23mm 5371mB

Arrest Report 0541627

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
8535 NORTHLAKE BLVD
WEST PALM BEACH, FL.

2605

Report Date / Time	Report Number	Case Number/Cad Number	Reporting Officer Name
7/3/2023 06:31 PM	C-4626AA	FWC23ON0062595 / FWCS23IN0033698	SPIRITO, GEORGE

Originating Agency ORI	Occur Date Time Range	Jurisdiction
FL0508000	07/03/2023 17:04:29 -	

OBTS Number	Other Number	Clearance

Location of Occurrence

County	Location Type	Location Description
PALM BEACH	OTHER	BRIDGE ALT SR-A1A LOX RIVER

Street Number	Street	Apt/Lot/Bldg	City	State	Zip Code
	SR-A1A-ALT	FWC	JUPITER	FL	33469

Defendant

First Name	Middle Name	Last Name	Suffix	Race	Sex	Height	Weight	Hair	Eyes
JACOB	EDWARD	SCHMIDT		WHITE	MALE	6'00"	200	BROWN	BLUE

MNI #	SSN	Date of Birth	Age	ID Type	Drivers License or other ID	State	OCA / Agency ID
	[redacted]	03/17/1985	38	E	S530425850970	FL	

Place of Birth:	PALM BEACH GARDENS FL USA

Address
* RESIDENCE / 11141 162ND PL N , JUPITER, FL 33478 /

Arrest

Arrest Date/Time	Arrest Location Type	Arrest Location Description
7/3/2023 5:16:35 PM	OTHER	ICW NEAR ALT A1A BRIDGE

Street Number	Street	Apt/Lot/Bldg	County	City	State	Zip Code

Charge : STATE STATUTE

Counts	Charge	Bond Amount	
1	327.35(1)(a)	$0.00	☐ No Bond

OR

Charge Degree	Charge Level
SECOND DEGREE	MISDEMEANOR

General Offense Code	Arrest Offense Code
	DUI-UNLAW BLD ALCH

Charge Description
OPERATING A VESSEL WHILE NORMAL FACULTIES IMPAIRED

FILED PBC - GUN CLUB--
'23 JUL 4 AM8:00

Administrative Code - Description
-

Bond Set by Officer

Bond Amount	
	☐ No Bond

Bond Type(s)

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NO DEFENDER
D/S MACK 2650

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Probable Cause

I. WHAT: BUI
II. WHEN: July 3, 2023
III. WHERE: Palm Beach County, Jupiter, ICW and Alt A1A Bridge
IV. WHO: Jacob E. Schmidt 11141 162ND PL N JUPITER FL 33478-6140

V. Other information Relating to BUI
Vessel- FL 5661 MZ

VI. DETAILS OF DUI/BUI

On July 3, 2023, I Officer Spirito along with Officer Schroer both of the Florida Fish and Wildlife Conservation Commission (FWC) were on marked vessel patrol in the area of ICW and the Alt A1A bridge in Jupiter.

We observed a vessel bearing FL registration FL 5661 MZ, a 21-foot Sea fox operated by a male later identified as Jacob Schmidt. The vessel appeared to have 2 male children onboard under 6 years old with no life jackets on. FL law says that any child under 6 must wear a lifejacket at all times on a vessel under 26ft in length.

We effected a stop in the area of the ICW and Alt AA bridge and I encountered the operator Schmidt. I identified myself and asked the children's age and he stated one was almost 6 and other was also under 6. I could immediately smell the odor of an alcoholic beverage emanating from Schmidt as he spoke, there was a Coors light beer can in the cup holder at the helm and there was a white trash bag what was very full and stretched so you could see through it, this appeared to have between a dozen and 20 empty Coors light beer cans in it. I had Schmidt open the only cooler on the boat to see if he had any fish because he stated he was fishing, and it only contained ice.

