50-2023-MM-003409ASB

Arrest Report

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

Report Date / Time	Report Number	Case Number/Cad Number	Reporting Officer Name
4/30/2023 08:08 PM	C-6263AB	FWC23ON0038000 / FWCS23IN0020780	KOGER, AARON

Originating Agency ORI	Occur Date Time Range	Jurisdiction
FL0488000	04/30/2023 19:37:18 -	

OBTS Number	Other Number	Clearance

Location of Occurrence

County	Location Type	Location Description
PALM BEACH	PUBLIC PLACE	ICW - LAKE BOCA

Street Number	Street	Apt/Lot/Bldg	City	State	Zip Code
	LAKE BOCA	FWC	BOCA RATON	FL	33432

Defendant

First Name	Middle Name	Last Name	Suffix	Race	Sex	Height	Weight	Hair	Eyes
MATTHEW	KEVIN	WHEELER	2	WHITE	MALE	511	180	BROWN	BLUE

MNI #	SSN	Date of Birth	Age	ID Type	Drivers License or other ID	State	OCA / Agency ID
	[redacted]	04/10/2002	21	E	W460551021300	FL	

Place of Birth:	PONTE VEDRA FL UNITED STATES

Address
* / 105 BUCK ISLAND CT , PONTE VEDRA BEACH, FL 32082 /

Arrest

Arrest Date/Time	Arrest Location Type	Arrest Location Description
4/30/2023 7:39:10 PM	PUBLIC PLACE	ICW - LAKE BOCA

Street Number	Street	Apt/Lot/Bldg	County	City	State	Zip Code
	LAKE BOCA	FWC	PALM BEACH	BOCA RATON	FL	33432

Charge : STATE STATUTE

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

Charge Degree	Charge Level
SECOND DEGREE	MISDEMEANOR
General Offense Code	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)

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91 H.O.N.E.A. 7202

FILED PBC - GUN CLUB
'23 MAY 1 AM 7:14

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Probable Cause

I. WHAT: Boating Under the Influence – Over 0.08 BAC (BUI)

II. WHEN: April 30, 2023, at approximately 1930 hours

III. WHERE: Intracoastal Waterway at Lake Boca, Boca Raton, Palm Beach County

IV. WHO: MATTHEW KEVIN WHEELER (FL DL# W460551021300 / SSN 770-10-6248)

V. Other information Relating to BUI: Vessel Florida Registration - FL0447GL

VI. DETAILS OF DUI/BUI

A. Phase 1 – Initial Observation of Vessel in Operation

On April 30, 2023, at approximately 1930 hours, I, Officer Aaron Koger of the Florida Fish Conservation Commission (FWC) observed a vessel later identified by Florida Registration FL0447GL operating with many individuals aboard in relation to the size of vessel within the Intracoastal Waterway's Lake Boca in Palm Beach County.
I observed the operator of vessel FL0447GL standing at the helm utilizing the steering wheel and throttle control allow the vessel to drift closer to a piling near the west side perimeter of Lake Boca and then utilize a burst of throttle to suddenly move away. While coming into closer proximity of the vessel to initiate a vessel stop, I observed the operator actively drinking from an unknown can. During my patrol vessel's approach, the operator maintained the position as the operator.

B. Phase 2 – Personal Contact with Operator of Vessel

I then initiated a vessel stop with FL0447GL and identified the operator to be Matthew Kevin Wheeler (FL DL# W460551021300). I then requested to see the required United States Coast Guard (USCG) safety equipment. During the safety inspection I observed the strong odor of an unknown alcoholic beverage emanating from the vessel and its occupants. I observed a very large pile of crumbled alcoholic beverage cans and their packaging cardboard of multiple brands at the stern of the vessel and additional beverages around the vessel.

While requesting to inspect the safety equipment I was able to observe the strong odor of an unknown alcoholic beverage emanating specifically from Wheeler. During the vessel safety inspection, I observed Wheeler's eyes to be glassy and bloodshot. Wheeler moved in a lethargic manner and often pivoted left and right while standing in place. Wheeler often displayed a distant gaze and was slow to respond.
The results of the safety inspection found that the vessel was not equipped with a required lifejacket per each person aboard. I noted the violation and then addressed the multiple signs of impairment and requested that Wheeler performed voluntary Standardized Field Sobriety Tasks (SFSTs).

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Wheeler stated that he would not like to perform SFSTs but asked for more information regarding them. I explained that SFSTs are voluntary tasks that can potentially dispel my suspicion of his level of impairment. Wheeler again stated that he would not prefer to SFSTs but again asked for more information to which I advised him that he does not have to perform them, but then explained his Taylor Warnings, noting that his refusal to perform could be used against him in a court of law and that I would have to base my arrest decision upon what I had observed to this point. At this time Wheeler decided that he would perform SFSTs.

