

J-0487313

P-3770

FLORIDA HIGHWAY PATROL

REPORT NUMBER
FHP99ARR130150

ARREST REPORT

Report Date / Time 04/23/2017 02:56 AM	Agency Case/Offense Number FHPL17OFF031180	OCA Number	Submitting Agency Case Number	OBTS Number	Offender Based Transaction System	Jail Booking Number	Other Number LWR17CAD069293
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LOCATION OF OCCURRENCE

County PALM BEACH	Address I-95 NB SOF HYPOLUXO RD , LAKE WORTH, FL 33462
Range of Occurrence Date/Time 04/23/2017 01:11 AM to 04/23/2017 01:11 AM	Latitude N 26 34.3392

PERSON: SUSPECT

First Name BRETT	Middle Name HARRISON	Last Name POWELL	Suffix	Date of Birth 10/10/1990	Age 26	Race W	Sex M	Height 600	Weight 150	Hair BRO	Eyes
Master Name Index Number	Place of Birth DALLAS, TEXAS	Nation USA	SSN		Driver's License or Other ID P400068903700	State FL	Class or Type E				
Address 365 SE 6TH AVE		City DELRAY BEACH	County PALM BEACH		State FL	Zip Code 33483	Phone				

CHARGES

Counts ► 1	Charge Number 316.193.1	Charge DUI-UNLAW BLD ALCH	<i>Off</i>	<i>Due to</i>	<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00
Charge Degree FIRST DEGREE	Charge Level MISDEMEANOR	General Offense Code PRINCIPAL			<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00

DUI ALCOHOL OR DRUGS

Counts ► 1	Charge Number 790.01.1	Charge CARRYING CONCEALED WEAPON	<i>Off</i>	<i>Due to</i>	<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00
Charge Degree FIRST DEGREE	Charge Level MISDEMEANOR	General Offense Code ACCESORY AFTER THE FACT			<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00

ELECTRIC WEAPON OR DEVICE

Counts ► 1	Charge Number 893.13.6b	Charge MARIJUANA-POSSESS	<i>Off</i>	<i>Due to</i>	<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00
Charge Degree FIRST DEGREE	Charge Level MISDEMEANOR	General Offense Code ACCESORY AFTER THE FACT			<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence	Bond Amount \$0.00

NOT MORE THAN 20 GRAMS

PROBABLE CAUSE

On the above date and time, I was in service in Palm Beach County, FL. I was traveling northbound on Interstate 95 north of Boynton Beach Blvd, when I observed a four door Infinity sedan traveling at a high rate of speed, failing to maintain a single lane. I pulled behind the vehicle, activated my emergency equipment, and initiated a traffic stop. I approached the vehicle, and identified the driver through his Florida identification card as Mr. Brett Harrison Powell. While requesting for the subject's registration and proof of insurance, I observed the odor of an unknown alcoholic beverage emitting from the subject's mouth. The subject's eyes were red in color and glossy. His speech was mumbled and slurred. Due to the safety of the subject, we relocated to the parking lot of Taco Bell off of Hypoluxo Road just east of Interstate 95. With the assistance of Trooper Wright, an area was prepared to conduct roadside exercises. Horizontal Gaze Nystagmus:

Prior to beginning the exercise, it was determined the subject was not wearing contacts or corrective lenses at the time. The subject's eyes displayed equal tracking and his pupils were equal sizes. The subject was instructed to follow the stimulus with his eyes only, keeping his head still. After stating he understood the instructions, the subject started the exercise.

The results of this exercise displayed 6 of the 6 possible clues.

- A lack of Smooth Pursuit in his left eye.
- A lack of Smooth Pursuit in his right eye.
- A distinct and sustained nystagmus in the left eye at maximum deviation.
- A distinct and sustained nystagmus in the right eye at maximum deviation.
- An onset of nystagmus in the left eye prior to 45 degrees.
- An onset of nystagmus in the right eye prior to 45 degrees.

