



FLORIDA HIGHWAY PATROL

REPORT NUMBER
FHP99ARR131555

ARREST REPORT

Report Date / Time 08/15/2017 05:49 PM	Agency Case/Offense Number FHPL17OFF065916	OCA Number	Original Agency Case Number	OBTS Number	Offender Based Transaction System	Jail Booking Number	Other Number LWRC17CAD147513
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LOCATION OF OCCURRENCE

County PALM BEACH	Address SR 9 NB SOF 10TH AVE N, LAKE WORTH, FL
Range of Occurrence Date/Time 08/15/2017 04:27 PM to 08/15/2017 04:27 PM	Latitude N 26 35.1602
	Longitude W 80 4.1738

PERSON: SUSPECT

First Name KIRBY	Middle Name BRIAN	Last Name VARNADORE	Suffix	Date of Birth 08/30/1954	Age 62	Race W	Sex M	Height 511	Weight 196	Hair BRO	Eyes BLU
Master Name Index Number	Place of Birth CHARLESBURG- NORTH CAR	Nation USA	SSN	Driver's License or Other ID V653502543100	State FL	Class O	Type				
Address 116 PERIWINKLE DR	City HYPOLUXO	County PALM BEACH	State FL	Zip Code 33462	Phone						

CHARGES

Counts 1	Charge Number 316.193.1	Charge DUI-UNLAW BLD ALCH
Charge 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

PROBABLE CAUSE

On August 15, 2017, at approximately 4:30 PM, I was on patrol on Palm Beach County, Florida. I was on my marked patrol vehicle marked FHP unit equipped with overhead emergency lights and external siren. I responded as a backup officer to a traffic stop conducted by Captain Kevin E. Strickland, I-95 (SR-9), northbound, south of 10th Ave on the right shoulder. Upon my arrival, Cpt. Strickland informed me that while conducting the traffic stop he could smell a strong odor of an unknown alcoholic beverage coming from the mouth/breath of the driver of the vehicle he had just pulled over; and the driver responses were slow and looked confused. I made contact with the driver who was outside his vehicle, and asked him for his driver license, and registration. The driver advised that his driver license had been stolen last night, and he did not have the registration with him. I then, asked the driver if he had any other form of ID with his name on it, to which he responded that he had to look and see if he had any inside the vehicle. While speaking with the driver, later identified by name and date of birth as Kirby Brian Varnadore, I could smell a very strong odor of an unknown alcoholic beverage emitting from his mouth/breath that grew stronger as he spoke. Mr. Varnadore started walking towards his vehicle to look for any other type of ID; while walking Mr. Varnadore was unsteady of his feet, and had to hold on to his vehicle to be able to get inside. Mr. Varnadore could not find any other ID in the vehicle so he provided me with his name and date of birth. I confirmed his information through FCIC/NCIC. I asked Mr. Varnadore to step out of the vehicle so we could speak. Mr. Varnadore had trouble getting out of the vehicle, he kept holding on to the vehicle and leaning on it to walk. I then asked Mr. Varnadore if he had anything to drink to which he said yes. I asked Mr. Varnadore what and how much he had to drink before starting driving, and if he had eating anything before or after drinking. Mr. Varnadore advised that he had had approximately two drinks of rum and coke 2 hrs. prior to starting driving, and he had had chicken for lunch. I asked Mr. Varnadore where he was going; he advised to pick up his wife up. Mr. Varnadore responses were slow and incoherent at times; he also would go off topic with frequency. Mr. Varnadore eyes were red and glassy, and he would have difficulty trying to keep them open. Based on my observations, I asked Mr. Varnadore if he would perform some field exercises to make sure he was able to safely drive to which he agreed.

Standardized Field Sobriety Exercises (SFSE):

The area for the following roadside exercises was level hard surface and was free of debris.

Horizontal Gaze Nystagmus:

I advised Mr. Varnadore to stand straight with his feet together and arms down by his side. I asked Mr. Varnadore if he wore any glasses or contacts, he advised he wears contacts. For the exercise I used a pen light with a red tip. I asked Mr. Varnadore if he could see the red tip of my pen, he stated yes. Mr. Varnadore was asked about any current medical conditions, he stated that not with his eyes. I advised Mr. Varnadore to follow the red tip of my pen with his eyes and his eyes only, and do not move his head. I asked him if he understood the instructions I gave him and he said yes.

