

0490290

FLORIDA HIGHWAY PATROL

1470

REPORT NUMBER
FHP99ARR136570

ARREST REPORT

Report Date / Time 08/03/2017 11:42 PM	Agency Case/Offense Number FHPL17OFF062203	OCA Number	Operating Agency Case Number	OBTS Number	Offender Based Transaction System	Jail Booking Number	Other Number LWRC17CAD139097
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LOCATION OF OCCURRENCE

County PALM BEACH	Address NB SR 9 EXT RAMP / GATEWAY BLV, BOYNTON BEACH, FL 33426	
Range of Occurrence Date/Time 08/03/2017 10:05 PM to 08/04/2017 12:45 AM		Latitude N 26 40.1891

PERSON: SUSPECT

First Name MARCELA	Middle Name A	Last Name MONToya	Suffix	Date of Birth 11/06/1978	Age 38	Race W	Sex F	Height 508	Weight 130	Hair BLK	Eyes GRN
Master Name Index Number	Place of Birth COLOMBIA	Nation COLOMBIA		SSN [REDACTED]		Driver's License or Other ID S17070828	State MA	Class or Type D			
Address 1811 RENAISSANCE COMMONS		City BOYNTON BEACH	County PALM BEACH			State FL	Zip Code 33426	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

Counts 1	Charge Number 489.531.4m	Charge RESIST OFFICER							
Charge Degree SECOND DEGREE	Charge Level MISDEMEANOR	General Offense Code PRINCIPAL				<input type="checkbox"/> Hate Crime	<input type="checkbox"/> Domestic Violence		Bond Amount \$0.00
REFUSE TO SIGN OR ACCEPT CITATION									

PROBABLE CAUSE

On the above date and time I was in service in Palm Beach County, FL. The weather was clear and traffic was moderate. I was traveling southbound on Interstate 95 (State Road 9) when a crash was called in at approximately 10:00 PM located on the northbound Interstate 95 (State Road 9) exit ramp to color Toyota with its two female occupants outside of the vehicle. After making contact with both drivers involved in the crash and determining the at fault driver I then concluded my crash investigation. (See Crash Report) I then made my way back to the white female driver who was in the black Ford SUV. The white female driver was later identified as Marcela A. Montoya 11/06/1978. Throughout the duration of my crash investigation involving Ms. Montoya I could smell the odor commonly associated with the smell of an unknown alcoholic beverage emitting from her breath only as she would speak to me. Along with Ms. Montoya's slurred speech, glossy red eyes and inability to follow simple instruction I had reason to believe Ms. Montoya was driving under the influence of alcohol and / or a controlled substance. Ms. Montoya was then read Miranda and asked if she understood her rights. Ms. Montoya then decided to try and be difficult and not give me a yes or no answer so that I was aware that she understood her rights so that there was no future misunderstanding. I asked Ms. Montoya several times if she understood her rights of which I had just read to her. Ms. Montoya continued to advise me she wasn't going to answer me and that she would make me read it over to her five (5) times. I then advised Ms. Montoya if she did not comply with the simple instructions that were being provided to her that I would place her under arrest based off my observations and reason to believe that she was driving under the influence of alcohol and / or a controlled substance. I then asked Ms. Montoya again if she needed me to re read Miranda or if she understood her rights. Ms. Montoya then advised me that yes, she understood. I then advised Ms. Montoya where she was coming from and if she had anything to drink prior to driving her vehicle. Ms. Montoya then advised me that she was at a friend's house and that she did not have anything to drink. Ms. Montoya was then asked if she had taken any prescription medication or if she had any medical issues. Ms. Montoya then advised me that she hasn't taken any medication in months and does not have any issues. I then advised Ms. Montoya that I would now be requesting for her to perform a series of roadside exercises. Ms. Montoya then agreed and consented to perform the exercises that were requested of her to perform. (See Roadside Tasks Sheet / Video)

The area for the following roadside exercises was level and free of debris. Subject agreed to use a solid straight white line provided by the roadway to perform the walk and turn. Subject was then asked if she had any problems with her eyes aside from corrective vision, or injuries that would prevent her from performing any of the exercises that will be requested of her to perform. Subject then advised me that she did not have either eye or physical body injuries or limitations and would be able to perform the exercises.

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

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- Subject continuously stopped exercise on her behalf and was not following the instructions provided to her. Subject was choosing not to abide by the instructions provided to her.

