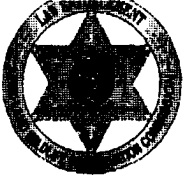


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**Arrest Report**

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
3200 NE 151 STREET
MIAMI FL 33181

Report Date / Time 11/19/2023 04:37 PM	Report Number C-7452AB	Case Number/Cad Number FWC23ON0109487 / FWCS23IN0058754	Reporting Officer Name MORGAN, DAVID
Originating Agency ORI FL0508000	Occur Date Time Range 11/19/2023 16:19:30 -	Jurisdiction	
OBTS Number	Other Number	Clearance	

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description MARINA RYBOVICH			
Street Number	Street	Apt/Lot/Bldg	City	State	Zip Code
		FWC	PALM BEACH	FL	

Defendant

First Name DEREK	Middle Name MICHAEL	Last Name MARCUSKY	Suffix	Race WHITE	Sex MALE	Height 6'00"	Weight 150	Hair BLACK	Eyes BROWN
MNI #	SSN	Date of Birth 09/30/1990	Age 33	ID Type E	Drivers License or other ID M622173903500	State FL	OCA / Agency ID		
Place of Birth:	HOLLYWOOD FL USA								
Address * RESIDENCE / 616 CLEARWATER PARK RD 1408 , WEST PALM BEACH, FL 33401 / 561-351-3984									

Arrest

Arrest Date/Time 11/19/2023 16:33:30	Arrest Location Type PUBLIC PLACE	Arrest Location Description ICW, RYBO MARINA				
Street Number	Street	Apt/Lot/Bldg	County	City	State	Zip Code
		FWC	PALM BEACH	PALM BEACH	FL	

Charge : STATE STATUTE

Counts 1	Charge 327.35(1)(c)	Bond Amount \$0.00	☐ No Bond
Charge Degree SECOND DEGREE	Charge Level MISDEMEANOR		
General Offense Code PRINCIPAL	Arrest Offense Code DUI-UNLAW BLD ALCH		
Charge Description OPERATING A VESSEL WITH AN UNLAWFUL BREATH ALCOHOL LEVEL OF .08 OR HIGHER			
Administrative Code - Description -			

Bond Set by Officer

Bond Amount	☐ No Bond
Bond Type(s)	

FILED PBC - GUN CLUB-
23 NOV 20 AMT 29

Arrest Report

Page 1 of 3

SCANNED
NOV 20 2023

Report Date / Time 11/19/2023 04:37 PM	Report Number C-7452AB	Case Number/Cad Number FWC23ON0109487 / FWCS23IN0058754	Reporting Officer Name MORGAN, DAVID
Originating Agency ORI FL0508000	Occur Date Time Range 11/19/2023 16:19:30 -	Jurisdiction	
OBTS Number	Other Number	Clearance	

Probable Cause

On 11/19/2023 at approximately 1620 hours I, Officer David Morgan of Florida Fish and Wildlife Conservation Commission (FWC) and FWC Officer Marcin Trawinski were on water-based patrol in the IntraCoastal waterway (ICW) south of Peanut Island located in Palm Beach County. We observed a vessel heading south in the (ICW) going fast on-plane in a posted manatee slow speed zone. We initiated a vessel stop to address the violation.

Upon contact with the vessel operator, later identified as Derek Michael Marcusky, FL DL# M622173903500 DOB 09/30/1990, I explained to Marcusky that we stopped him due to the manatee speed zone violation. I noticed that Marcusky had slightly slurred words when he was talking during the stop. I could smell the odor of an unknown alcoholic beverage coming from the vessel and as he moved around the vessel, I could tell the odor was coming from his person as well. Marcusky had glassy, bloody shot eyes with droopy eyelids. Marcusky's movements were unstable and needed to brace while standing. He ended up sitting down mid-way through the stop.

Due to the observations, I asked Marcusky if he would perform Seated Standardized Field Sobriety Tasks (SFSTs) to determine if he was impaired. Marcusky consented to perform Standardized Field Sobriety Tasks (SFSTs). I had Marcusky board my vessel to begin Seated SFSTs.

At the conclusion of the of SFSTs, Marcusky was arrested for operating a vessel while normal faculties impaired at 1633 hours. Marcusky performance on the tasks coupled with what I saw, smelled, observed and totality of the circumstance lead to the arrest of Marcusky.

We transported Marcusky to Rybovich Marina arriving at 1638 hours in on patrol vessel. Marcusky was then transported in my patrol vehicle to Gun Club arriving at 1656 hours. Marcusky refused to provide breath samples to determine the amount of alcohol on his breath. Marcusky was read Implied Consent and explained the penalties of a refusal, 2nd refusal in his case. Marcusky confirmed he understood the refusal warning and consented to provide breath to determine the breath alcohol content (BAC). Marcusky provided to breaths at 1729 and 1732 hours.

