

2019ACT015857



Arrest Report

0200829

265

FLORIDA HIGHWAY PATROL
P.O. BOX 540007, GREENACRES, FL 33454

Report Date / Time 8/25/2019 02:38 AM	Report Number FHP99ARR800209	Case Number/Cad Number FHPL19OFF056137 / LWRC19CAD155648	Reporting Officer Name FORTEZA, LUIS
Originating Agency ORI	Occur Date Time Range 08/25/2019 01:02:46 -	Jurisdiction	Clearance

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description JONATHAN DR
Street Number US-1	Street S US-1	Apt/Lot/Bldg JUPITER
City JUPITER	State FL	Zip Code 33477

Defendant

First Name DAVID	Middle Name NICHOLAS	Last Name MALOOLEY	Suffix	Race WHITE	Sex MALE	Height 510	Weight 166	Hair Gray	Eyes Blue
MNI #	SSN	Date of Birth 06/27/1965	Age 54	Place of Birth PRINCETON IL UNITED STATES	Drivers License or other ID M440174652270	State FL	ID Type E		
Address * / 16942 WATERBEND DR APT 259 , , FL 33477 /									

Arrest

Arrest Date/Time 8/25/2019 1:30:58 AM	Arrest Location Type PUBLIC PLACE	Arrest Location Description JONATHAN DR
Street Number US-1	Street S US-1	Apt/Lot/Bldg JUPITER
County PALM BEACH	City JUPITER	State FL
Zip Code 33477		

Charge : S

Counts 1	Charge 316.193.1	Bond Amount \$0.00	<input type="checkbox"/> No Bond
Charge Degree N	Charge Level MISDEMEANOR	General Offense Code DUI-UNLAW BLD ALCH <i>OR</i>	
Charge Description DUI ALCOHOL OR DRUGS			

Bond Set by Court

Bond Amount	<input type="checkbox"/> No Bond	SCANNED AUG 27 2019	AUG 25 AM 8:05
Bond Type(s)			

Probable Cause

On 08/25/2019 at approximately 1:20AM I Trooper Forteza ID 1739/4518 was on routine patrol northbound on Interstate 95 (State Road 9) When I was Dispatched to Donald Ross Road at Jonathan Dr just south of US-1. To the location of a traffic stop. Sergeant Handzik had stopped a vehicle that was traveling westbound on Donald Ross Road. The vehicle was initially observed driving at very low speeds under the speed limit and the driver of the vehicle was also observed driving without his seat

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belt prior to the vehicle being stopped. The vehicle was pulled over for those violations. Upon Sergeant Handzik approaching the vehicle she smelled a very strong odor of an unknown alcoholic content coming from the vehicle and its driver. Upon speaking to the driver Sergeant Handzik. Observed the driver to have bloodshot watery eyes with slurred speech. The driver was identified by his Florida Driver's License of (M-440-174-65-227-0) as David Nicholas Malooley.

Upon my arrival I approached the vehicle and asked Mr. Malooley if he would perform Standardized Field Sobriety Exercises to which he agreed to perform. I Also smelled the strong odor of an alcoholic content emitting from Mr. Malooley. His eyes were glassy and red. He had balancing problems when exiting the vehicle. Upon giving Mr. Malooley specific instructions for the first exercise of to check for horizontal gaze nystagmus to which he agreed he understood. Mr. Malooley was unable to follow the tip of my pen with just his eyes as instructed in several occasions. Mr. Malooley continued to follow the tip of the pen while turning his head. While Mr. Malooley was trying to follow the tip of my pen, the lack of smooth pursuit on both of his eyes was very visible. Mr. Malooley Sustained nystagmus at maximum deviation was also very visible the jerk in his eyes was distinct and sustained. Also his onset of nystagmus prior to 45 degrees was visible. I Then asked Mr. Malooley to perform the walk and turn exercise, to which Mr. Malooley wasn't able assume the starting position due to balancing and reasoning issues and also began walking multiple times without being told to begin the exercise. For the last exercise, the one leg stand Mr. Malooley was given specific instruction which he was unable to follow even after several times of them being explained to him. Due to the totality of the circumstances Mr. Malooley was placed under arrest for driving under the influence. Then Mr. Malooley agreed to perform a BAT test to the detect the level of alcoholic content in his breath which came back to a .229 and .238. Prior to that Mr. Malooley was observed for a 20 minute period from 2:23AM to 2:43AM were Mr. Malooley did not ingest or regurgitate any contents. All the above mentioned events took place in Palm Beach County, Florida

Jail Bookin Facility

Booking Date/Time	Booking County	Booking Facility	Booking Facility Phone Number
0.0000	PALM BEACH	PALM BEACH COUNTY CORRECTIONS	(561) 688-4400

Booking Facility Location

Booking Number

3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406

Booking Comments

Court

Court County	Court Location		
PALM BEACH	3188 PGA BLVD. PALM BEACH GARDENS, FL 33410		
Court	Court Phone	Court Apperance Date / Time	Court Fine
PALM BEACH NORTH COUNTY COURTHOUSE	561-624-6608		

Comments

Officer Name
Rank / ID #

Involvement On Report /
Reporting Role

Officer Agency
Org/Unit

Arrest Report


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FORTEZA, LUIS TROOPER	4518	REPORTING OFFICER	FLORIDA HIGHWAY PATROL FHPLILWRCCIPALM BEACHBROW LN TO SR804