I had Schmidt's brother who was onboard, put on and secure lifejackets on the 2 children. I asked Schmidt for his safety gear, while he was doing this, he had to keep holding onto parts of the vessel to keep his balance. I asked Schmidt to take off his sunglasses so that I could see his eyes and his eyes were glassy with pinpoint pupils. Based on my observations and interactions with Schmidt, I asked him to put on a life jacket and come aboard my vessel to see if it was safe for him to operate his vessel. He had some trouble putting on the lifejacket and leaned on the leaning post to keep his balance but agreed to do so.

SFST's

General Instructions and Pre-task questions

Schmidt had trouble listening from the start and had to be told many times to stay in the position that I had asked him to be in. He sat back in the seat when I told him to sit at the front edge of the seat and he put his hands together then on his lap when I asked him to put them at his side. This was all as he was stating that he understood what I was telling him. He answered "No" to all of the pre-task questions. Now that I was closer to Schmidt, I

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could smell a strong odor of an alcoholic beverage emanating from his person, he was slurring his speech and his eyes were extremely glassy.

Horizontal Gaze Nystagmus

Schmidt stated that he was not wearing contacts. Schmidt had lack of smooth pursuit in both eyes, distinct and sustained nystagmus at maximum deviation in both eyes and onset to nystagmus prior to 45 degrees in his left eye.

Total Clues 5 Total Clues needed 4.

Finger to nose

Schmidt was unable to follow instructions, started at the wrong time, did not close his eyes or tilt his head, moved his head more than 1" during the task many times. No fingertip many times, searched many times, missed the tip of his nose many times and did not bring his hand down several times even though I kept telling him to do it on his own.

Total Clues 17 Total Clues needed 9.

Palm Pat

Schmidt had trouble following instructions, rolled his hands, chopped pat, had to be told several times to increase his speed and double pat. Schmidt seemed as if he did not want to continue or was distant as if what he was doing was not important.

Total Clues 5 Total Clues needed 2.

Hand Coordination

Schmidt was unable to follow instructions and stay in the starting position, did not count in task 2 and started counting wrong on task 3.

Total Clues 3 Total Clues needed 2.

At this time based on my observations, the failed tasks and Schmidt high level of intoxication he was placed under arrest for operating a vessel with normal faculties impaired. Schmidt had his 2 young boys on his vessel with no life jackets while he was extremely intoxicated and operating his vessel offshore.

Schmidt was handcuffed, the handcuffs were double locked, and he was transported by vessel to Jonathan's Landing. We dropped off Schmidt's vessel at his request with his brother and 2 young boys at Waterway Park. Jupiter PD checked to make sure Schmidt's bother was safe with the children. Schmidt advised us that it was his

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wish that his brother take his boys.

Schmidt was transported from Jonathan's Landing to Palm Beach Jail at Gun Club. He was observed for 20 minutes and given an opportunity to provide a breath sample which he declined. He was read all of his implied consent warnings and then read his Miranda warnings. He was also read his operator appraisal and interview form and agreed to answer questions (see attached form).

Schmidt was charged with the following:

327.35(1)(a) BUI normal faculties

327.35215(1) refusal to submit to breath pursuant to FS327.352

327.50(1)(b) PFD not worn by child under 6, vessel less than 26ft in length (2 COUNTS)

Jail Booking Facility

Booking Date/Time	Booking County	Booking Facility	Booking Facility Phone
7/3/2023 07:15 PM	PALM BEACH	MAIN DETENTION CENTER	(561) 996-1699

Booking Facility Location	Booking Number
3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406-3001	

Booking Comments

Court

Court County	Court Location
PALM BEACH	3228 GUN CLUB ROAD WEST PALM BEACH, FL 33406

Court	Court Phone	Court Appereance Date / Time	Court Fine
PALM BEACH COUNTY COURT AT GUN CLUB		08/03/2023 8:30 AM	

Comments

Officer Name / Rank / ID #	Involvement On Report / Reporting Role	Officer Agency Org/Unit
SPIRITO, GEORGE OFFICER WP366	REPORTING OFFICER	FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FWCS\SO REGION A\PALM 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	Office Rank	Officer ID No
SPIRITO, GEORGE	OFFICER	WP366

Officer Agency

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Officer Signature

Sworn and subscribed before me, the undersigned authority

This the 3rd day of July, 2023

DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT

NP45

○ No Bill / Petition ○ Issue Warrant ○ Prosecution Approved

Signature of Assistant State Attorney Date

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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)

V.

