

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 24TH DAY OF JANUARY 20 19 AT 22:54 AM PM
SUBJECT: PHAM DONG X CASE NUMBER: 19029589
AGENCY: PALM BEACH COUNTY SHERIFF'S OFFICE ARRESTING OFFICER: Corporal R Soriano

PERSONAL CONTACT

DRIVING PATTERN: ACTUAL PHYSICAL CONTROL (PHYSICAL EVIDENCE OR STATEMENTS PUTTING DEF. BEHIND WHEEL OF VEHICLE)

On Thursday, January 24, 2019 at approximately 23:00 hours, I was requested by Sergeant (Sgt) Robert Kovach #7433 to respond to the intersection of Wild Cat Way and Okeechobee Blvd in the Village of Royal Palm Beach in regards to a traffic stop involving a possible drunk driver. Upon my arrival, I observed a Gold Toyota 4 runner bearing Florida tag "896QNC" parked on Wildcat Way facing southbound. Parked directly behind with its emergency lights activated was Sgt Kovach's unmarked patrol vehicle. Upon exiting my patrol car, I met with Sgt Kovach who told me the following, "I observed a silver Toyota 4 runner traveling west on Okeechobee Blvd through the light at State Road 7 in Royal Palm Beach, Florida with no operating lights on the vehicle at night but its left turn signal on. The vehicle traveled west in the straight lanes with its left turn signal on, nearly striking the curb numerous times as I attempted to catch up to the vehicle. It turned into the closed gated parking lot of Royal Palm Beach High School through a steady red light at Port O' Sol Drive. The vehicle then made a U-turn and proceeded to travel into the eastbound lanes of Okeechobee Blvd, traveling west then turned back onto the north side of the road and continued westbound in the correct lane. Again the vehicle nearly struck the left center curb several times as I effected a traffic stop near Wildcat Way. the driver /sole occupant was identified by his Florida driver's license as Dong Xuan Pham. I observed him to have glassy eyes, a blank watery stare and a moderate of alcoholic beverage emanating from his breath. He provided his license but then was unable to locate his registration or insurance as he repeatedly passed through it in his hands. Upon asking him if he knew where he was, Pham stated to me "Northlake". At this point believing his ability to operate a motor vehicle to be possibly impaired a DUI unit was requested."

OBSERVATION OF DRIVER:

I observed approached the gold Toyota on the driver side and identified Dong Xuan Pham by his Florida driver's license. I observed Pham was wearing dark blue jean pants and dark blue button up shirt. While speaking to Pham, I observed that he appeared unsure of the reason why he was stopped. I advised Pham of the aforementioned information provided by Sgt Kovach and advised him that was the reason he was being stopped. I observed Pham's eyes appeared red and glossy. I observed that he was slurring his words. Pham was asked to exit the vehicle to perform standardized field sobriety tasks (SFST's) which he agreed to. While exiting the vehicle, Pham appeared to be shaky on his feet.

DRIVER'S STATEMENTS:

I asked Pham if he had been drinking or used any drugs. Pham stated he drank two Corona beers and did not take any drugs. I asked Pham if he has any medical problems and/or previous injuries and he answered "no." I asked Pham if he wore any glasses or contacts to correct his vision and he once again answered "no." Finally, I asked Pham if he takes any medications and he answered "no."

ODORS:

Obvious strong odor of an unknown alcoholic beverage

GENERAL OBSERVATIONS

SPEECH: slurred, thick, slow, unclear

ATTITUDE: calm, compliant

CLOTHING: wearing dark blue jean pants and dark blue button up shirt.

MEDICAL/OTHER: NONE

STATE OF FLORIDA
COUNTY OF PALM BEACH

Corporal R Soriano

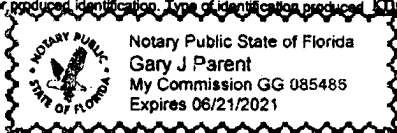
(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 24th day of January 20 19 by Corporal R Soriano

(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced known

Gary Parent (#7909)

Notary Public, Clerk of Court, Officer (F.S. 117.10)