C. Phase 3- Pre-arrest screening and Observations of Driver/Operator

Pre-Task Questions:

Subject stated he does not have any physical defects or disabilities.
Subject stated he does not have any defects with his eyes.
Subject stated that he was not sick or injured.
Subject stated that he was not under the care of a doctor or a dentist.
Subject stated that he was not taking any medication or drugs.

Subject added that he had taken two Advil at approximately 0800 hours today. I then asked if he was aware of approximately what time it was, and he stated approximately 1830-1900 hours while it was 1918 hours.

Subject stated that he had previously undergone three knee surgeries (both knees) and one hand surgery. Subject stated that he had limited dexterity in his middle and ring fingers of his left hand, but that his index finger was without any issues. Subject stated that his previous surgeries would not affect his ability to perform Seated Standardized Field Sobriety Tasks as administered while on a patrol vessel.

Subject stated that he began drinking at approximately 1500 hours, and had two or three beers, and stated that his last drink was approximately 30 minutes to 1 hour ago.

Horizontal Gaze Nystagmus:

Pre-Task:

Subject was not wearing glasses.
Subject was not wearing contacts lenses.
Subject displayed equal pupil size.
Subject did not display resting nystagmus.
Subject stated he understood instructions.

Performance:

Subject had difficulty holding his head still to follow with his eyes only.

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Subject displayed Lack of Smooth Pursuit in left and right eyes.
Subject displayed Distinct and Sustained Nystagmus at Maximum Deviation in left and right eyes.
Subject displayed Onset of Nystagmus Prior to 45-Degrees in left and right eyes.
Subject did not display Vertical Nystagmus in left or right eyes.

Finger to Nose:

Instruction:

Subject was unable to follow instructions and started at the wrong time. Subject stated he understood instructions.

Performance:

First Left: Subject hesitated, searched, not fingertip, and missed tip of nose.
First Right: Subject hesitated, not fingertip.
Second Left: Subject used not fingertip.
Second Right: Subject used not fingertip.
Third Right: Subject used not fingertip.
Third Left: Subject used not fingertip.

Palm Pat:

Instruction:

Subject was unable to follow instructions and started at the wrong time. Subject required the instructions to be read twice. Subject stated he understood instructions.

Performance:

Subject did not count as instructed.
Subject rolled hands.
Subject stopped before told.
Subject did not increase speed.
Subject rotated hands.

Hand Coordination:

Instruction:

Subject was able to follow instructions and started at the wrong time. Subject required the instructions to be read twice. Subject stated he understood instructions.

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FL0488000	04/30/2023 19:37:18 -	

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Performance:

Task 1: Subject displayed improper touch.
Task 2: Subject displayed Task 3 return steps while counting one to four. Subject then performed Task 2 claps. Subject displayed improper return.
Task 3: Subject displayed improper count, improper touch, and did not return left fist to chest.
Task 4: Subject performed.

D. Arrest of Operator

I then placed Wheeler under arrest for Boating Under the Influence (BUI) and he was then transported to the Silver Palms boat ramp where he was then transported by vehicle to Spanish River Park.
At the Spanish River Park, Wheeler was given a twenty-minute observation period and then read FWC Implied Consent to which he agreed to provide a valid breath sample. Wheeler then provided two valid breath samples with sample #1 to be 0.160 BAC and breath sample #2 to be 0.160 BAC.

E. Disposition of Operator and Vessel

Wheeler was then transported via Boca Police Department to the Palm Beach County Jail at Gun Club where he was booked being charged with Boating Under the Influence (BUI) with Over 0.08 BAC. Wheeler was additional issued a non-criminal citation for insufficient lifejackets aboard the vessel he was operating.

Wheeler was charged with F.S. 327.35(1)(c) - OPERATING A VESSEL WITH AN UNLAWFUL BREATH ALCOHOL LEVEL OF .08 OR HIGHER.

The vessel FL0447GL was hip towed by patrol vessel to Silver Palms boat ramp where it and its occupants were turned over to the registered owner's father identified by valid FL DL# K120818662560 to be Tommy Kabashi. FWC body camera footage was obtained during this incident.

