

ST. LOUIS POST-DISPATCH

MAN'S MISSTEPS MAY LEAD TO BOOT

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* The native German with six years in the Army Reserves, a budding career and an impending marriage was stunned to face deportation proceedings after pleading guilty to a drug charge in a case involving his roommate.

The last time Colin Brown saw his son as a free man, he told him how proud he was of his accomplishments.

"I said 'You're living the life. You've got there,'" Colin Brown recalled. "He slapped me on the back and he said, 'Dad, I owe it all to you.'"

The two stood in a Las Vegas casino, celebrating their version of an immigrant family's dream.

Today, five weeks after their conversation, Florian Brown enters his second month in the Montgomery County jail, held because of his guilty plea to a marijuana charge, waiting to be deported to his native Germany, a country he last lived in at age 5.

His supporters say he is a victim of a crime he didn't commit, bad legal advice and tougher immigration laws that no longer tolerate missteps by foreigners living in the United States. Even missteps made by those like Florian Brown, an American in almost every way, including six years in the Army Reserves — two on active duty.

"It is very hard for me to believe that I was willing to fight and die for this country, and after one mistake, this country is done with me," Brown wrote in a letter from jail to his parents last week.

In a phone interview, his father lamented for his son.

"He has it all going for him," Colin Brown said. "He has an incredible career in front of him. To nip that in the bud is almost a crime."

At age 28, Florian Brown was a hot property in television, sought for his skills at capturing the sounds of live sporting events. Well-paid by networks such as ESPN, ABC and CBS, his assignments took him to events around the world. He followed in the footsteps of his English father, who became a top event man and made a fortune in the sports and entertainment broadcast world after immigrating to the United States with his German wife, Hille, and young Florian in 1980. The family never sought U.S. citizenship but lived in the country as permanent residents.

Brown had just bought a time-share condominium on the Las Vegas strip. He owned a home in Maryland Heights and was engaged to be married.

His legal problems started on Oct. 19, 2001, when he came home from an out-of-town job covering a National Hockey League game.

He found his house ransacked and his roommate missing.

The roommate, Christian Mollin, and Brown first met in 1993 when both attended college nursing classes as part of their family reserve training.

Mollin lived in the basement of the Maryland Heights house. He had recently lost several jobs, and Brown said he was having trouble making ends meet.

Brown called Todd Ryan, an attorney and friend of the roommates. Ryan told Brown that Mollin was on the other line. Police arrested Mollin the day before for selling an ounce of marijuana to an informer at the house. The lawyer told Brown that police also seized other evidence, including 18 small marijuana plants and drug paraphernalia.

Ryan and Brown agreed to talk later.

A day or so after, all three met. Brown asked Ryan whether authorities wanted a statement from him.

In a court hearing earlier this month, Ryan testified that he called the Maryland Heights police detective handling the case.

The lawyer asked the detective whether he wanted to talk to Brown.

According to the testimony, the detective responded that if Brown wanted to come in and implicate himself, they would not seek to seize his house or prosecute to the full extent of the law.

In his letter from jail, Brown admits to knowing about the pot growing in a locked basement storeroom but said he "foolishly turned a blind eye."

Brown's name was not mentioned in the police report, and only Mollin, not Brown, had been under surveillance by Maryland Heights police, his new lawyers say.

Ryan offered to have both men make statements if the detective agreed to go easy on them, his lawyers say. Ryan could not be reached for comment. Mollin declined to discuss the case.

Detained at airport

Brown said he understood that if he cooperated, police would be lenient and suggest probation and a suspended imposition of sentence. That meant his criminal record would be cleared once he completed probation.

Brown said he believed that because of the suspended sentence, his plea would have no effect on his immigration status and that he would not be deported. Brown said he saw the plea as a way to move on.

At the police station, Brown signed a statement saying he was partly responsible for the drugs found in the house.

Both pleaded guilty to manufacturing and selling a controlled substance, a felony. A judge sentenced Brown to 40 days in a work-release facility, five years' probation, drug counseling and agreed to the suspended imposition of the sentence.

Almost two years passed, and for Brown, the incident was a fading memory.

Then, in July, Brown returned from covering the annual running of the bulls in Pamplona, Spain, and was detained by immigration officials at a New Jersey airport. They told him that his sentence in the drug case appeared on his passenger information screen and that he should report to the St. Louis immigration office with his court records.

