
19 contact order on this case. But I agree, we should talk
20 about contact at sentencing.

21 MR. SEEGER: Yes, Your Honor.

22 MS. ANDERSON: And regarding this offense being
23 less onerous and difficult, the defendant did spit at the
24 officer and it landed on his clothing, not on his face or in
25 his eyes or in his mouth. So that would be the reasoning

1 that this would be less onerous.

2 THE COURT: Thank you for clarifying.

3 MR. SEEGER: Oh, yeah. That's right.

4 THE COURT: Anything else, Ms. Anderson, on the
5 offer?

6 MS. ANDERSON: No, Your Honor.

7 THE COURT: Ms. Payne, do you understand what's
8 been offered to resolve your case?

9 DEFENDANT: Yes, ma'am.

10 THE COURT: And given your options, is that what
11 you want to do to resolve it?

12 DEFENDANT: Yes.

13 THE COURT: Please state your name and date of
14 birth.

15 DEFENDANT: Tia Payne; December 19th, 1980.

16 WITNESS: Tia Payne

17 (WHEREUPON, the witness was duly sworn.)

18 THE COURT: Ms. Payne, do you swear or affirm that
19 what you say during this hearing will be the truth?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: To Count 1 of the complaint, assault in
22 the fourth degree; you're pleading as a felony, but you know
23 that you'll get sentenced as a gross misdemeanor; occurring
24 on/about July 16th of 2022; in Richfield; Hennepin County
25 Minnesota; do you plead guilty or not guilty?

1 THE WITNESS: Guilty.

2 THE COURT: Mr. Seeger, please go through the
3 waivers.

4 MR. SEEGER: Thank you.

5 BY MR. SEEGER:

6 Q. Ms. Payne, I've sent you and you and I have discussed
7 over the morning here what's called a plea petition.
8 It's a multi-page document that goes through all of your
9 constitutional rights. Do you remember that?

10 A. Yes.

11 Q. Okay. I'm gonna go through them now while the court
12 reporter's taking it down, okay?

13 A. Yes.

14 Q. All right. You understand that you have two charges,
15 against you: There's an assault in the fourth degree,
16 which was charged as a felony, which could subject you to
17 up to three years in jail and a \$6,000 fine. Do you
18 understand that?

19 A. Yes.

20 Q. And then in Count 2, is an assault in the fifth degree,
21 which could subject you to up to 90 days in jail and a
22 \$1,000 fine. Do you understand that?

23 A. Yes.

24 Q. And the offer that we're looking at here is essentially a
25 compromise. Their offering to allow you to plead to a

1 fourth degree, but sentence you as a gross misdemeanor in
2 order to protect your record against having a felony. Do
3 you understand that?

4 A. Yes, sir.

5 Q. And that's what you want to do?

6 A. Yes, sir.

7 Q. Do you think you've had enough time to talk about this
8 case with me?

9 A. Yes, sir.

10 Q. All right. We've talked about defenses. We've talked
11 about what the video shows and what we think the jury
12 could or could not believe. Do you understand that?

13 A. Yes, sir.

14 Q. Ms. Payne, have you been ill lately?

15 A. No.

16 Q. Okay. All right. Have you been treated for any kind of
17 mental problems lately?

18 A. No.

19 Q. By which I mean, have you been to a hospital, been
20 checked into hospital for depression, or are you taking a
21 whole bunch of medications which make it difficult for
22 you to think your way through today's hearing and make a
23 proper decision?

24 A. No.

25 Q. All right. So you're clear headed today?

1 A. Yes.

2 Q. All right. You have the right to have a probable cause
3 hearing. You had a public defender, Ms. Bishop, prior to
4 retaining me, and that probable cause hearing was
5 scheduled and it didn't happen; is that correct?

6 A. Yes, sir.

7 Q. All right. So if you wanted to have that probable cause
8 hearing, where I would test the efficiency of the
9 efficiency -- that -- thanks Ms. Anderson for not
10 laughing -- the admissibility, the sum of the confessions
11 or videos or any other evidence that the police have
12 against you. I could ask the Judge to go ahead and do
13 that. But by entering a guilty plea here today, you're
14 agreeing to give up having that hearing because you want
15 to resolve the case; is that correct?