The following was observed during Horizontal Gaze Nystagmus:

The subject did have resting Nystagmus and dilated pupils.

- LT EYE- LACK OF SMOOTH PURSUIT

- RT EYE- LACK OF SMOOTH PURSUIT

Mr. Varnadore could not follow the red tip of my pen with his eyes. I had to instruct Mr. Varnadore multiple times to keep his head straight and follow the tip of my pen with his eyes only. I had to stop the exercise multiple times because Mr. Varnadore could not keep his head straight and kept on moving it during the exercise. After stopping the exercise multiple times, I advised Mr. Varnadore that he could not keep his head still just hold it with his two hands so it could be easier for him. After trying this, Mr. Varnadore was still moving his head and could not follow the instructions. I continued the exercise after Mr. Varnadore hold his head. I observed

-LT EYE- DISTINCT AND SUSTAINED NYSTAGMUS AT MAXIMUM DEVIATION

-RT- DISTINCT AND SUSTAINED NYSTAGMUS AT MAXIMUM DEVIATION

-LT EYE- ONSET NYSTAGMUS PRIOR TO 45 DEGREES

-RT EYE- ONSET NYSTAGMUS PRIOR TO 45 DEGREES

While checking for vertical nystagmus, Mr. Varnadore kept moving his head. I advised him to move his chin down to help him keep his head straight. I had to repeat the same instructions multiple times. I observed a pronounced jerking of the eyes while moving the pen light upwards.

Walk and Turn Exercise:

The area for the following roadside exercises was level and free of debris. I asked Mr. Varnadore if he could walk in a straight line, following the pattern of a line made out concrete on the floor, he stated yes. I advised Mr. Varnadore to put his left foot on the line, his right foot directly in front of it, touching heel to toe. I advised Mr. Varnadore to keep his arms down by his side and to stay in that position until I advise him to begin the exercise. I asked him if he understood, and he said yes. While explaining the exercise to Mr. Varnadore, he was unable to keep balance and to put his right foot in front of his left foot touching heel to toe.

ARREST REPORT

FHP99ARR131555

Page 1 of 2

AUG 18 2017

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He kept using his arm to gain balance and had to repeat the same instructions in multiple occasion even though he advised he understood, and he was able to perform the exercise. Mr. Varnadore started too soon the exercise, I had to tell him to back off to the line so I could explain the exercise in more than one occasion. Mr. Varnadore missed multiple heel to toe steps, stepped off the line, used his arms to balance throughout the exercise, lost balance while turning, stumbled, and did not keep his front foot on the line to make the turn. Mr. Varnadore did not count his steps, and stopped while completing the exercise.

One Leg Stand Exercise.

The area for the following roadside exercises was level and free of debris. I instructed the subject to stand with his feet together and keep his arms down by his side. I instructed him to stay in that position until I tell him to start the exercise. I asked him if he understood, he stated yes. This exercise was first explained to the subject then was demonstrated by myself. Subject advised that he will be able to perform the exercise. I have to repeat the instructions multiple times. Mr. Varnadore was swaying while listening to the instructions, and after he started he stopped the exercise and advised that maybe he could not do it. I asked Mr. Varnadore if he had injuries that would prevent him to lift his leg approximately 6 inches off the ground. At that point his had slurred speech and I could barely understand what he was saying. After starting the exercise again Mr. Varnadore put his foot down, did not count out loud, and stopped the exercise in multiple occasions. Last time Mr. Varnadore put his foot down, he stayed like that before finishing the exercise and until I told him to stop.

Finger to Nose Exercise.

I advised Mr. Varnadore to stand with his feet together, arms to his side and his index fingers pointed. I told him to keep that position until I told him to start. I asked him if he understood, he stated yes. I had to repeat the instructions to Mr. Varnadore multiple times. When I advised him to begin he didn't keep his eyes closed, he failed to return his left arm to the side the first time I advised him to, and kept his arm up until I told him to put it down. When I advised him to raise his left arm to touch his nose, he raised the right one and then put it down and raised the left one again.