When he arrived at the St. Louis office on Aug. 13, immigration agents took him into custody, shackled him and transported him to the Montgomery County jail.

Only then did he learn that federal law doesn't recognize suspended imposition of sentences by state courts. That meant the federal government considers him an aggravated felon.

Under changes in immigration laws made in 1996, resident aliens charged with an aggravated felony are subject to deportation.

"A horrible situation"

His lawyers are now trying two tactics: overturning his conviction or blocking his deportation.

On the criminal side, they hope to persuade St. Louis County Circuit Judge John Ross to reconsider Brown's earlier guilty plea in the drug case.

Ross ruled against a motion earlier this month seeking to have the original plea thrown out.

In a brief filed Wednesday, Brown's lawyers argue that the law requires that a hearing be held in cases where a lawyer represents more than one client to show no conflicts of interest exist. Clients also must be advised of their rights to seek independent counsel. The judge ordered no such hearing in Brown's case, they said.

"I'm trying to correct a horrible situation that should have been avoided by the prior counsel," said **Bret Rich**, one of Brown's new lawyers.

Until Wednesday, Brown sat in legal limbo for more than a month, uncharged by the federal government and ineligible for bail. Normally, charges are filed within 72 hours of a person being detained.

Immigration investigators told Brown's lawyers they were waiting for clearance to start formal deportation proceedings, pending a review because of his military background.

Brown and his lawyers expect to appear before an immigration judge for a deportation hearing within the next month.

One of Brown's immigration attorneys, Tim Wichmer, believes the case could set a precedent.

The law in some states requires that defendants pleading guilty in felony cases must be told of the direct consequences of their plea. In Missouri, that doesn't include how a guilty plea might affect someone's immigration status.

But Wichmer believes that tighter immigration laws enacted over the last six years eliminated court discretion in such cases, almost always making

deportation a direct consequence.

"Now it's automatic," he said. "Florian never would have pleaded guilty if he had known that."

Fiancee stands by him

In the meantime, the attorneys are encouraging Brown to go ahead with his marriage while in custody. That might make him eligible to have his deportation waived.

"I love him. He's the guy for me even with all this," said his fiancee, Elizabeth Stitt, 24.

The two met six years ago through mutual friends. This week marks their second anniversary as a couple. They've lived together for a year and got engaged at Christmas.

"If he gets deported, I'm going to go with him," Stitt said

They won't be alone. Florian's parents also plan to eventually follow their son if he is deported. The family never sought U.S. citizenship, partly out of convenience, partly out of procrastination.

"We just never got around to it," Colin Brown said. "If Flo gets out of this mess, we're going to run down there and get citizenship."

While lawyers search for a way to free their client, Brown is doing well in custody.

Family members say they talk almost every other day by phone. Stitt makes the 140-mile round trip twice each weekend for 30-minute visits. He is popular with both guards and fellow prisoners, serving as a trusty and helping some inmates with their court cases.

He remains confident his military service will help him. His family is prepared for the worst.

Industry colleagues have launched a letter-writing campaign hoping to sway the courts and have tried to get the networks to pick up the story. A Web site detailing his case is in the works, and friends also established a fund to help pay his bills.

Colin Brown, 57, said he is still proud of his son. He's not as proud of the shrinking tolerance his adopted country is showing toward those who arrive seeking a better life.

"There doesn't seem to be any compassion since 9-11," Brown said. "We had no idea that even if you just make one mistake, you could be out like this. We're on the run. That's the feeling I get. We're all on the run."

Caption: (1) Color Photo - Elizabeth Stitt and her fiance, Florian Brown, who could face deportation to Germany after pleading guilty to a drug charge. "If he gets deported, I'm going to go with him," Stitt said. The two met six years ago through mutual friends. This week marks their second anniversary as a couple.

They've lived together for a year and got engaged at Christmas.

(2) Photo by KAREN ELSHOUT/POST-Dispatch - Elizabeth Stitt, the fiancee of Florian Brown, stands in her home in Maryland Heights last week. Brown faces deportation proceedings after pleading guilty to a drug charge. If he is deported, Stitt says she will go with him to Germany. "I don't know what we'll do. We don't speak German."

Correction:

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