16 A. Yes, sir.

17 Q. All right. You have the right to have a jury trial. You
18 could have 12 people decide whether or not you're guilty
19 of either of these offenses. And by entering a guilty
20 plea here today, you're going to give up the right to a
21 trial, whether it's a jury trial or trial without a jury,
22 to Judge Meyer sitting as a total jury on, by herself.
23 And do you want to give up that right and go forward
24 today?

25 A. Yes.

1 Q. Say that again.

2 A. Yes, I want to go forward today.

3 Q. At that trial, if we were to go ahead and do it, I -- as
4 your lawyer -- would have the right to cross-examine all
5 the witnesses Ms. Anderson --

6 A. (Inaudible.)

7 Q. I'm sorry. Say that again.

8 A. No, I was gonna do the plea today.

9 Q. No, I understand that. I'm going through your rights.

10 A. Oh, okay.

11 Q. Just like we did before we started. Yeah. If we were to
12 do that trial, I could talk to the police officers and
13 anybody else involved, and cross-examine them on your
14 behalf. You're going to give that up if we do the plea.
15 Is that what you want to do?

16 You have to say yes or no, either way.

17 A. Yes.

18 Q. All right. At a trial, you'd have the right to be --
19 presumed, you heard about this your whole life, you'd
20 have the right to be presumed to be innocent until
21 Ms. Andersen were to prove you guilty beyond a reasonable
22 doubt. You give up that right to be presumed innocent if
23 you enter a guilty plea. Is that what you want to do
24 here today?

25 A. No. I want to go with the plea today.

1 Q. Okay. I understand that so you give up your right to be
2 presumed innocent.

3 A. Yes.

4 Q. Understood. There's only a couple more.

5 Yeah, you have the right to have Ms. Anderson have to
6 prove you guilty beyond a reasonable doubt. And I'm
7 gonna go just a little bit into this. Beyond a
8 reasonable doubt is: You got to be of sure of this, the
9 jury has to be assured that you're guilty as though they
10 were making a decision to buy a house, get married, a
11 major life experience; so it's pretty high burden. So
12 she's got a pretty high burden.

13 By entering a guilty plea, you agree that you
14 performed the act that they are talking about, which
15 we're going to talk about in just a minute here, and that
16 you don't need to put them through a trial to prove you
17 guilty beyond a reasonable doubt. Does that make sense
18 to you?

19 A. Yes.

20 Q. And that's what you'd like to do here today, give up the
21 right to be proved guilty beyond a reasonable doubt?

22 A. Yes.

23 Q. All right.

24 MR. SEEGER: Here, Your Honor. Ms. Anderson and I
25 have nothing else on the rights. I don't know if there's an

1 enhancement in this, that I didn't say anything about. But I
2 think since we're talking about fourth, there's not.

3 MS. ANDERSON: It is an enhanceable offense, it is.

4 MR. SEEGER: All right. Then I should talk about
5 that.

6 BY MR. SEEGER:

7 Q. Ms. Tia Payne, this is what's called an enhanceable
8 offense. Enhanceable just means that if you were to
9 engage -- if you were to be charged with doing the same
10 thing, same exact conduct as you are charged with in this
11 case, in the future -- okay -- they could charge you with
12 a worst crime and they could have you possibly suggest
13 subjected to more jail time or a higher fine or worse
14 penalties. That's called an enhancement. Do you
15 understand that?

16 A. Yes, sir.

17 Q. All right. And knowing that are you willing to go
18 forward with a plea today?

19 A. Yes.

20 Q. Okay. Did you hear me talk about what the deal was? Did
21 you hear me outline the proposal to Judge Meyer?

22 A. Yes.

23 Q. And that's what you want to do here today?

24 A. Yes.

25 Q. Nobody's twisting your arm to make you do it -- Oh,

1 goodness. I'm sorry -- nobody's twisting your arm to
2 make you do this today; is that correct?