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 FORTEZA, LUIS	Office Rank TROOPER	Officer ID No 4518	Sworn and subscribed before me, the undersigned authority This the ____ day of _____
Officer Agency FLORIDA HIGHWAY PATROL			DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT
Officer Signature 			

NOT A CERTIFIED COPY

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: 80-006027 Software: 8100.27
Date of Test: 08/25/2019

Date of Last Agency Inspection: 08/16/2019
Observation Period Began: 02:23
Subject's Name: DAVID N MALOOLEY

DOB: 06/27/1965 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	03:27
	Air Blank	0.000	03:28
	Control Test	0.078	03:28
	Air Blank	0.000	03:29
	Subject Sample #1	0.229	03:30
	Air Blank	0.000	03:31
	Air Blank	0.000	03:32
	Subject Sample #2	0.238	03:33
	Air Blank	0.000	03:34
	Control Test	0.076	03:34
	Air Blank	0.000	03:34
	Diagnostics Check	OK	03:35

Cylinder Lot: 22817080A5
Exp: 10/05/2019

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, DAVID N MALOOLEY, 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: 08/25/19
Signature

Sworn to (or affirmed) before me this 25 day of AUGUST, 2019

Signature of Notary Public-State of Florida _____
Printed Name of Notary Public-State of Florida JPR L. FORTEZA

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.



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

PBSO CASE # 19-107984 PBSO ZONE 3-14

AGENCY CASE # FHPL19OFF056137 CRASH CASE # _____

TIME OF STOP/CRASH 1:04AM DATE 08/25/2019 DAY _____

SUBJECT'S NAME MALOOLEY DAVID NICHOLAS RACE WHITE SEX MALE
LAST FIRST MID

HGT 5'9 WGT 165 LB DOB 06/27/1965

LOCATION JONATHAN DR SB EAST OF INDIANTOWN ROAD

ARRESTING OFFICER'S NAME & ID L. FORTEZA 1739/4518 AGENCY Palm Beach County Sheriff's Off

DIVISION: FHP TROOP L

NOTIFIED BY COMMO Yes

ARRIVAL AT FACILITY 02:23AM

ARREST TIME 1:30AM

BREATH RESULTS:

- 1) .229
- 2) .238
- 3) n/a
- 4) n/a

TESTING OFFICER'S ID 7909 PBSO VIDEOTAPE # n/a

TESTING FACILITY TASK REPORT

AGENCY: FHP-L
SUBJECT: MALOOLEY, DAVID N. CASE NUMBER: 19-107984
DATE: 08/25/19 VIDEO TAPE NUMBER: N/A
BEGINNING TIME: 0321 ENDING TIME: 0344
BREATH TESTS RESULTS: 1) .229 TIME 0330 (A.M./P.M.) 2) .238 TIME 0333 A.M./P.M.
3) N/A TIME — A.M./P.M. 4) N/A TIME — A.M./P.M.
BREATH OPERATOR: G. PARENT #7909
MAINTENANCE TECHNICIAN: KARLECKE #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: SLURRED
ATTITUDE: CALM, QUIET, MOOD SWINGS
CLOTHING: TAN CARGO SHORTS, BLUE T-SHIRT, TAN DECK SHOES
MEDICAL CONDITIONS: HERNIATED DISC, HIGH BLOOD PRESSURE
MEDICATIONS: METROPRUCOL
OTHER: EYES GLASSY AND SLIGHTLY BLOODSHOT, ODOOR OF AN UNKNOWN ALCOHOLIC BEVERAGE ON BREATH
A ADMITTED TO DRINKING NATURAL ICE BEER (Q+A)
COMMENTS: ARRIVED AT MOBILE BAT A/O BEGAN THE 20 MINUTE OBSERVATION PERIOD AT 0223 HRS.

A AGREED TO TAKE TEST
A/O READ RIGHTS
A STATED HE UNDERSTOOD RIGHTS
TECH. READ BREATH TEST RESULTS A STATED HE UNDERSTOOD TEST RESULTS
A/O CONDUCTED Q+A
A ANSWERED QUESTIONS

SUBJECT: MALOLEY, DAVID M. CASE NUMBER: _____

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? _____ 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? _____

WERE 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 YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? _____

DO YOU TAKE INSULIN? _____ IF SO, WHEN WAS YOUR LAST INJECTION? _____

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? _____ WHERE? _____

INTERVIEWER: _____

SUBJECT: MALCOLEY, DAVID N. 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 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 _____ of the _____

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) _____

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



**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	<input type="checkbox"/>	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	<input type="checkbox"/>	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	<input type="checkbox"/>	119.071(4)(c)	Undercover personnel.	
	<input type="checkbox"/>	119.071(2)(f)	Confidential informants (CIs).	
	<input type="checkbox"/>	119.071(2)(e)	Confession.	
Public Info. Exemptions	<input type="checkbox"/>	985.04(1)	Juvenile offender records.	
	<input type="checkbox"/>	119.071(h)(i)	Assets of a crime victim.	
	<input type="checkbox"/>	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	<input type="checkbox"/>	394.4615(7)	Mental health information.	
	<input type="checkbox"/>	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)	<input checked="" type="checkbox"/>	(iii) 119.0714(1)(i)-(j), 2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	<input type="checkbox"/>	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	<input type="checkbox"/>	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	<input type="checkbox"/>	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Other	<input type="checkbox"/>		Other:	
	<input type="checkbox"/>		Other:	

REVIEW COMPLETED BY

Booking Number: 2019027827	Date: 08/26/2019
	Specialist Name/ID: AM/31562