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JUN 30 2017

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 25 DAY OF June 2017 AT 7:23 ☐ A.M ☒ P.M.

CASE #: 17-035539

DEFENDANT: ROMERO, CARLOS JAVIER

PERSONAL CONTACT/DRIVING PATTERN/OBSERVATION OF DRIVER:

On Sunday, June 25, 2017 at approximately 1928hrs, while conducting a traffic stop investigation in the eastbound lanes of Gateway Blvd, just west of I-95 (SR9), I was approached by an off-duty police officer who advised that there was what appeared to be a physical altercation within the parking of 850 W. Gateway Blvd (7-11 gas station, BBPD case # 17-035530). Let it be noted that this incident occurred within the City of Boynton Beach, Palm Beach County, Florida. Officer advised that he observed a male and a female inside a Red Kia Soul and that the male was striking a female. Let it be noted that at approximately 1923hrs, Florida Highway Patrol was contacted in reference to people fighting inside a Red Kia Soul bearing Florida tag EYER10 (returning to a Honda vehicle) and that they had exited Gateway Blvd. I advised Boynton Beach Communications of the incident and advised that I could physically see the vehicle that the witness officer pointed to from location. The vehicle then exited the parking lot and proceeded eastbound on Gateway Blvd. Detective Montoya then pulled up behind the vehicle and initiated a traffic stop on the vehicle on the entrance ramp of southbound SR9 from Gateway Blvd, so that a welfare check could be conducted based on the witness officer's statement. The license plate for the vehicle was CYER10, which was very similar to the license giving by the witness in the Florida Highway Patrol's disturbance call.

Contact was made with the driver, W/M Romero, Carlos (09/13/80) and passenger W/F Vanek, Jessica (05/27/80). An investigation was conducted by officers on scene, which it was determined that incident was only a verbal altercation between the two individuals. While speaking with Romero I detected the odor an unknown alcoholic beverage emitting from his breath which intensified as he spoke. Romero's speech was slurred and his eyes were bloodshot/glassy and his face was flushed. Romero was very uncooperative during the investigation.

When officers had concluded their investigation I reapproached Romero, who was still sitting in the driver seat of the vehicle. To continue my investigation I requested Romero to step out of the vehicle and he refused. Romero advised that we (officers) had no legal right to conduct a traffic stop on their vehicle and that officers were making up allegations. I reminded Romero numerous times the reason for the traffic stop, which he still argued about. Romero started to become verbally aggressive and no allow me to explain the situation. Based on my investigation at this point, I advised Romero that I've concluded

the Disturbance Investigation and that I was now conducting a DUI Investigation. Romero continued to argue with me while I read him his Miranda Warnings. I requested Romero multiple times of out the vehicle which eventually he did. As Romero was exited the vehicle I advised Romero to place his hands on the vehicle due to the fact that I wanted to make sure that he had no weapons on him therefore I was going to conduct a Pat Down. Romero did not comply with my request and began to reach into his pockets. Romero was then escorted to the rear of his vehicle. Romero continued to argue with officers and moving around. I instructed Romero to stand on the solid white line on the roadway, which he did not and paced back and forth. Every time I attempted to explain the reason for the investigation Romero kept speaking over me and yelling towards Vanek. Based on my investigation at this point, Romero behavior and not cooperating with the investigation I requested Romero to submit to a Series of Field Sobriety Task, which he refused. I advised Romero of his Taylor Warnings, which he stated yes. I then requested a second time, which Romero continued to argue and not provide an answer. At that moment Romero was placed into handcuffs (D/L and Spaced) and escorted and placed into the rear of my patrol vehicle (4734). Let it be noted that while assisting with the Tow Inventory I observed in plain view a small opened 100ML Fireball Cinnamon Whisky bottle in the driver's floorboard. Upon picking up the bottle Vanek advised that the bottle was hers.