Walk and Turn:

The subject was instructed to put his left foot on the line and his right foot in front of it with his right heel touching the toe of his left foot. He was instructed to stand in this manner with his hands to his sides until the instructions were completed and demonstrated. The subject was instructed not to begin until told to start. He was instructed to take nine steps along the line in a heel-to-toe manner. After the ninth step, he was advised to stop and turn around keeping his pivot foot on the ground, taking several small steps with the other foot to turn around. After turning around, he was to take nine steps in a heel-to-toe manner back along the line, in the direction he had come from. The subject was further instructed to watch his feet at all times while walking, keeping his arms down to his side, and to count his steps out loud. After the exercise was demonstrated, the subject stated he understood the instructions and was instructed to begin the exercise.

After attempting the Walk and Turn, the subject displayed 5 of 8 possible clues.

Walk and Turn observations:

The subject failed to stay in the starting position. On the first set of steps, the subject failed to take the correct number of steps. The subject failed to make a proper turn. On the second set of steps, the subject failed to walk in a heel to toe manner. The subject stepped off the line on steps 4 and 5.

One Leg Stand:

Prior to attempting this exercise, the subject indicated he did not have any medical problems that would have prevented him from performing the test. The subject was instructed to stand with his heels together and hands down to his sides while the instructions were given during the exercise. The subject was instructed not to begin until told to do so. The subject was advised to raise the foot of his choice off the ground approximately 6 inches keeping his foot parallel with the ground. While his leg was raised, the subject was advised to keep his leg straight, watch his raised foot, and to count out loud by thousands (one thousand one, one thousand two, one thousand three...) and to continue the until told to stop (25 seconds). After the exercise was demonstrated, the subject was advised if he understood the instructions to which he replied yes. I advised the subject if he didn't have any questions, he may begin the exercise. When the subject attempted this exercise, he raised his right foot. During the exercise, the subject displayed 0 of the 4 possible clues.

I then advised the subject as well as dispatch at 01:42 am that he was being placed under arrest pursuant to Florida Statute 316.193 operating a motor vehicle under the influence of alcohol and/or a controlled substance. The subject was then properly searched, and placed in the back seat of Trooper Wright's marked patrol vehicle. The subject was transported to the Palm Beach County Jail. Upon arrival to the Palm Beach County Jail, the driver was escorted to the Breath Alcohol Testing Center at 02:27am, and a 20 minute observation was conducted to ensure the driver did not take anything by mouth or regurgitate. After the 20 minute observation, the driver was taken into the testing room and was asked to submit to a test of his breath. The subject

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APR 26 2017

2017 04 26 05:55:57

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refused to submit a lawful test of his breath at 02:50 am. I read the subject, Miranda, to which he replied he understood. The subject was read implied consent to which he still refused. The subject was then transported over to the booking side and was processed without any incident to himself. Video of the field sobriety exercises as well as transport to the county jail are available upon request with FHP custodian.

LEO BOND

Bond Amount \$	<input type="checkbox"/> None	<input type="checkbox"/> ROR	<input type="checkbox"/> Cash	<input type="checkbox"/> Any	<input type="checkbox"/> PreTrial If Qualify
	<input type="checkbox"/> Pro				<input type="checkbox"/>

COURT APPEARANCE INFORMATION

Court (CIRCUIT) PALM BEACH NORTH COUNTY COURTHOUSE	Court Phone 561-624-6608	Court Date & Time 05/24/2017 10:00 AM
Court Address 3188 PGA BLVD., PALM BEACH GARDENS, FL 33410		
Instructions		

ARREST INFORMATION

Arrest Date / Time 04/23/2017 01:42 AM	Residency Within jurisdiction	Injured None	Extent of Injury N/A	Resist Arrest No
Prior Arrests Yes	Arrest Jurisdiction Within jurisdiction	Alcohol Yes	Drugs Yes	

