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Arrest Report

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
1300 MARCINSKI ROAD
JUPITER, FL. 33477

Report Date / Time 4/25/2021 05:05 PM	Report Number C-3841AA	Case Number/Cad Number FWCS21OFF011240 / FWCS21CAD020452	Reporting Officer Name CARROLL, MICHAEL J
Originating Agency ORI FL0488000	Occur Date Time Range 04/25/2021 14:54:35 -	Jurisdiction	Clearance

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description LAKE BOCA RATON			
Street Number LAKE BOCA	Street LAKE BOCA	Apt/Lot/Bldg FWC	City BOCA RATON	State FL	Zip Code 33432

Defendant

First Name MATTHEW	Middle Name DAVID	Last Name SIMMONS	Suffix	Race WHITE	Sex MALE	Height 607	Weight 250	Hair BROWN	Eyes HAZEL
MNI #	SSN	Date of Birth 11/01/1998	Age 22	ID Type E	Drivers License or other ID S552544984010	State FL	OCA / Agency ID		
Place of Birth: Del FL, 33484									
Address * RESIDENCE / 5064 GARFIELD RD, DELRAY BEACH, FL 33484 /									

Arrest

Arrest Date/Time 4/25/2021 3:08:18 PM	Arrest Location Type PUBLIC PLACE	Arrest Location Description				
Street Number LAKE BOCA	Street LAKE BOCA	Apt/Lot/Bldg FWC	County PALM BEACH	City BOCA RATON	State FL	Zip Code 33432

Charge : STATE STATUTE

Counts 1	Charge 327.35(1)(a)	Bond Amount \$0.00	<input type="checkbox"/> No Bond
Charge Degree SECOND DEGREE	Charge Level MISDEMEANOR	General Offense Code DUI-UNLAW BLD ALCH	
Charge Description OPERATING A VESSEL WHILE NORMAL FACULTIES IMPAIRED			

Bond Set by Officer

Bond Amount	<input type="checkbox"/> No Bond
Bond Type(s)	

Probable Cause

At approximately 2:45 pm, on April 25th, 2021, I, Investigator Michael Carroll, of the Florida Fish and Wildlife Conservation Commission (FWC), was conducting water patrol in the area of Lake Boca, in Palm Beach County, Florida.

Arrest Report

Cpl. White

CTC. Felix Boca Raton

SCANNED
APR 27 2021

Page 1 of 5

FILED
APR 26 AM 8:2
CLERK OF COURT
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

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I observed a personal watercraft (PWC), approach the marked patrol vessel I was on board with a white male subject operating the PWC. Officer's Kleis and Conroy, both of FWC, initially made contact with the operator. The operator was not wearing a cutoff switch lanyard and had no registration numbers displayed on the vessel. I later identified the operator by name and date of birth to be Matthew Simmons DOB

I identified myself as a law enforcement officer and explained to the operator I was going to conduct a boating safety inspection. I immediately detected a strong odor of an unknown alcoholic beverage emitting from the operator while speaking to him at a conversational distance. I observed the operator's eyes to be watery, glassy, and bloodshot. I asked the operator to provide me with the registration to vessel, to which he struggled to open the hatch in the center console of the vessel. I observed the operator retrieve a piece of paper and stare at it for a moment and appear confused. The operator searched the center console for several moments and kept opening and closing the hatch.

I asked the operator to provide me with a fire extinguisher and a sound producing device. The operator leaned forward and struggled to open the front hatch of the vessel. The operator then went back into the center console hatch and held up a whistle and I advised not to sound the whistle, but he did anyway.

While conducting the boating safety inspection, I observed several White Claw empty beverages in the center console hatch of the vessel. I observed an empty beer bottle on the starboard side gunwale portion of the vessel. I observed a cooler with several White Claw beverages inside of it. The operator spoke with thick tongued speech and appeared disoriented. I asked the operator how much he drank that day, to which he stated not enough to not be able to operate the vessel.

I asked the operator to perform voluntary Standardized Field Sobriety Tasks, to which he stated he did not want to. I advised the operator that though Standard Field Sobriety Tasks are voluntary, if he refused to perform them, I would have to base my decision on whether or not to arrest him on all of my observations of him up until that point. The operator stated he would perform Standardized Field Sobriety Tasks. The operator boarded my patrol vessel and appeared to be unsteady on his feet in calm seas.

Standardized Field Sobriety Tasks

General Instructions:

Subject stated he will voluntarily perform Standardized Field Sobriety Tasks.

Subject was seated and stable. Subject stated he understood the general instructions.

Pre - Task Questions:

Subject stated he did not have any physical defects or disabilities.

Subject stated he did not have any defects with his eyes.

Subject stated he was not sick or injured.

Subject stated he was not under the care of a doctor or dentist.

Subject stated he was not taking any medications or drugs.

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Horizontal Gaze Nystagmus:

Subject stated he understood the instructions.

Subject had equal pupil size.

Subject did not have resting nystagmus.

Subject had equal tracking.

Subject showed Lack of Smooth Pursuit in left and right eye.

