

Arrest Report

19CT17574 ASB

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

Report Date / Time 9/22/2019 05:01 AM	Report Number FHP99ARR804803	Case Number/Cad Number FHPL19OFF062696 / LWRC19CAD173172	Reporting Officer Name Z. TODD
Originating Agency ORI	Occur Date Time Range 09/22/2019 04:39:35 -	Jurisdiction	Clearance

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description SHOPPING PLAZA
Street Number SR 809	Street NB NOF FOREST HILL BLVD	Apt/Lot/Bldg WEST PALM BEACH
City WEST PALM BEACH	State FL	Zip Code 33415

Defendant

First Name STEVEN	Middle Name BERNARDO	Last Name MALAGON	Suffix	Race WHITE	Sex MALE	Height 505	Weight 150	Hair BAL	Eyes GRN
MNI #	SSN	Date of Birth 03/07/1985	Age 34	Place of Birth NEW YORK NY USA	Drivers License or other ID M425782850870	State FL	ID Type E	Address * RESIDENCE / 6031 PINE DR , LAKE WORTH, FL 33462 /	

Arrest

Arrest Date/Time 9/22/2019 4:56:49 AM	Arrest Location Type PUBLIC PLACE	Arrest Location Description PARKING LOT
Street Number SR 809	Street NB NOF FOREST HILL BLVD	Apt/Lot/Bldg PALM BEACH
County PALM BEACH	City WEST PALM BEACH	State FL
Zip Code 33415		

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	
Charge Description DUI ALCOHOL OR DRUGS			

Charge : S

Counts 1	Charge 318.14.3	Bond Amount \$0.00	<input type="checkbox"/> No Bond
Charge Degree S	Charge Level MISDEMEANOR	General Offense Code RESIST OFFICER	
Charge Description REFUSE TO ACCEPT SIGN CITATION OR POST BOND			

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2019 SEP 23 AM 5:15

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Bond Set by Court

<input type="checkbox"/> Bond Amount <input type="checkbox"/> No Bond
Bond Type(s)

Probable Cause

On September 22, 2019 I was on routine patrol in my marked patrol car in Palm Beach County. I was traveling northbound on Military Trail (State Road 809) at Forest Hill Blvd. I observed a blue BMW directly in front of me in the center lane. The vehicle stopped at the light and began to rev its engine multiple time as the driver talked to the vehicle to the left. As the light turned green the BMW accelerated in a manner causing the tires to screech. The vehicle then accelerated at a high rate of speed and traveled northbound. I then paced the vehicle at a speed of 50mph in a 40mph zone from my calibrated speedometer. I then activated my emergency lights and sirens to initiate a traffic stop on the vehicle. The vehicle then yielded into the business parking lot of 1480 N Military Trail. I then approached the vehicle and identified myself to the driver. As I spoke to the driver I observed that he had bloodshot glassy eyes, and the odor of an unknown alcoholic beverage was emitting from his breath as he talked. I then requested that he step out of the vehicle and walk towards my patrol car. As he stood in front of me I observed that he had bloodshot glassy eyes, an orbital sway and the odor of an unknown alcoholic beverage was emitting from his breath as he talked. I then requested that he conduct field sobriety exercises and he refused. Taylor warnings were then read to him and he stated that he understood. He then agreed to conduct the exercises. The driver was identified as Steven Malagon by his FL DL.

Horizontal Gaze Nystagmus

Before beginning the exercises, I checked to see if Mr. Malagon was wearing glasses or contact lenses. It was determined that Mr. Malagon was not wearing glasses. I then checked Mr. Malagon's eyes and observed equal tracking and equal pupil size. Mr. Malagon was instructed to place his feet together and place his hands down at his side. He then was instructed to keep his head still and follow the stimulus with his eyes and his eyes only. He was also instructed to keep looking at the stimulus until told not to. Mr. Malagon verbally indicated that he understood.

- Lack of smooth pursuit, left eye
- Lack of smooth pursuit, right eye
- A distinct and sustained nystagmus at maximum deviation in the left eye
- A distinct and sustained nystagmus at maximum deviation in the right eye
- An onset of nystagmus prior to 45 degrees in the left eye
- An onset of nystagmus prior to 45 degrees in the right eye

I did not observe vertical nystagmus. I observed the angle of onset to be 40°.

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During the exercise Mr. Malagon had to be told to stay in the proper position and not to move his head during the exercise multiple times. I also observed Mr. Malagon to have orbital sway and glassy red eyes.