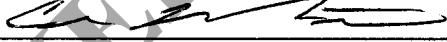
ARREST LOCATION

County PALM BEACH	Address I-95 NB/S OF HYPOLUXO RD , BOYNTON BEACH, FL
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ARREST DELIVERED TO

Jail / Booking Facility PALM BEACH COUNTY CORRECTIONS	Location 3228 GUN CLUB ROAD, WEST PALM BEACH, FLORIDA 33406	Phone (561) 688-4400
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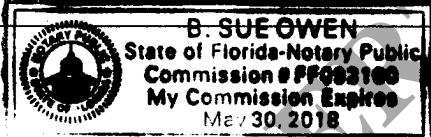
ARRESTING OFFICER

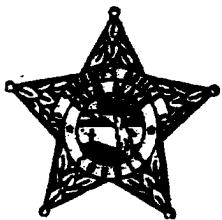
Officer Call Number 1385	Officer Name C.X MITCHELL	
		Officer Signature

Subscribed and sworn to (or affirmed) before me this 23rd day of April, A.D., 2017 by Tpr Mitchell who is X personally known to me or

has produced Mitchell as identification.

Mitchell Notary Public LEO CO Commission No: _____ My Commission Expires: _____
Signature





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

PBSO CASE # 17-068059 PBSO ZONE 6-12

AGENCY CASE # FHPL17OFF031180 CRASH CASE #

TIME OF STOP/CRASH 111AM DATE 4/23/17 DAY Sunday

SUBJECT'S NAME Brett Harrison Powell RACE W SEX Male

HGT 6-00 WGT 150 DOB 10 / 10 / 90

LOCATION Interstate 95 NB/S of Hypoluxo Road

ARRESTING OFFICER'S NAME & ID Tpr. C. Mitchell 1385 AGENCY FHP

DIVISION: _____

NOTIFIED BY COMMO yes

ARRIVAL AT FACILITY 2:27AM

ARREST TIME 1:42AM

BREATH RESULTS:

1. REFUSED
2. _____
3. _____
4. _____

TESTING OFFICER'S ID 3184 PBSO VIDEOTAPE # 62498

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APR 26 2017

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
**AFFIDAVIT OF REFUSAL TO SUBMIT TO
BREATH AND/OR URINE TEST**

I, TROOPER C MITCHELL, a duly certified Law Enforcement Officer or Correctional Officer,
(Name of Officer reading Implied Consent Warning)

am a member of FLORIDA HIGHWAY PATROL, and I do swear
(Name of law enforcement agency)

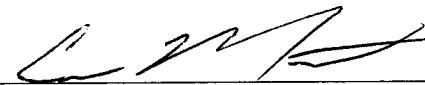
or affirm that on or about the 23rd day of April, 20 17, at 01:42 P.M. A.M.

DRIVER BRETT FIRST NAME HARRISON MIDDLE OR MAIDEN NAME POWELL
(Type or Print) LAST NAME

DL# P400-068-90-370-0, state of FLORIDA, was placed under lawful arrest for
the offense of 316.193 by TPR. C. MITCHELL and
(Name of Arresting Officer)
issued Citation # A75YRME.

That on or about the 23RD day of April, 20 17, at 0250 P.M. A.M.
in PALM BEACH COUNTY County,

I requested that the driver submit to a breath and/or urine test to determine his or her blood alcohol level and/or the presence of chemical or controlled substances. I informed the driver that the refusal to submit to such test(s) would result in the suspension of his or her driving privilege for a period of one (1) year for a first refusal, or for a period of eighteen (18) months if his or her driving privilege had been previously suspended for refusing to submit to a breath, urine or blood test. I also informed the driver that he or she commits a misdemeanor by refusing to submit to a lawful test as requested above if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood. Additionally, I informed the driver that if he or she holds a CDL, or was operating a CMV, refusal will result in the disqualification of the Commercial Driver's License/driving privilege for a period of one (1) year in the case of a first refusal or permanently if he or she has previously been disqualified as a result of a refusal to submit to any such lawful test. Nonetheless, the driver refused to submit to the test(s) requested.