Based on the totality of the circumstances, I placed Mr. Varnadore under arrest under arrest for DUI pursuant to Florida Statute 316.193.1 at 5:14 PM. He was searched and no contraband was found. He was then secured in my patrol vehicle and taken to the Palm Beach County Jail. Once I arrived at the jail I conducted a 20 minute observation of Mr. Varnadore. At no time did he take anything by mouth or regurgitate. At approximately 6:05pm he provided a breath sample of .164. At approximately 6:08pm he provided a second sample of .164. He was then booked into the county jail.

The above incident occurred in Palm Beach County.

LEO BOND

Bond Amount \$	None	<input type="checkbox"/> ROR	<input type="checkbox"/> Cash	<input type="checkbox"/> Any	<input type="checkbox"/> Pre Trial If Quality
	<input type="checkbox"/> Pro				

COURT APPEARANCE INFORMATION

Court (CIRCUIT) PALM BEACH SOUTH COUNTY COURTHOUSE	Court Phone 561-274-1530	Court Date & Time 08/11/2017 08:30 AM
Court Address 200 WEST ATLANTIC AVE., DELRAY BEACH, FL 33444		
Instructions		

ARREST INFORMATION

Arrest Date / Time 08/15/2017 05:14 PM	Residency Within jurisdiction	Injured None	Extent of Injury N/A	Resist Arrest No
Prior Arrests No	Arrest Jurisdiction Within jurisdiction	Alcohol Yes	Drugs No	

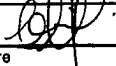
ARREST LOCATION

County PALM BEACH	Address SR 9 NB SOF 10TH AVE N, LAKE WORTH, 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 1704	Officer Name I. DENIS	Officer Signature 
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Subscribed and sworn to (or affirmed) before me this 15 day of Aug. A.D. 2017 by _____ who is personally known to me or

has produced _____ as identification.

Signature  Notary Public LEO CO Commission No. _____



NSC 7136

SUBJECT: KIRBY, RICHARD JAMES CASE NUMBER: 7 HP 40 OFF 6519

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? 5/1 WHAT DAY OF THE WEEK IS IT? Monday

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? 4 AND YOUR LAST DRINK?

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? _____

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

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? NO HOW MUCH? NO

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? _____ **SCANNED**

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? _____ WHERE? **AUG 18 2017**

INTERVIEWED: James Earl Ray David and

WHITE - STATE ATTY.

YELLOW - DHSMV

PINK - CENTRAL RECORDS

GOLD - JAIL

SUBJECT: _____ 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.

SCANNED
AUG 18 2017

SUSPECT'S SIGNATURE: (X) _____

READ

ON

CAMERA

TESTING FACILITY TASK REPORT

12

AGENCY: FHP

SUBJECT: VARNADORE, KIRBY BRIAN CASE NUMBER: 17-115171

DATE: AUG. 15th, 2017 VIDEO TAPE NUMBER: 63209

BEGINNING TIME: 17:59 hrs. ENDING TIME: 18:12 hrs.

BREATH TESTS RESULTS: 1) .164 TIME 18:05 A.M./P.M. 2) .164 TIME 18:08 A.M./P.M.
 3) TIME A.M./P.M. 4) TIME A.M./P.M.

BREATH OPERATOR: J. CAIN #2109

MAINTENANCE TECHNICIAN: J. KARLECKE #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: Slurred, slt. repetitive on questions though answered

ATTITUDE: Cooperative, upset @ first (at himself)

CLOTHING: gray met (sweat) tee shirt, lime green shorts, wht. sneakers

MEDICAL CONDITIONS: hearing

MEDICATIONS: said none

OTHER: blind / blue 62 YOA
Abs of unknown alcoholic beverage
Eyes: Very red + glassy

COMMENTS: 20 MIN. OBSERV DONE BY ARRESTING TPR.

Said yes to bft.

Gave two samples. Results told to A.

Rights read / stated he understood.
Answered first questions, then requested lawyer.
Q + A was ended.

SCANNED
AUG 18 2017