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Jail Booking Facility

Booking Date/Time	Booking County	Booking Facility	Booking Facility Phone
	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	200 W. ATLANTIC AVE. DELRAY BEACH, FLORIDA 33444

Court	Court Phone	Court Appereance Date / Time	Court Fine

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FL0488000	**04/30/2023 19:37:18 -**	

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PALM BEACH COUNTY, SOUTH COUNTY COURTHOUSE	**06/01/2023 8:30AM**	

Comments

Officer Name / Rank / ID #	Involvement On Report / Reporting Role	Officer Agency / Org/Unit
KOGER, AARON **OFFICER WP340**	**REPORTING OFFICER**	**FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION** **FWCS\SO REGION A\MARTIN**

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
KOGER, AARON	**OFFICER**	**WP340**

Officer Agency
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Officer Signature WP340

Sworn and subscribed before me, the undersigned authority
This the 30 day of APRIL, 2023
DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT

WP957

○ No Bill / Petition ○ Issue Warrant ○ Prosecution Approved

Signature of Assistant State Attorney Date

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

Instrument Type: Intoxilyzer 8000
Instrument Registered To: FFWCC TAMPA
Instrument Serial Number: 80-000901 Software: 8100.27
Date of Test: 04/30/2023

Date of Last Agency Inspection: 04/11/2023
Observation Period Began: 20:15
Subject's Name: MATTHEW K WHEELER DOB: 04/10/2002 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	20:35
Air Blank	0.000	20:36
Control Test	0.078	20:36
Air Blank	0.000	20:36
Subject Sample #1	0.160	20:37
Air Blank	0.000	20:38
Air Blank	0.000	20:39
Subject Sample #2	0.160	20:40
Air Blank	0.000	20:40
Control Test	0.077	20:41
Air Blank	0.000	20:41
Diagnostics Check	OK	20:41

Cylinder Lot: 15922080A4
Exp: 08/05/2024

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 ELISHA D CERNUTO, 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: _____ Date: 4/30/2023
Signature

Sworn to (or affirmed) before me this 30 day of APRIL, 2023

_____ LT. JAMES BRODBECK
Signature of Notary Public-State of Florida 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.

FDLE/ATP FORM 38 - MARCH 2004, Ref. 11D-8.007

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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	☐	119.0712(2)	Other: Personal information contained in a motor vehicle record.	
	☐		Other:	

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REVIEW COMPLETED BY

Booking Number: 2023011246	**Date:** 5/1/2023
	Specialist Name/ID: M. Tooks #8557

RECEIPT FOR PRISONER'S PERSONAL PROPERTY
PALM BEACH COUNTY

JAIL

Jacket # 0540093 Cell # _____ Pouch # 3684

ARRESTING AGENCY

Arrest Agency PBSO Arrest Date [illegible] Arrest Time [illegible] Tamper-Proof Bag # [illegible]

Print Prisoner's Wheeler (LAST NAME) Matthew (FIRST NAME) W (MI)

Prisoner's 4-10-2002 (DATE OF BIRTH) [illegible] (SOCIAL SECURITY NUMBER) MALE ☐ FEMALE ☐ WHITE ☒ BLACK ☐ HISPANIC ☐ OTHER ☐

1's	5's	10's	20's	50's	100's	Other	U.S. Bills Total	U.S. Coins Total	Check/M.O. Total
0	0	0	0	0	0	0	$ 0	$ 0	$ 0

Total Amount of Money in Writing: — None

Total Amount of Money Numerical: $ 0 NV

DESCRIPTION OF PERSONAL PROPERTY

1. [illegible]
2. [illegible] Security Card
3.
4.
5.
6.
7.
8.
9.
10.
11.

BAG 1 OF 1 - BULK PROPERTY - BAG 2 OF 1

1. [illegible] 1.
2. [illegible] 2.
3. [illegible] 3.
4. 4.
5. 5.
6. 6.
7. 7.

PRISONER IS WEARING

1. No Shoes Came in wearing
2. [illegible]
3. DO shirt

By my signature, I acknowledge that the above described property is all the property, other than that held as evidence, in my possession at the time of my arrest.

[illegible] (SIGNATURE OF PRISONER) [illegible] (PRINT NAME OF OFFICIAL TAKING PROPERTY) PBSO (ID #) [illegible] (SIGNATURE)

TRANSPORT

CHAIN OF CUSTODY

I certify the above inventory is correct and I have received all items listed above.

Name	ID Number	Agency	Date
1. Cpl [illegible]	1776	PBSO	5-1-23
2.			
3.			

INTAKE

Shower/Uniform Issuance. D/S Print Name and ID #:

Items retained by inmate		Additional property/clothing placed into Property	

RELEASE

By my signature, I acknowledge receipt of all my listed property and money in the amount of:

Check Total $ _____ Cash Total $ _____

_____ (SIGNATURE OF PRISONER) _____ (SIGNATURE/ID # OF WITNESS) _____ (DATE)

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CANARY - PBSO PROPERTY GREEN - TRANSPORTING OFFICER PINK - ARRESTING OFFICER/AGENCY WHITE- INMATE