Walk and Turn Exercise:

Interaction Phase:

- Subject had a hard time remaining in starting position. Subject continued to get out of starting position in which she was instructed to stay in until further instruction to start exercise. Subject swayed in starting position. Subject would keep speaking over me during instruction. The exercise was demonstrated and explained to the Subject. Subject advised she understood instructions and did not have any questions. Subject continued to speak over me and not allow me to finish instructing her on the exercise. Subject advised she understood instructions and did not have any questions. Subject did not take heel to toe steps on either step. Subject used arms for balance. Subject stepped off line. Subject did not turn around as instructed.

One Leg Stand Exercise:

Interaction Phase:

Gol H.02/17206

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- Subject was swaying while in starting position.
- Subject continued to argue with me on having to perform multiple exercises and was choosing not to listen or comply with any of my instructions. Subject continued to refuse to cooperate and due to the excessive time on the roadway and not getting any cooperation the subject was then placed under arrest.

Finger to Nose:

- Refused

Romberg Balance:

- Refused

Based on the totality of circumstances, Ms. Montoya was placed under arrest for DUI pursuant to Florida Statute 316.193.1 at 10:52 PM. Ms. Montoya was then placed in the back of my patrol vehicle and transported to the Palm Beach County Jail in which she arrived at 11:40 PM. After the defendants 20 min. observation she was then asked to provide a sample of her breath and urine in which she refused to provide at approximately 12:08 AM.

Video of the DUI Investigation, roadside exercises and transport to the Palm Beach County Jail can be obtained through the FHP custodian. Video of the BAT facility can be obtained through the PBSO records department.

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 SOUTH COUNTY COURTHOUSE	Court Phone 561-274-1530	Court Date & Time 09/04/2017 08:30 AM
Court Address 200 WEST ATLANTIC AVE., DELRAY BEACH, FL 33444		
Instructions		

ARREST INFORMATION

Arrest Date / Time 08/03/2017 10:52 PM	Residency Within state	Injured None	Extent of Injury N/A	Resist Arrest No
Prior Arrests No	Arrest Jurisdiction Within state	Alcohol Unknown	Drugs Unknown	

ARREST LOCATION

County PALM BEACH	Address NB SR 9 EXT RAMP / GATEWAY BLV, BOYNTON BEACH, FL 33426
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ARREST DELIVERED TO

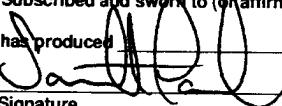
Jail / Booking Facility PALM BEACH COUNTY CORRECTIONS	Location 3228 GUN CLUB ROAD, WEST PALM BEACH, FLORIDA 33406	Phone (561) 688-4400
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ARRESTING OFFICER

Officer Call Number 1498	Officer Name SAYIH R. A.	Officer Signature #3822
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Subscribed and sworn to (or affirmed) before me this 4 day of August A.D., 2017 by Sayih who is personally known to me or

has produced as identification.


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



Samantha Palmer
Commission # FF172377
Expires: OCT 28, 2018
BONDED THRU
1ST FLORIDA NOTARY, LLC

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TESTING FACILITY TASK REPORT

AGENCY: FHP-L/SAYIH

SUBJECT: MONToya, MARCELA

CASE NUMBER: 17-110549

DATE: 08/03/2017

VIDEO DVD NUMBER: 63115

BEGINNING TIME: 0004

ENDING TIME: 0008

BREATH TESTS RESULTS: 1) R TIME 0008 A.M. P.M. 2) XX TIME XX A.M. P.M.
3) XX TIME XX A.M. P.M. 4) XX TIME XX A.M. P.M.

BREATH OPERATOR: S. PALMER #24520

MAINTENANCE TECHNICIAN: J Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: CLEAR

ATTITUDE: UPSET, QUIET, CALM

CLOTHING: BLACK/ WHITE ZEBRA PRINT DRESS, TAN SHOES

MEDICAL CONDITIONS: NO

MEDICATIONS: VALIUM

OTHER:

EYES GLASSY,

COMMENTS:

ARRESTING OFFICER CONDUCTED THE 20 MINUTE OBSERVATION BEGINNING AT 2340
SUBJECT REFUSED TO TAKE BREATH TEST
A/O READ I/C TWICE @ 0005, SUBJECT STATED SHE UNDERSTOOD I/C.
SUBJECT AGAIN REFUSED TO PROVIDE BREATH SAMPLE @ 0008.
A/O READ RIGHTS @ 0008, SUBJECT STATED SHE UNDERSTOOD RIGHTS.
SUBJECT REFUSED TO ANSWER AND QUESTIONING

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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.

-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 Trooper Sayit of the FHP

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.

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SUSPECT'S SIGNATURE: (X) Read on Camera

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: Trooper Sayit

WHITE - STATE ATTY.

YELLOW - DHSMV

PINK - CENTRAL RECORDS

GOLD - JAIL

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