3 A. Correct.

4 Q. You and I talked about this over the last few days, and
5 this is what we want to do; is that right?

6 A. Yes.

7 MR. SEEGER: All right. Judge Meyer and
8 Ms. Anderson, I believe that is -- oh, I sorry.

9 BY MR. SEEGER:

10 Q. You have looked at the plea petition over your computer.
11 You and I have email that back and forth, correct?

12 A. Yes.

13 Q. And I have your permission to sign it on your behalf; is
14 that correct?

15 A. Yes.

16 Q. So if this matter is accepted by Judge Meyer here in a
17 few minutes, I will go ahead and efile the petition so
18 that everybody can see it. Do you understand that?

19 A. Yes, sir.

20 Q. All right.

21 MR. SEEGER: Judge Meyer and Ms. Anderson, I
22 believe that that is sufficient. We can go with the facts if
23 you'd like.

24 THE COURT: Ms. Anderson are you satisfied?

25 MS. ANDERSON: Yes, Your Honor.

1 THE COURT: All right. So am I. Go ahead with the
2 factual basis.

3 MR. SEEGER: Ms. Anderson, I don't have the full
4 police report in front of me right now. Do you mind going
5 and asking a few questions?

6 MS. ANDERSON: Sure. You want me to do it?

7 MR. SEEGER: Would you please.

8 MS. ANDERSON: Sure. Let me pull it up.

9 MR. SEEGER: Okay. While you are you doing that,
10 Ms. Tia Payne, you understand that you're under oath. And
11 what Ms. Anderson is going to do is establish a factual basis
12 for the judge to determine this happened. And so listen to
13 your questions and answer them truthfully. Okay?

14 THE WITNESS: Yes.

15 MS. ANDERSON: Okay.

16 BY MS. ANDERSON:

17 Q. Ms. Payne, on July 16th, 2022, you were involved in an
18 altercation at your house in Richfield; is that correct?

19 A. Yes.

20 Q. Okay. And at that point, officers responded to your home
21 in Richfield; is that right?

22 A. Yes.

23 Q. And you're transported to the Hennepin County jail; is
24 that true?

25 A. Yes.

1 Q. And the jail's in Hennepin County; is that correct?

2 A. Can you repeat that? We got cut out.

3 Q. And you would agree that the jail, Hennepin County jail,
4 is located in Hennepin County?

5 A. Yes.

6 Q. And you were asked -- at one point while you're at the
7 jail, you intentionally spit at a police officer?

8 A. I did, but I didn't know that spit on him. It wasn't
9 intentionally trying to spit on him.

10 Q. Okay. So you spit?

11 A. Yes.

12 Q. And it landed on a police officer?

13 A. Yes.

14 Q. Okay. Well, you intentionally spit on that police
15 officer; is that fair to say?

16 A. No. No, I did not.

17 Q. Okay. So you intentionally spit, but you didn't mean for
18 it to land on him?

19 A. Yes, that's what I'm trying to say.

20 MS. ANDERSON: Okay. So this is not going to work.

21 MR. SEEGER: Can I turn this thing, Mr. Anderson?

22 MS. ANDERSON: Sure.

23 BY MR. SEEGER:

24 Q. Ms. Payne, at the time that you were being locked by the
25 police officers, you were pretty upset, correct?

1 A. Yes.

2 Q. And the phrase that we use in us old guys is "you were
3 spitting mad"; is that correct?

4 A. Yes.

5 Q. And you have words and you did spit, correct?

6 A. Yes.

7 Q. The fact that the spit hit the police officer -- I mean,
8 you were spitting at him as much as you were spitting in
9 anybody -- I think that will help us, Ms. Anderson -- is
10 that correct?

11 A. Yes.

12 Q. Okay.

13 MR. SEEGER: Ms. Anderson, will that cover it?

14 MS. ANDERSON: I'm fine with that.

15 MR. SEEGER: All right.

16 BY MR. SEEGER:

17 Q. And you understand that the law in the State of Minnesota
18 is that if you intentionally -- so you're spitting, but
19 if you intentionally produce bodily fluids -- whether
20 it's spit or urine or feces or anything -- pointed at a
21 police officer hits them, that's a felony. And that law
22 is there to protect the health and welfare of the police
23 officers. Do you understand that?