HORIZONTAL GAZE NYSTAGMUS:

- | | |
|--|---|
| <input type="checkbox"/> Left eye does not follow smoothly | <input type="checkbox"/> Right eye does not follow smoothly |
| <input type="checkbox"/> Left eye prior to 45 degrees | <input type="checkbox"/> Right eye prior to 45 degrees |
| <input type="checkbox"/> Distinct jerking in left eye at maximum deviation | <input type="checkbox"/> Distinct jerking in right eye at maximum deviation |
| <input type="checkbox"/> Vertical Nystagmus in left eye | <input type="checkbox"/> Vertical Nystagmus in right eye |

WALK AND TURN:

REFUSAL

ONE LEG STAND:

REFUSAL

FINGER TO NOSE:

REFUSAL

ROMBERG/ALPHABET:

REFUSAL

I then transported Romero to the Boynton Beach Police Department to continue my investigation. I arrived at BBPD at 2008hrs, started my 20 minutes observation at 2009hrs and completed at 2029hrs. Upon completion I requested Romero to provide a sample of his breath to determine the alcohol content, which refused. While reading Implied Consent to Romero, he continued to argue and yell over me. Romero was very uncooperative during the investigation. Romero was being aggressive with officers, even while still

being handcuffs. I then requested Romero a second time to provide a sample of his breath to determine the alcohol content, which he refused again. Due to Romero's behavior the investigation was discontinued.

A N/FCIC, PALMS and DAVID check was conducted on Romero, revealing that Romero had previously refused to submit to a breath/urine/blood test on 12/11/99.

Based on the above stated facts I have established Probable Cause to charge Romero with 1M count of DUI with F.S.S. 316.193(1) and Refusal to Submit to Physical Test pursuant with F.S.S. 316.1939(1). Romero was later transported to PBCJ.


Romero's vehicle was removed from scene by Beck's Towing. A photo of the Whiskey bottle, SFST video and BAT/Booking video was later entered into Boynton Beach Evidence. Incident was also captured via BWC.

Nothing further.

The following instrument was sworn to before me this 25 day of June 2017

By: PERSONALLY KNOWN / OFFICER CASTRO #905

 916
Notary/Police Officer (F.S.S. 117.10)

 905
Signature of Arresting Officer

TESTING FACILITY TASK REPORT

CASE #: 17-035539
Date: 6/25/17

DEFENDANT: ROMERO, CARLOS JAVIER
Video Tape #: 4734

BREATH TEST RESULTS: REFUSED

1. _____ g/210L Time _____ ☐ a.m. ☐ p.m. 3. _____ g/210L Time _____ ☐ a.m. ☐ p.m.
2. _____ g/210L Time _____ ☐ a.m. ☐ p.m. 4. _____ g/210L Time _____ ☐ a.m. ☐ p.m.

BREATH OPERATOR: OFFICER CASTRO #905

MAINTENANCE TECHNICIAN: OFFICER CASTRO #905

TESTING OFFICER'S OBSERVATIONS

SPEECH: SLURRED

ATTITUDE: UNCOOPERATIVE, AGGRESSIVE

CLOTHING: WHITE SHIRT, TAN SHORTS, BROWN SHOES

MEDICAL CONDITIONS: UNKNOWN

MEDICATIONS: UNKNOWN

OTHER:

COMMENTS:

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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.

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.

I am now requesting that you submit to a lawful test of your BLOOD for the purpose of determining 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 OFFICER CASTRO #905 of the Boynton Beach Police Department

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.

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 statements can and will be used against you in a court of law.

Suspect's Signature: READ IN VIDEO

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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.