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OBT# Number		PROBABLE CAUSE AFFIDAVIT		1. Arrest 3. Request For Warrant 2. N.T.A. 4. Request For Capias		1	Juvenile	N
Agency ORI Number FLO 5 0 0 0 0 0		Agency Name PALM BEACH COUNTY SHERIFF'S OFFICE		Agency Report Number 06 19-029589				
Charge Type: Check as many as apply		☐ 1. Felony ☐ 2. Traffic Felony ☒ 3. Misdemeanor ☐ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other		Special Notes				
Defendant Name (Last, First, Middle) Pham Dong Xuan		Race W		Sex M		Date of Birth 5/10/83		
Charge Driving While Intoxicated		Charge						
Charge		Charge						
Victim Name (Last, First, Middle) State of Florida		Race		Sex		Date of Birth		
Local Address (Street, Apt. Number)		City		State		Zip		Phone
Business Address (Street, Apt. Number)		City		State		Zip		Phone
								Address Source
								Occupation
The undersign swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law. The person taken into custody...								
☒ committed the below acts in my presence.								
☐ confessed to admitting to the below facts.								
☐ was observed by _____ who told _____ that he/she saw the arrested person commit the below acts.								
☐ was found to have committed the below acts, resulting from (described) investigation.								
On the 24th day of January 20 19 at 10:55 ☐ AM ☒ PM								

I observed a silver Toyota 4Runner bearing FI# 896QNC traveling west on Okeechobee Blvd through the light at SR7 in Royal Palm Beach, Florida with no operating lights on the vehicle at night but it's left turn signal on. The vehicle traveled west in the straight lanes with its left turn signal on, nearly striking the curb numerous times as I attempted to catch up to the vehicle. It turned into the closed/gated parking lot of Royal Palm Beach High School through a steady red light at Port O'Sol Dr. The vehicle then made a U-turn and proceeded to travel into the eastbound lanes of Okeechobee Blvd. traveling west then turned back onto the north side of the road and continued westbound in the correct lane. Again the vehicle nearly struck the left center curb several times as I effected a traffic stop near Wildcat Way. The driver/sole occupant was identified by his Florida license as Pham Xuan. I observed him to have glassy eyes, a blank watery stare and a moderate of alcoholic beverage emanating from his breath. He provided his license but then was unable to locate his registration or insurance as he repeatedly passed through it in his hands. Upon asking him if he knew where he was Pham stated to me "Northlake". At this point believing his ability to operate a motor vehicle to be possibly impaired Cpl. Sorlano of the PBSO DUI unit responded and assumed the investigation.

The foregoing instrument was sworn to and affirmed before me this 24th day of January 20 19 , by:	
Sgt. R. Kovach #7433 _____ Signature of Notary Public / Clerk of Court / Officer (F.S.S. 117.00)	Cpl. Sorlano _____ Signature of Arresting/Investigating Officer
Page 2 of 1	

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SUBJECT PHAMDONGCASE NUMBER 19029589

ROADSIDE TASKS

HORIZONTAL GAZE NYSTAGMUS:

LT EYE-LACK OF SMOOTH PURSUIT



RT EYE-LACK OF SMOOTH PURSUIT



LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION



RT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION



LT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES



RT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

Other Observations:

BGN - Once positioned in the front of my vehicle, I continued my investigation. I instructed Pham to keep his hands by his side, stand with his feet together, and follow a red light stimulus with his eyes not turning his head. I asked him if he understood my instructions. Once Pham verbally stated he understood my instructions, I observed both eyes to be red, bloodshot, and glossy. His left and right eye displayed equal pupil size, equal tracking, and a lack of smooth pursuit. I observed distinct and sustained nystagmus was present in both his left and right eye at maximum deviation during two separate four second evaluations. The onset of nystagmus was prior to a 45 degree angle in both his left and right eye during two separate four second evaluations. Vertical nystagmus was not present in both the left and right eye during two separate four second evaluations. While conducting the task, I had no reason to keep hands by his side, not turn his head and follow the stimulus multiple times.

WALK & TURN:

I positioned Pham on a painted white line, which was on a smooth and level surface, free of any debris and well lit by the headlights on my vehicle. I instructed Pham to place his left foot on the line and his right foot in front of the left touching heel to toe. I instructed him that he was to keep his hands at his side and stay in this position until I instructed him to do otherwise. Once placed into the instructed position, I explained and demonstrated the rest of the task. During the explanation of the task, I observed Pham could not maintain the instructed position and would sway while standing still. I explained the instructions in detail approximately 3 times before Pham stated he understood. Once the task started, I observed Pham swayed while balancing, started too soon, did not touch heel to toe, stepped off the line twice. Used arms to maintain balance (+6"), did not turn properly as he lost his balance while turning and therefore staggered. Pham took incorrect number of steps (approximately 20 steps) before completing turn. Once turn was completed Pham took approximately 13 steps back before completing task.