24 A. Yes.

25 Q. All right.

1 MR. SEEGER: I don't have anything further,
2 Your Honor or Ms. Anderson?

3 THE COURT: All right. Ms. Payne, based on what
4 I've heard, I find you've made a knowing, voluntary, and
5 intelligent waiver of your right to have a trial in this
6 case. I also find that the facts you stated under oath, that
7 you intentionally spit at the officer, support your guilty
8 plea to fourth-degree assault. I find that the jail, of
9 course, is in Hennepin County since it's the Hennepin County
10 jail. Although, I arranged in Richfield, it happened in
11 Minneapolis.

12 I need you to talk to a probation officer and come back
13 for sentencing. What phone numbers should probation use to
14 set up an appointment with you, ma'am?

15 THE WITNESS: 612-220-5496.

16 THE COURT: Okay. Thank you. And then we'll get
17 dates out there in the chat: January 20, 24, or 25.

18 MR. SEEGER: Let me look at my calendar.

19 Your Honor, can I raise another issue while we're talking
20 about real quickly?

21 THE COURT: Sure

22 MR. SEEGER: The victims of this case is -- I mean,
23 things have calmed down a lot. And the victim in this case
24 is concerned that they won't be able to spend Christmas with
25 the family. Can we have a hearing date or can we do,

1 perhaps, a written motion to dissolve the current --

2 THE COURT: No contact order?

3 MR. SEEGER: No contact order. Thank you. Good
4 morning. I'll be happy to write on behalf of Ms. Payne.

5 THE COURT: That's fine. You can make that motion
6 in writing.

7 MR. SEEGER: I will do that, and I will ask -- that
8 we will have to actually see each other for a hearing -- and
9 I'll send it to you in the next day or two.

10 THE COURT: Okay.

11 MR. SEEGER: I'm volunteering for work. What is
12 that?

13 MS. ANDERSON: The dates that are provided, I can
14 make any of those dates.

15 MR. SEEGER: I'm looking at my schedule as we speak
16 here. Good Lord. My computer and I are having a
17 relationship issues. When I am not lawyer, I am a touring
18 R&B musician, and I want to see if I'm in Minnesota. Yes.
19 January 20 will work just fine.

20 THE COURT: Ms. Payne, do you want morning or
21 afternoon?

22 THE WITNESS: Morning would be fine.

23 THE COURT: 9:00.

24 MR. SEEGER: Will do.

25 MS. ANDERSON: 9:00 works.

1 THE COURT: All right. 9:00, January 20. In the
2 meantime, you're gonna write to me. I show no contact with
3 DM. I assume that's the person you mean, right?

4 MS. ANDERSON: I'm sorry. What did you say,
5 Your Honor?

6 THE COURT: The no contact is with a person whose
7 initials are DM. I assume that's the alleged victim in
8 Count 2, that's been dismissed, right?

9 MS. ANDERSON: That's correct.

10 THE COURT: Okay. All right. Thank you. I'll see
11 you on January 20th, Ms. Payne.

12 MR. SEEGER: Do we know what the January 20th will
13 be? A Zoom hearing or an in-person hearing? Doesn't matter
14 to me. I just want to know what the Court prefers.

15 THE COURT: That's the same for me. It doesn't
16 matter.

17 MR. SEEGER: I would prefer a Zoom hearing
18 nowadays.

19 THE COURT: All right. We'll do Zoom for that
20 sentencing. So it'll be the same number. Thank you.

21
22 (WHEREUPON, the proceedings concluded at
23 2:15 p.m.)
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3 STATE OF MINNESOTA)

4)

5 COUNTY OF HENNEPIN)

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8 I, Barbara Schultz, do hereby certify that the above
9 and foregoing transcript consisting of the preceding pages as a
10 true and complete transcript of the digital recording; and is a
11 full, true, and complete transcript of the proceedings to the best
12 of my ability.

13

14

15 Dated: November 6, 2023

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18

/s/ Barbara Schultz

19

Barbara Schultz
Official Court Reporter
(612) 596-6790

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