Signature of Law Enforcement Officer or
Correctional Officer

THE AFFIDAVIT MUST BE NOTARIZED OR ATTESTED TO (F.S. 117.10)

The foregoing instrument was sworn and subscribed before me:

Signature of Attesting Officer

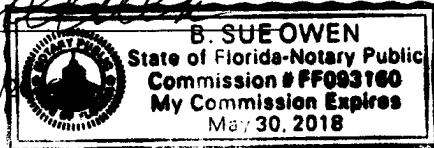
Title _____

Date _____

(AFFIX SEAL)
The foregoing instrument was sworn and subscribed before
me this 23RD day of April, 20 17,
by TPR. MITCHELL,
who is personally known to me or who has produced

as identification

Notary Public



HSMV-BAR1001 (REV. 10/2012)

Note: Mail or hand deliver to the designated
Bureau of Administrative Reviews office,
Department of Highway Safety and Motor
Vehicles, with the driver's license, the
appropriate copy of the UTC, and the
probable cause affidavit.

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APR 26 2017

QUESTIONS AND ANSWERS

I AM NOW GOING TO ASK YOU SOME QUESTIONS. WITH THESE RIGHTS IN MIND, YOU MAY ANSWER SOME OF, ALL OF, OR NONE OF THE FOLLOWING QUESTIONS AS YOU LIKE.

WERE YOU OPERATING A MOTOR VEHICLE AT THE TIME OF THE STOP/ACCIDENT? _____

WHERE WERE YOU GOING? _____

WHAT STREET OR HIGHWAY WERE YOU ON? _____

DIRECTION OF TRAVEL? _____ WHERE DID YOU START? _____

WHAT TIME DID YOU START? _____ WHAT TIME IS IT NOW? _____

WHAT IS TODAY'S DATE? _____ WHAT DAY OF THE WEEK IS IT? _____

WHAT COUNTY AND CITY ARE YOU IN NOW? _____

WHEN DID YOU LAST EAT? _____ WHAT DID YOU EAT? _____

WHAT HAVE YOU BEEN DOING FOR THE LAST THREE HOURS? _____

HOW MUCH DO YOU WEIGH? _____ HAVE YOU BEEN DRINKING? _____ WHAT? _____

HOW MUCH? _____ WHERE? _____ WITH WHOM? _____

WHEN DID YOU HAVE YOUR FIRST DRINK? _____ AND YOUR LAST DRINK? _____

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? _____

CAN YOU FEEL THE EFFECTS OF THE ALCOHOL? _____ ARE YOU UNDER THE INFLUENCE? _____

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? No HOW MUCH? _____

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? _____ WHEN DID YOU LAST WORK? _____

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? Yes WHAT? No answer

ARE YOU SICK OR INJURED? _____ WHAT'S WRONG? _____

DO YOU LIMP? _____ DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? _____

WERE YOU IN AN ACCIDENT TODAY? _____

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? No WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? No WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? _____ WHAT? _____ WHEN? _____

DO YOU HAVE: EPILEPSY? No

GLASS EYE? _____

FALSE TEETH? _____

EAR INFECTION? _____

INNER EAR TROUBLE? _____

DIABETES? _____

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? No

DO YOU TAKE INSULIN? No IF SO, WHEN WAS YOUR LAST INJECTION? _____

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? Yes WHERE? No answer

INTERVIEWER: Tpt. C. Mitchell 1385

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GOLD JAIL
APR 26 2017

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 detecting the presence of chemical or controlled substances.

-OR-

I am now requesting that you submit to a lawful test of your BLOOD for the purpose of detecting its alcohol content and the presence of chemical or controlled substances.

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

I am Tpr mitchell of the FHP "C".