Jacob E Schmidt
DEFENDANT

Uniform Boating Citation No.
V675981

AFFIDAVIT

I, George Spirito, a law enforcement officer, who having been duly sworn, certify and state the following:

1. That on Monday (Day of Week), July 3 (Date (Month & Day)), 2023 (Year) at 5:16 (Time) ☐ AM ☒ PM probable 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 reference 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.

Officer's Signature — ID No 7366

Law Enforcement Agency FWC

Mailing Address 1300 Marcinski Rd

City Jupiter — State FL — Zip Code 33477

SWORN TO AND SUBSCRIBED BEFORE ME THIS 3rd DAY OF July, 2023

Notary Public or Attesting Officer N845

☑ Personally known to me
☐ Produced _____ as Identification

[redacted]

FWCDLE 108F Revised (01/21)

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FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

IMPLIED CONSENT WARNING FOR BREATH (BUI)

DEFENDANT'S NAME: Jacob Schmidt CASE NO: FWC230N/00

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 ☐ ? What will happen

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 Statues, 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 ☐ 18:56

SIGNATURES

Date read: 07/03/23 Time read: 1854 Location read: Palm Beach County BAT

OFFICER'S NAME (printed): George Spirito P366

OFFICER'S SIGNATURE: [signature]

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FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

OPERATOR APPRAISAL & INTERVIEW

DEFENDANT'S NAME: Jacob Schmidt CASE NO. FWC230N00

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? Yes		Where were you going? back to boat Ramp
Was the vehicle/vessel in good condition? If No, → Yes		What is wrong with it?
What road/waterway were you on? ICW		Where were you coming from? Offshore Bottom fishy
What time did you leave there? ?		Without looking at a watch or clock, what time is it now? ? 630 Actual Time: 658
What is today's date? July 3 2023 Actual Date: July 3 2023		What day of the week is it? Monday Actual Day: Monday
When did you last eat? lunch 12-1	What did you eat? Sandwich Publix	Where did you last eat? Boat
What have you been drinking? Water to	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)? NO	Do you feel that you are impaired? NO
Were you involved in an accident today? NO	When did you last sleep? Last Night	How much sleep did you get? 6 Hrs ?
Are you currently under the care of a doctor or dentist? For what? NO		
Have you used any type of drugs recently, prescription, non-prescription or otherwise? NO		
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? Pause / Yes		If yes, Why? Won't Answer

Interviewing Officer's Signature

George Spirito P366
Interviewing Officer's Name (Printed)

FWCDLE 108E (11/05)

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SUBJECT: SCHMIDT, JACOB E CASE NUMBER: _____

IMPLIED CONSENT FOR DUI IN A MOTOR VEHICLE

NOTE: READ ONLY THE PARAGRAPH APPLICABLE TO THE TYPE OF TEST YOU ARE REQUESTING.

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

OR

I am now requesting that you submit to a lawful test of your ***URINE*** for the purpose of determining the presence of chemical or controlled substances.

NOTE: READ ONLY IF THE SUBJECT DOES NOT COMPLY WITH YOUR REQUEST.

I am _____ of the _____

If you refuse to take the test I have requested of you, your driving privilege will be suspended for a period of one (1) year for a FIRST REFUSAL, or eighteen (18) months if your driving privilege has been PREVIOUSLY SUSPENDED, or if you have been PREVIOUSLY FINED under s. 327.35215, for refusing to submit to a lawful test of your breath, urine, or blood. Additionally, if you refuse to take the test I have requested of you, and if your driving privilege has been previously suspended, or if you have been previously fined under s. 327.35215, for a 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.