Where you operating a motor vehicle at the time of the stop/Accident? NOT COMPLETED

Where were you going? _____

What Street or Highway were you on? _____

What was you direction of travel? _____

Where did you start from? _____

What time did you start? _____

What time is it now? _____

What is today's date? _____

What day of the week is it? _____

What City and County 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 have you been drinking? _____

How much? _____

With whom? _____

When did you have your first drink? _____

When did you have your last drink? _____

Can you feel the effects of the alcohol? _____

Are you under the influence? _____

Have you consumed any alcohol since the stop/accident? _____

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? _____ What? _____

Are you sick or injured? _____ What's wrong? _____

Do you limp? _____

Did you receive a bump on the head recently? _____

Where you in an accident today? _____

Have you taken any drugs or smoked any marijuana today? _____ When? _____

Have you seen a doctor or dentist today? _____

Who? _____ Why? _____

Are you taking any prescription medicines? _____

What? _____ When? _____

Do you have? Epilepsy _____ Glass Eye _____ False teeth _____

Ear infection _____ Inner ear trouble _____ Diabetes _____

Do you have any problems with you eyes that are not corrected by glasses? _____

Do you take insulin? _____ If so, when was your last injection? _____

Have you ever gad a driver's license in any other state? _____

Where? _____

Interviewer: _____

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Arresting Officer: CASTRO #905

Address: 100 E. Boynton Beach Boulevard Boynton Beach, FL 33435

Phone Numbers: Home: Work: (561) 742-6100

Name: OFFICER SCHALK #905

Address: 100 E. BOYNTON BEACH BLVD, BOYNTON BEACH, FL, 33435

Phone Numbers: Home: Work: 561-742-6100

Can testify to: THE INVESTIGATION

Name: OFFICER BERBEN

Address: 100 E. BOYNTON BEACH BLVD, BOYNTON BEACH, FL, 33435

Phone Numbers: Home: Work: 561-742-6100

Can testify to: THE INVESTIGATION

Name: DETECTIVE MONTOYA

Address: 100 E. BOYNTON BEACH BLVD, BOYNTON BEACH, FL, 33435

Phone Numbers: Home: Work: 561-742-6100

Can testify to: THE INVESTIGATION

Name:

Address:

Phone Numbers: Home: Work:

Can testify to:

Name:

Address:

Phone Numbers: Home: Work:

Can testify to:

Name:

Address:

Phone Numbers: Home: Work:

Can testify to:

Name:

Address:

Phone Numbers: Home: Work:

Can testify to:

Name:

Address:

Phone Numbers: Home: Work:

Can testify to:

BOYNTON BEACH PD
Intoxilyzer - Alcohol Analyzer
Model 8000 SN 80-001190
06/25/2017
Software: 8100.27

LAI Date = 05/31/2017
Obs Period Began = 20:09
Sub Name =

CARLOS
J

ROMERO

Sub DOB = 09/13/1980

Sub Sex = M

Drive Lic = R560110903330/FL

Officer =

DENNIS
CASTRO

Operator =

DENNIS,
CASTRO

Test	g/210L	Time
Diagnostics Check OK		20:35
Air Blank	0.000	20:36
Control Test	0.079	20:36
Air Blank	0.000	20:37
Subject Sample #: REF*		20:37
Air Blank	0.000	20:38
Control Test	0.080	20:39
Air Blank	0.000	20:39
Diagnostics Check OK		20:39

*Subject Test Refused

Operator's Signature

SCANNED

JUN 30 2017

BOYNTON BEACH PD
Intoxilyzer - Alcohol Analyzer
Model 8000 SN 80-101190
06/25/2017
Software: 8100.27

LAI Date = 05/31/2017
Obs Period Began = 20:09
Sub Name =

CARLOS
J

ROMERO

Sub DOB = 09/13/1980

Sub Sex = M

Drive Lic = R560110803330/FL

Officer =

DENNIS
CASTRO

Operator =

DENNIS,
CASTRO

Test	g/210L	Time
Diagnostics Check OK		20:35
Air Blank	0.000	20:36
Control Test	0.079	20:36
Air Blank	0.000	20:37
Subject Sample #1 REF*		20:37
Air Blank	0.000	20:38
Control Test	0.080	20:38
Air Blank	0.000	20:39
Diagnostics Check OK		20:39

*Subject Test Refused

Operator's Signature

SCANNED
JUN 30 2017