Subject showed Distinct and Sustained Nystagmus at Maximum Deviation in left and right eye.

Subject showed Onset of Nystagmus Prior to 45 Degrees in left and right eye.

Subject showed Vertical Nystagmus.

Finger to Nose:

Instruction Stage:

Subject stated he understood the instructions.

Subject was unable to follow instructions and remain in the start position.

Subject started at wrong time.

Performance Stage:

Subject moved his head during task (1" +).

First Left: Subject hesitated, searched, not fingertip, missed tip of the nose, did not bring hand down.

First Right: Subject hesitated, searched, not fingertip, missed tip of the nose, did not bring hand down.

Second Left: Subject hesitated, searched, did not bring hand down.

Second Right: Subject hesitated, searched, not fingertip, missed tip of the nose, did not bring hand down.

Third Right: Subject used wrong hand, then hesitated, searched, missed tip of the nose, did not bring hand down.

Third Left: Subject hesitated, searched, missed tip of the nose.

Palm Pat:

Instruction Stage:

Subject stated he understood the instructions.

Subject was unable to follow instructions and remain in the start position.

Subject stared at wrong time.

Performance Stage:

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Subject rolled hands.
Subject chopped pat.
Subject did not increase speed.

Hand Coordination:

Instruction Stage-

Subject stated he understood the instructions.
Subject was unable to follow instructions with proper positioning and remaining in the start position.
Subject started at the wrong time.

Task 1 - Forward Steps:

Subject Improperly touched.

Task 2 - Hand Clapping:

Subject improperly returned.

Task 3 - Return Steps:

Subject improperly counted.
Subject improperly touched.

Task 4 - End Position:

Subject did not perform task.

Based on the vessel in motion, personal contact with the operator, Standardized Field Sobriety Tasks, and the totality of circumstances, I placed the operator Matthew Simmons under arrest for boating under the influence. I transported Simmons to Silver Palms Boat Ramp and brought him to the mobile command post. I read Simmons implied consent, to which he refused to submit to a lawful test of his breath. I read Simmons Miranda Warnings from my agency issued Operator and Appraisal Form, to which Simmons wished to only talk to Officer Stone, of FWC in private. Officer Stone advised he could not do that.

I turned over Simmons to the command post staff where he was transported and booked into the Palm Beach County Jail, by Boca Police Department personnel.

I tried to contact the owner of the personal watercraft to which was unsuccessful. The personal watercraft will be

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in FWC possession until either the owner contacts me back or towed by Tow Boat US.

Jail Booking Facility

Booking Date/Time 4/25/2021 05:07 PM	Booking County PALM BEACH	Booking Facility MAIN DETENTION CENTER	Booking Facility Phone (561) 996-1699
Booking Facility Location 3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406-3001			Booking Number
Booking Comments			


Court

Court County PALM BEACH	Court Location 3228 GUN CLUB ROAD WEST PALM BEACH, FL 33406		
Court PALM BEACH COUNTY COURT AT GUN CLUB	Court Phone	Court Appearance Date / Time 05/26/2021 1:30PM	Court Fine
Comments			

Officer Name Rank / ID # CARROLL, MICHAEL J OFFICER	Involvement On Report / Reporting Role REPORTING OFFICER	Officer Agency Org/Unit FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FWCSISO REGION AIPALM BEACH
WN676		

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

Reporting Officer

Officer Name CARROLL, MICHAEL J	Office Rank OFFICER	Officer ID No WN676	Sworn and subscribed before me, the undersigned authority This the <u>25th</u> day of <u>April</u> , <u>2021</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT
Officer Agency FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION			 p290
Officer Signature			

<input type="radio"/> No Bill / Petition	<input type="radio"/> Issue Warrant	<input type="radio"/> Prosecution Approved
Signature of Assistant State Attorney		Date



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
OPERATOR APPRAISAL & INTERVIEW



DEFENDANT'S NAME: Matthew D Simmons CASE NO. FWCS 2107P11240

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
5. If you consent to answer questions now, without a lawyer present, you will still have the right to stop answering at anytime.

1. Do you understand each of these rights? ☒ YES ☐ NO
2. With these rights in mind, do you wish to talk to us now? ☐ YES ☒ NO

Defendant's Signature: _____

Were you operating a vehicle/vessel?		Where were you going?
Was the vehicle/vessel in good condition? If No, _____		What is wrong with it?
What road/waterway were you on?		Where were you coming from?
What time did you leave there?		Without looking at a watch or clock, what time is it now? Actual Time:
What is today's date? Actual Date:		What day of the week is it? Actual Day:
When did you last eat?	What did you eat?	Where did you last eat?
What have you been drinking?	How much have you been drinking?	Where have you been drinking?
Who were you drinking with and were they drinking?		What time did you start drinking?
What time did you stop drinking?	Do you feel the effects of alcohol (or drugs)?	Do you feel that you are impaired?
Were you involved in an accident today?	When did you last sleep?	How much sleep did you get?
Are you currently under the care of a doctor or dentist? For what?		
Have you used any type of drugs recently, prescription, non-prescription or otherwise?		
If so, what kind of drug did you take? What was your last dose and when?		
Do you think you should have been operating a vehicle/vessel?		If yes, Why?

