

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 10-CM-1952

RONALD J. MOORE,

The defendant.

FACTUAL BASIS FOR PLEA

The state, by its attorney, Donald V. Latorraca, Assistant Attorney General and Special Prosecutor for Marathon County, offers the following as strong proof of the defendant Ronald Moore's guilt in support of his pleas. If the matter proceeded to trial, the state would present the following evidence:

1. Andrew Penrod, an adult citizen, would testify that his family retained the defendant to represent him on criminal cases pending in Marathon County Circuit Court. On February 3, 2010, the defendant contacted Andrew Penrod and told Andrew Penrod that Marathon County Special Investigations Unit (SIU) would be raiding his house. The defendant directed Andrew Penrod to gather all drug-related items in his house. Andrew Penrod would testify that he placed several items including homemade pieces for ingesting marijuana, a digital scale, and empty bags in a garbage bag. He then provided the bag to the defendant at the defendant's office. While at the office, the defendant asked Andrew Penrod about the going price for an ounce of marijuana. Andrew Penrod stated that the defendant had informed Andrew Penrod that the district attorney had told the defendant that there was a warrant to raid

the house and that is why Andrew Penrod believed that the defendant wanted him to bring the previously described items to the defendant's office.

2. On February 4, 2010, the defendant telephoned Andrew Penrod and asked him to come to his office. After discussing pending cases, Andrew Penrod states that the defendant directed him to pick up an envelope. It contained \$400 in \$20 bills. The defendant told Andrew Penrod to purchase an ounce of marijuana. The defendant called Andrew Penrod's employer and told the employer that Andrew Penrod would not be in for work as the defendant had something for him to do.

3. Upon leaving the defendant's office, Andrew Penrod contacted another individual for the purpose of purchasing marijuana. While Andrew Penrod and the other individual were in the process of obtaining the marijuana, Andrew Penrod states that his father, Russell Penrod, contacted him via cellular telephone and asked him what he was up to. Andrew Penrod told his father what the defendant had asked him to do. Andrew Penrod stated that he then met his parents at a Shopko parking lot at which time they agreed to meet at the defendant's office.

4. Andrew Penrod would testify that he did not return to the defendant's office until after his parents got there. Andrew Penrod stated that when he walked into the office, Russell Penrod stated to Andrew Penrod that the defendant had denied giving Andrew Penrod \$400 to buy marijuana. Andrew Penrod then took the \$400 from a pocket and placed it on the defendant's desk. Andrew Penrod then picked up the money and stated that it must be his (Andrew Penrod's) money then. The defendant then asked if Andrew Penrod if the defendant could tell his parents what was going on. Andrew Penrod stated that the defendant told his parents that the money was so that he could make a good faith buy. Andrew Penrod then became upset and left the office.

5. Russell Penrod would testify that he and his wife (Cindy Penrod.) paid the defendant \$3000 in retainer fees for representation of Andrew Penrod. On February 4, 2010, Russell Penrod learned from Andrew Penrod via a telephone communication that Andrew Penrod was out attempting to purchase marijuana at the defendant's direction. Russell Penrod told his son to stop what he was doing and directed his son to meet at the Shopko parking lot. At that time, Russell Penrod told Andrew Penrod that they should all go to the defendant's office. Russell Penrod and Cindy Penrod got to the defendant's office approximately 20 minutes before Andrew Penrod. During that time, they asked the defendant about the \$400 that he had given to Andrew Penrod. The defendant denied giving Andrew Penrod any money when Andrew Penrod removed the money and stated that maybe he should keep the money. At that point, the defendant asked Andrew Penrod for permission to talk to the parents. The defendant explained that he gave Andrew Penrod \$400 so that Andrew Penrod could make a good faith buy of marijuana. The defendant stated that Lance Leonhard (a person whom I know to be a Marathon County Assistant District Attorney) and the SIU knew about this. The defendant then told Russell Penrod that this was only a good faith buy and that if Andrew Penrod wanted to work with SIU, an actual contract would need to be written with SIU.

6. Cindy Penrod stated that she accompanied her husband, Russell Penrod to the defendant's office. When they confronted the defendant with the allegation that the defendant had requested Andrew Penrod to purchase marijuana, the defendant denied the allegation. When Andrew Penrod entered the office, the defendant acknowledged that he had given Andrew Penrod \$400 to purchase marijuana and it was a good faith effort. Cindy Penrod stated that this upset her because Andrew Penrod was on bond on felony charges and Andrew Penrod could have been in more legal trouble had he had contact with police.

7. SIU Investigator Nathan Pauls would testify that he had spoken with Andrew Penrod following his January arrest and advised Andrew Penrod that he could contact Investigator Pauls once he was out of jail. Neither Investigator Pauls nor fellow Investigator Brad Lewitzke had contact with Andrew Penrod after his arrest. Likewise, they did not have contact with the defendant or made any arrangements for Andrew Penrod to cooperate with law enforcement. Investigator Pauls stated that SIU had never attempted to obtain a warrant for the residence.

8. ADA Lance Leonhard would testify that the defendant called him and suggested that Andrew Penrod would be willing to cooperate with drug investigations for consideration for his pending charges. ADA Leonhard dismissed the idea with the defendant because such an arrangement was imprudent. ADA Leonhard said that this was not an appropriate option because of the number and severity of Andrew Penrod's pending cases. ADA Leonhard did not know the date of this conversation and that the conversation lasted no longer than 30 seconds. In addition, ADA Leonhard never told the defendant that Andrew Penrod should clear his house of any illegal drugs because SIU would be conducting a search warrant at the residence

9. S.J.C., a juvenile male, would testify that Andrew Penrod contacted him in February and asked S.J.C. if S.J.C. could locate some marijuana. Andrew Penrod subsequently picked up S.J.C. in his car. Andrew Penrod told S.J.C. at that time that his attorney had given him \$400 to buy marijuana. While driving around, S.J.C. stated that Andrew Penrod was speaking with his father by telephone. Andrew Penrod and S.J.C. went to the Shopko parking lot. Andrew Penrod met with his father, Russell Penrod. After the meeting between Andrew Penrod and Russell Penrod, S.J.C. and Andrew Penrod terminated their contact with each other.

10. William Korbisch, an adult citizen, would testify that in early 2010, he is the general manager at a Wausau area restaurant. Andrew Penrod was employed at that restaurant. Sometime in late January or early February, he received a telephone call from a person who identified himself as Andrew Penrod's defense attorney. The defense attorney advised William Korbisch that Andrew Penrod would not be able to make it in to work for his shift because Andrew Penrod was working on a project with the attorney for Andrew Penrod's case. An hour later, Andrew Penrod subsequently stopped by the restaurant and showed William Korbisch a large amount of cash, which William Korbisch estimated to be several hundred dollars. Andrew Penrod told William Korbisch that he had to purchase marijuana for his attorney to help Andrew Penrod out on his criminal case.

11. SIU Investigator Pauls would testify that he subsequently examined telephone records that reflect a telephone call placed from the defendant to a telephone at the restaurant where Andrew Penrod was employed. This call occurred on February 4, 2010, at approximately 10:08 a.m.

Dated this 26th day of October, 2010.

Respectfully submitted,

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