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

NOTE: IF THE SUBJECT POSSESSES A COMMERCIAL DRIVER'S LICENSE (CDL), READ THE FOLLOWING,

If you are a Commercial Driver License (CDL) holder or were driving a Commercial Motor Vehicle (CMV), your refusal to submit to testing will result in the loss of your commercial driving privilege for a period of one year from today. If this is your SECOND REFUSAL, you will be permanently disqualified from holding a CDL or operating a CMV.

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

SUBJECTS SIGNATURE: (X)_____

CONSTITUTIONAL WARNINGS

I AM REQUIRED TO WARN YOU BEFORE YOU MAKE ANY STATEMENTS THAT YOU HAVE THE FOLLOWING RIGHTS:

1. You have the right to remain silent and not answer any questions.
2. Any statement must be freely and voluntarily given.
3. You have the right to the presence of a lawyer of your choice before you make any statement and during any questioning.
4. If you cannot afford a lawyer, you are entitled to the presence of a court appointed lawyer before you make any statements and during any questioning.
5. If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent.
6. I can make no threats or promises to induce you to make a statement. This must be of your own free will.
7. Any statement can and will be used against you in a court of law.

SUSPECT'S SIGNATURE: (X) READ ON CAMERA

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WHITE: STATE ATTY. YELLOW: DHSMV PINK: CENTRAL RECORDS GOLD: JAIL

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

PBSO CASE # 23-085251 PBSO ZONE 3-15

AGENCY CASE # FWC CRASH CASE # _____

TIME OF STOP/CRASH 1704 hours DATE 07/03/23 DAY Monday

SUBJECT'S NAME Schmidt (LAST) Jacob (FIRST) Edward (MID) RACE W SEX M

HGT 6' WGT 200 lbs DOB 3/17/85

LOCATION Intracoastal Waterway / Alt A1A Bridge

ARRESTING OFFICER'S NAME & ID George Spirito P366 AGENCY FWC

DIVISION: LE

NOTIFIED BY COMMO - Y

ARRIVAL AT FACILITY 1829 hours

ARREST TIME 1716 hours

BREATH RESULTS:

1) REFUSED
2)
3)
4)

TESTING OFFICER'S ID 24639 PBSO VIDEOTAPE # N/A

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TESTING FACILITY TASK REPORT

AGENCY: FWC

SUBJECT: SCHMIDT, JACOB E

CASE NUMBER: 23-085251

DATE: Jul 3, 2023

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 18:52

ENDING TIME: 19:01

BREATH TESTS RESULTS: 1) R TIME 18:56 A.M.☐ P.M.☒ 2) N/A TIME N/A 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: P.POUND #24639

MAINTENANCE TECHNICAN: J. KARLECKE# 6467

REFUSED

TESTING OFFICER'S OBSERVATIONS

SPEECH: LOW

ATTITUDE: CALM, QUIET

CLOTHING: YELLOW / GREEN / BLUE SHORTS , ORANGE / ROYAL BLUE / WHITE SHIRT , BROWN SANDALS

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER:

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COMMENTS:

ARRIVED AT CENTER A/O BEGAN THE 20 MINUTE OBSERVATION PERIOD AT 18:29 HRS.

SUBJECT: ASKED IF HE DOES NOT TAKE TEST

A/O: READ I/C

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

A/O: READ RIGHTS

SUBJECT: STATED HE UNDERSTOOD RIGHTS

REFUSED

A/O: CONDUCTED Q&A

SUBJECT: ANSWER QUESTIONS

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	☐	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	☐	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	☐	119.071(4)(c)	Undercover personnel.	
	☐	119.071(2)(f)	Confidential informants (CIs).	
	☐	119.071(2)(e)	Confession.	
Public Info. Exemptions	☐	985.04(1)	Juvenile offender records.	
	☐	119.071(h)(i)	Assets of a crime victim.	
	☐	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	☐	394.4615(7)	Mental health information.	
	☐	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)	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	☐	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	☐	(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	☐	119.071 (2)(J)	Other: The Victim's address in a Domestic Violence action on petitioner's request.	
	☐		Other:	

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REVIEW COMPLETED BY

Booking Number: 2023017318	**Date:** 7/4/2023
	Specialist Name/ID: M. Tooks #8557