ONE LEG STAND:

I placed Pham with his feet together and arms at his side. Once Pham was placed into the instructed position, I explained and demonstrated the entire task twice. Once Pham stated he understood, the task was performed. During the task, I observed, Pham could not maintain the instructed position, he swayed while standing stationary. While raising his foot he hopped, put foot down twice.

FINGER TO NOSE:

I instructed Pham to stand with his feet together, make each hand into a fist keeping, extended his index fingers and to place his palms facing up. He was instructed to lower his arms by his side. I instructed and demonstrated the proper hand and arm position and for him to remain in this position while I demonstrated the rest of the task. I instructed and demonstrated him to tilt his head back approximately 45 degrees and close his eyes while waiting for a verbal command of left or right. On the command of "left" or "right", he would raise the requested hand, touch the tip of his finger to the tip of his nose, then bring his hand immediately back down to his side. During the instruction and demonstration of the task, Pham swayed while standing in the instructional position. I asked him if he understood the instructions I provided and he verbally stated he understood. I instructed him to start the task as explained. During the task, I observed Pham failed to return arms to side, correct finger did not touch tip of nose on every command and used wrong hand.

ROMBERG ALPHABET:

Did not complete due to language barrier.

BREATH TEST RESULTS:

1) .140

2) .137

3)

4)

STATE OF FLORIDA
COUNTY OF PALM BEACH

Corporal R Soriano

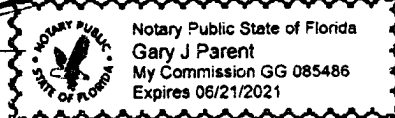
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(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced known

Gary Parent (#7909)

Notary Public, Clerk of Court, Officer (F.S.S. 117.48)



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WITNESS LIST

CASE NUMBER: 19029589

ARRESTING OFFICER: Corporal R Soriano

ADDRESS: 3228 GUN CLUB RD WEST PALM BEACH, FL 33406

PHONE NUMBERS (HOME): _____ (WORK) 561-688-3000

CAN TESTIFY TO: FACTS OF CASE AND INVESTIGATING SUCH CASE

NAME: _____

ADDRESS: 3228 GUN CLUB RD WEST PALM BEACH, FL 33406

PHONE NUMBERS (HOME) _____ (WORK) 561-688-3000

CAN TESTIFY TO: FACTS OF CASE

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) 0 (WORK) 0

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

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CAN TESTIFY TO: _____

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PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

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TESTING FACILITY TASK REPORT

AGENCY: P250

SUBJECT: Pham, Dong X

CASE NUMBER: 19-029589

DATE: 01/25/18

VIDEO TAPE NUMBER: N/A

BEGINNING TIME: 0028

ENDING TIME: 0040

BREATH TESTS RESULTS: 1) .140 TIME 0033 (A.M./P.M.) 2) .137 TIME 0037 (A.M./P.M.)
3) N/A TIME — A.M./P.M. 4) N/A TIME — A.M./P.M.

BREATH OPERATOR: G. PIRELLI #7509

MAINTENANCE TECHNICIAN: KARLCKE #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: ACCENT, RAPID

ATTITUDE: CALM, QUIET, CO OPERATIVE

CLOTHING: BLUE SHIRT, 5/8 PANTS, BLUE SHIRT, BROWN SLACKS

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER: EYES GLASSY AND SLIGHTLY BLOODSHOT, ODDOR OF AN UNKNOWN ALCOHOLIC BEVERAGE ON BREATH

COMMENTS: ARRIVED AT CENTER A/O REGAL TH 20 MINUTE
OCCUPATION PERIOD AT 0004 HRS.

A AGREED TO TAKE TEST

A/O READ RIGHTS AND EXPLAINED

A STATED HE DIDN'T UNDERSTAND RIGHTS

TECH ~~READ~~ READ BREATH TEST RESULTS A STATED HE
UNDERSTOOD TEST RESULTS AND STATED I'M OVER

A/O DID NOT ATTEMPT Q/A DUE TO A
LANGUAGE BARRIER

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SUBJECT: Pump Room X CASE NUMBER: 19-025589

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) René A. Camacho

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SUBJECT: Pump, Doug X

CASE NUMBER: 19-029589

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: _____

WHITE - STATE ATTY.

YELLOW - DHSMV

PINK - CENTRAL RECORDS

GOLD - JAIL

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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	☐	539.003	Other: Florida Pawnbroking Act	
	☐	19.0712(2)(b)	Other: Personal information contained in a motor vehicle record.	

REVIEW COMPLETED BY

Booking Number: 2019002844	Date: 01/25/2019
	Specialist Name/ID: WATSON/6665

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