Marcusky's 1st breath was .120 g/210 mL and 2nd breath .124 g/210 mL, respectively. Marcusky refused answered questions, post-Miranda at 1733 hours.

Marcusky was issued the following citations:

Citation 1: V787182 (Infrac.)
379.2431(2)(s)(1): Manatee Sanctuary Act
68C-22.009(1)(d)1- Slow Speed

Citation 2: V787183 (Misd.)

Report Date / Time 11/19/2023 04:37 PM	Report Number C-7452AB	Case Number/Cad Number FWC23ON0109487 / FWCS23IN0058754	Reporting Officer Name MORGAN, DAVID
Originating Agency ORI FL0508000	Occur Date Time Range 11/19/2023 16:19:30 -	Jurisdiction	
OBTS Number	Other Number	Clearance	

327.35(1)(c): Operating a vessel with an unlawful breath alcohol level of .08 or higher.

All above events were captured on agency issued body worn camera and uploaded to the agency server.

Jail Booking Facility

Booking Date/Time 11/19/2023 05:58 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			

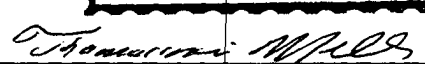
Court

Court County PALM BEACH	Court Location 205 NORTH DIXIE HIGHWAY WEST PALM BEACH, FLORIDA 33401		
Court PALM BEACH COUNTY COURT	Court Phone (561) 355-2996	Court Appearance Date / Time 12/28/2023 0830HRS	Court Fine
Comments			

Officer Name Rank / ID # MORGAN, DAVID OFFICER WP224	Involvement On Report / Reporting Role REPORTING OFFICER	Officer Agency Org/Unit FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FWCSISO REGION AIPALM BEACH
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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 MORGAN, DAVID	Office Rank OFFICER	Officer ID No WP224	Sworn and subscribed before me, the undersigned authority This the 19 day of November 2023 DEPUTY CLERK OF COURT THOMAS MILLER LAW ENFORCEMENT Notary Public - State of Florida Commission # HH 339641 My Comm. Expires Dec 7, 2026 Bonded through National Notary Assn.
Officer Agency FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION			
Officer Signature 			

☐ No Bill / Petition ☐ Issue Warrant ☐ Prosecution Approved

Signature of Assistant State Attorney

Date

Arrest Report

Page 3 of 3

SCANNED
NOV 20 2023

TESTING FACILITY TASK REPORT

AGENCY: FFWC

SUBJECT: MARCUSKY, DEREK .M.

CASE NUMBER: 23-130392

DATE: Nov 19, 2023

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 17:20

ENDING TIME: 17:34

BREATH TESTS RESULTS: 1) .120 TIME 17:29 A.M. ☐ P.M. ☒ 2) .124 TIME 17:32 A.M. ☐ P.M. ☒
3) N/A TIME N/A A.M. ☐ P.M. ☐ 4) N/A TIME N/A A.M. ☐ P.M. ☐

BREATH OPERATOR: T. MILLER #41017

MAINTENANCE TECHNICAN: J. KARLECKE# 6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: SLURRED

ATTITUDE: CALM

CLOTHING: NO SHIRT, ORANGE SWIM TRUNKS, WHITE SANDALS

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER:

EYES: GLASSY

COMMENTS:

ARRIVED AT CENTER A/O BEGAN THE 20 MINUTE OBSERVATION PERIOD AT 16:56 HRS.

SUBJECT: REFUSED TO TAKE TEST.

A/O: READ I/C AND EXPLAINED I/C(2X).

SUBJECT: STATED HE UNDERSTOOD I/C AND AGREED TO TAKE TEST.

A/O: READ RIGHTS.

SUBJECT: STATED HE UNDERSTOOD RIGHTS.

A/O: ATTEMPTED Q & A.

SUBJECT: REFUSED QUESTIONS.

TECH: READ TEST RESULTS.

SUBJECT: STATED HE UNDERSTOOD TEST RESULTS.

SCANNED
NOV 20 2023



PALM BEACH COUNTY SHERIFF'S OFFICE
DUI TESTING FACILITY
INFORMATION SHEET

PBSO CASE # 23-130392 PBSO ZONE 3-21
AGENCY CASE # FWC230N0109487 CRASH CASE # _____
TIME OF STOP/CRASH 1619hrs DATE 11/19/23 DAY Sunday
SUBJECT'S NAME Marcusky Deek M RACE W SEX M/L
LAST FIRST MID
HGT 5'09" WGT 150 lbs DOB 9/30/1990
LOCATION ICW, Rybo Marina
ARRESTING OFFICER'S NAME & ID Trish Morgan P224 AGENCY FWC
DIVISION: LE
NOTIFIED BY COMMO Yes
ARRIVAL AT FACILITY 1656 hrs
ARREST TIME 1633 hrs