Michael Carroll
Interviewing Officer's Signature

Michael Carroll
Interviewing Officer's Name (Printed)



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

IMPLIED CONSENT WARNING FOR BREATH (BUI)

DEFENDANT'S NAME: Matthew D Simmons CASE NO: FWCS 210FF 11240

I am now requesting that you submit to a lawful test of your **BREATH** for the purpose of determining its alcohol content.

Will you take the test?

YES ☐ NO ☒

NOTE: READ THE BELOW ONLY IF THE ANSWER TO THE ABOVE IS "NO." If the answer to the above is "YES," move to and complete the signatures section of this document.

If you refuse to submit to the test I have requested of you, it will result in a civil penalty of \$500. Additionally, if you refuse to submit to the test I have requested of you and you have previously been fined for refusal to submit to a lawful test of your breath, urine, or blood you will be committing a misdemeanor, in addition to any other penalties which can be imposed by law. Refusal to submit to the test I have requested is admissible into evidence in any criminal proceeding.

In ADDITION to the above, read this statement ONLY if the person is under the age of 21:

Furthermore, if you refuse to submit to this test, you will be required to complete 50 hours of community service and your privilege to operate a vessel will be suspended until the community service is performed.

Do you understand what I have just read to you? YES ☐ NO ☐
Do you still refuse to submit to this test? YES ☐ NO ☐

SIGNATURES

Date read: 4/25/21 Time read: 3:24 Location read: Silver Palm Beach Ramp

OFFICER'S NAME (printed): Michael Carroll

OFFICER'S SIGNATURE: [Signature]



STATE OF FLORIDA
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT



REFUSAL TO SUBMIT TO BREATH, URINE OR BLOOD TESTING

In the County Court of the 15th Judicial
Circuit in and for Palm Beach County, Florida

STATE OF FLORIDA
(PLAINTIFF)

Uniform Boating Citation No.

1632554

V.

Matthew D. Simmons
DEFENDANT

AFFIDAVIT

I, Inv. Michael Carroll, a law enforcement officer, who having been duly sworn, certify and state the following:

1. That on Sunday, April 25, 2021 at 3:08 ☐ AM probable
Day of Week Date (Month & Day) Year Time ☒ PM
cause existed to arrest the above named Defendant for a violation of section 327.35, Florida Statutes, as set forth in the attached narrative which is incorporated by references as if set forth fully herein.
2. That on that date and that time:
☒ The Defendant was under lawful arrest for an offense committed while the Defendant was operating a vessel while under the influence of alcoholic beverages, chemical substances, or controlled substances, and the Defendant was requested to submit to a ☒ breath test, ☐ urine test, or ☐ both a breath and a urine test;
or
☐ The Defendant had appeared for treatment at a hospital, clinic, or other medical facility, the administration of a breath or urine test was impractical or impossible, and the Defendant was requested to submit to a blood test.
3. The Defendant was advised of both the penalties for a failure to submit to the blood, breath or urine test and the procedure for requesting a hearing.
4. The Defendant refused to submit to the ☐ blood, ☒ breath, or ☐ urine test(s).

FURTHER AFFIANT SAYETH NOT.

[Signature]
Officer's Signature

16676
ID No

FWC
Law Enforcement Agency

1300 Marcinski Rd
Mailing Address

Jupiter
City

FL
State

33477
Zip Code

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 25th DAY

OF April, 2021

[Signature] N722
Notary Public or Attesting Officer

☒ Personally known to me

☐ Produced _____
as Identification



**PALM BEACH COUNTY
SHERIFF'S OFFICE**
Florida State Statute Exemption Sheet

Palm Beach County Sheriff's Office – Arrests Only

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	<input type="checkbox"/>	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	<input type="checkbox"/>	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	<input type="checkbox"/>	119.071(4)(c)	Undercover personnel.	
	<input type="checkbox"/>	119.071(2)(f)	Confidential informants (CIs).	
	<input type="checkbox"/>	119.071(2)(e)	Confession.	
Public Info. Exemptions	<input type="checkbox"/>	985.04(1)	Juvenile offender records.	
	<input type="checkbox"/>	119.071(h)(i)	Assets of a crime victim.	
	<input type="checkbox"/>	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	<input type="checkbox"/>	394.4615(7)	Mental health information.	
	<input type="checkbox"/>	119.071(4)(d)(2)(a)	Home address, telephone, Social Security number, date of birth, or photos of active/former LE personnel, spouses, and children.	
Florida Rules of Judicial Administration 2.420 (Rule of 23)	<input checked="" type="checkbox"/>	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	<input type="checkbox"/>	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	<input type="checkbox"/>	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	<input type="checkbox"/>	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Other	<input type="checkbox"/>		Other:	
	<input type="checkbox"/>		Other:	

REVIEW COMPLETED BY

Booking Number: 2021010024	Date: 4/26/2021
	Specialist Name/ID: M. Tookes #8557