If you fail to submit to the test I have requested of you, your privilege to operate a motor vehicle will be suspended for a period of one (1) year for a first refusal, or eighteen (18) months if your privilege has been previously suspended as a result of a refusal to submit to a lawful test of your breath, urine or blood. Additionally, if you refuse to submit to the test I have requested of you and if your driving privilege has been previously suspended for a prior refusal to submit to a lawful test of your breath, urine or blood, you will be committing a misdemeanor. Refusal to submit to the test I have requested of you is admissible into evidence in any criminal proceeding.

SUBJECT'S SIGNATURE: (X) Read on Camera

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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APR 26 2017

TESTING FACILITY TASK REPORT

AGENCY: FHP
SUBJECT: Powell, Brett Harrison CASE NUMBER: 17-068059
DATE: 04/23/17 VIDEO TAPE NUMBER: DVD# 62498

BEGINNING TIME: 0248 ENDING TIME: 0254

BREATH TESTS RESULTS: **REFUSED** 1) TIME 0250 A.M./P.M. 2) TIME A.M./P.M.
3) TIME A.M./P.M. 4) TIME A.M./P.M.

BREATH OPERATOR: S. Owen # 3184

MAINTENANCE TECHNICIAN: J. Karlecke #64607

TESTING OFFICER'S OBSERVATIONS

SPEECH:

ATTITUDE: disrespectful, talkative, loud

CLOTHING: stocksiders, jeans (wet on) white polo shirt

MEDICAL CONDITIONS: none

MEDICATIONS: none

OTHER: says this isn't his 1st time. Allowed to go to bathroom during observation

COMMENTS: A/0 & S arrived at 0227 hrs
A/0 observed 20 minutes

I wouldn't answer intro questions

A/0 requested breath test, I wouldn't answer A/0 read I/C, I wouldn't answer asked again to give breath test I wouldn't answer A/0 call refusal

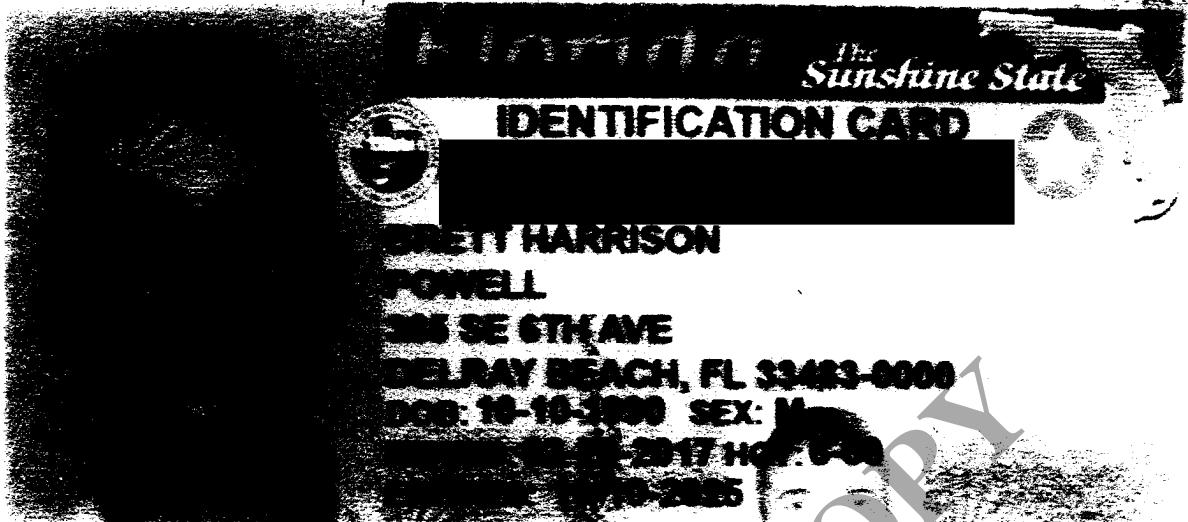
A/0 read C/I, I said he understood

I wouldn't answer Q & A tpr went

Thru all questions I didn't answer only 12 or 13 of the last ones.

SEARCHED

APR 26 2017



Brett H. Powell

ORGAN DONOR

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