BREATH RESULTS:

- 1) .120
- 2) .124
- 3) N/A
- 4) N/A

TESTING OFFICER'S ID 41017 PBSO VIDEOTAPE # N/A

SCANNED
NOV 20 2023

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
ALCOHOL TESTING PROGRAM
BREATH ALCOHOL TEST AFFIDAVIT

Instrument Type: Intoxilyzer 8000
Instrument Registered To: PALM BEACH CO SO
Instrument Serial Number: 80-006239 Software: 8100.27
Date of Test: 11/19/2023

Date of Last Agency Inspection: 11/17/2023

Observation Period Began: 16:56

Subject's Name: DEREK M MARCUSKY

DOB: 09/30/1990 Sex: M

The subject was observed for at least twenty-minutes prior to the administration of the breath test to ensure that the subject did not take anything orally and did not regurgitate.

Results:	Test	g/210L	Time
	Diagnostics Check	OK	17:27
	Air Blank	0.000	17:28
	Control Test	0.080	17:28
	Air Blank	0.000	17:28
	Subject Sample #1	0.120	17:29
	Air Blank	0.000	17:30
	Air Blank	0.000	17:31
	Subject Sample #2	0.124	17:32
	Air Blank	0.000	17:33
	Control Test	0.080	17:33
	Air Blank	0.000	17:33
	Diagnostics Check	OK	17:34

Cylinder Lot: 06723080AS
Exp: 04/05/2025

State of Florida, County of Palm Beach

Personally appeared before me the undersigned authority, who (☒) is personally known to me or (☐) produced _____ as identification, and who after being placed under oath, states:

I THOMASINA E MILLER, hold a valid Breath Test Operator permit issued by the Florida Department of Law Enforcement, I administered the above breath test to the subject named above in accordance with Chapter 11D-8, Florida Administrative Code, and this form is a true and accurate report of that breath test.

Breath Test Operator: Thomasina E Miller

Signature

Date: 11/19/23

Sworn to (or affirmed) before me this 19 day of November, 2023

[Signature]
Signature of Notary Public-State of Florida

OTC. D. Morgan
Printed Name of Notary Public-State of Florida

Note: Pursuant to section 117.10, Florida Statutes, law enforcement officers, correctional officers, traffic accident investigation officers and traffic infraction enforcement officers are notaries public when engaged in the performance of official duties. In accordance with section 316.1934(5), F.S., this completed form is admissible without further authentication and is presumptive proof of the results herein. To be used in accordance with Section 316.1934(5), F.S., and in administrative proceedings pursuant to 322.2615, F.S.



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



DEFENDANT'S NAME:

Ezek Marcusky

CASE NO.

FWC230N0109487

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:

In Custody

Were you operating a vehicle/vessel?		Where were you going?
Was the vehicle/vessel in good condition? If No, <u> </u> →		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: <u> </u>
What is today's date? Actual Date: <u> </u>		What day of the week is it? Actual Day: <u> </u>
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?

[Signature]
Interviewing Officer's Signature

[Signature]
Interviewing Officer's Name (Printed)



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

IMPLIED CONSENT WARNING FOR BREATH (BUI)

DEFENDANT'S NAME:

Zeek Marcusky

CASE NO:

FWC23027109487

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 been previously fined under section 327.35215, Florida Statutes, or if your driving privilege has been previously suspended 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: 11/19/23

Time read: 1724 hrs

Location read: BAT M. W. Soil

OFFICER'S NAME (printed):

Zeek Morgan

OFFICER'S SIGNATURE:

[Signature]

P224



Palm Beach County Sheriff's Office

Florida State Statute Exemption Sheet

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	☐	119.071(4)(c)	Undercover personnel	
	☐	119.071(2)(e)	Confession	
Public Info. Exemptions	☐	FL Const. Art. I, s. 16(b)(5)	Marsy's Law – victim information shall be redacted. The term "victim" also includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim. The term "victim" does not include the accused (ref. page 99 of the CRTM for additional information)	
	☐	119.071(2)(j)	Home/employment telephone number, home/employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery or domestic violence	
	☐	119.0712(2)	Personal information contained in a motor vehicle record	
	☐	316.650(11)	Driver information contained in a uniform traffic citation	
	☐	119.071(4)(d)2.a.	Home addresses, telephone numbers, dates of birth, and photographs of active/former LE personnel, spouses, and children	
Florida Rules of Judicial Administration 2.420	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers	2
	☐	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request	
	☐	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses	
	☐			
	☐			
Other	☐			
	☐			
	☐			
	☐			

REVIEW COMPLETED BY

Booking Number: 2023030580	Date: 11/20/2023
	Specialist Name/ID#: T.Howard/7185

SCANNED
NOV 20 2023