Walk and Turn Exercise

The area was level and free of debris. Mr. Malagon verbally indicated that he saw the line on the ground. Mr. Malagon was instructed to put his left foot on the line, then place his right foot on the line ahead of the left foot in a heel to toe manner. I then demonstrated this position. Mr. Malagon was instructed not to begin until told to do so. Mr. Malagon verbally indicated that he has understood all instructions up to this point. Mr. Malagon was then instructed to take 9 heel to toe steps on the line when told to do so. I then demonstrated this. Mr. Malagon was then instructed to turn on the ninth step and to keep the front foot on the line and to take a series of small steps with the foot on the line. I then demonstrated this for Mr. Malagon. Mr. Malagon was also instructed to keep his arms at his sides and to watch his feet during the exercise. Mr. Malagon was also instructed to count aloud and to not stop once he begins the exercise. He was also instructed to keep his arms at his sides at all times.

He was unable to stay in the instructional position and had to be told to remain in the position. He then took 9 steps forward. As he walked he had a sway and missed heel to toe on multiple steps. He then attempted to complete the turn and did so correctly. He then took 9 steps back. As he walked he had a sway, used his arms for balance and raised them more than 6 inches away from his body. He then missed heel to toe on multiple steps.

One Leg Stand Exercise

Mr. Malagon was instructed to stand with his feet together and to place his arms down at his side. Mr. Malagon was instructed to maintain that position until told to do so. Once told to do so, Mr. Malagon was instructed to raise one foot approximately 6 inches off the ground and to keep both legs straight with both arms at his side. He was also instructed to look at the elevated foot and count aloud in the manner of one thousand-one, one thousand-two and so on until told to stop. Mr. Malagon verbally indicated that he understood the instructions after I demonstrated to him.

Mr. Malagon was told to begin and raised his right foot. He raised his foot approximately 6 inches off the ground. During the exercise Mr. Malagon displayed an orbital sway and placed his foot down during the exercise and had to be told to continue. He also used his arms from balance by raising them more than 6 inches away from his body.

Finger To Nose

Mr. Malagon was instructed stand with his feet together and arms at his side and to have his index fingers pointed out. He was instructed to not start and stay in that position until told to do so. He stated that he understood. I then demonstrated the position. Mr. Malagon was then instructed to when told to

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start to close both eyes and tilt his head back. When told to do so he was instructed to bring the hand I directed upward, touching the tip of your finger to the tip of his nose. I then demonstrated this. He was then instructed to after touching the tip of the nose to immediately bring his hand down to his side. He stated that he understood. I then demonstrated and he stated that he understood. He was instructed to raise his hand in the following order, left, right, left, right, and right, left.

- Left: Missed. Pad
- Right: Missed. Pad
- Left: Missed. Pad
- Right: Missed. Pad
- Right: Missed. Pad
- Left: Missed. Pad

Modified Rhomberg Balance:

During the exercise he was instructed to stand with his feet together and hands at his side. He was told to estimate the passage of 30 seconds in His head with his eyes closed and head tilted back. He was instructed that when he was done estimating to open his eyes and say "Stop."

He began the exercise and immediately I observed that he had a 3-inch sway back to front and side to side. I observed that he had eyelid tremors. Malagon ended the test after 27 seconds.

He was then placed under arrest for DUI and transported to the county jail. Once I arrived at the testing facility I conducted a 20-minute observation. At no time did he regurgitate or take anything by mouth. I then requested that he provide a lawful sample of his breath and he refused. Implied consent was read and he stated that he understood. He then refused again to provide a sample. He was then booked into the county jail.

He refused the sign the citations.

The above incident occurred in Palm Beach County.

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

3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406

Booking Number

Booking Comments

Court

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Court County PALM BEACH	Court Location 200 WEST ATLANTIC AVE. DELRAY BEACH, FL 33444		
Court PALM BEACH SOUTH COUNTY COURTHOUSE	Court Phone 561-274-1530	Court Appearance Date / Time 10/21/2019 0830 AM	Court Fine
Comments			

Officer Name Rank / ID #	Involvement On Report / Reporting Role	Officer Agency Org/Unit
Z. TODD TROOPER 4141	REPORTING OFFICER	FLORIDA HIGHWAY PATROL FHPL\LWRC\PALM BEACH\SR804 JSOF SR702

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 Z. TODD	Office Rank TROOPER	Officer ID No 4141	Sworn and subscribed before me, the undersigned authority This the <u>22nd</u> day of <u>September 2019</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT
Officer Agency FLORIDA HIGHWAY PATROL	Officer Signature 		Notary Public State of Florida Thomas H Leahey My Commission GG 34716A Expires 06/20/2023 

NOT A CERTIFIED COPY



Palm Beach County Sheriff's Office – Arrests Only

	X	Florida State Statute	Description	Page Number(s)
I/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: 2019030960	Date: 09/23/2019
	Specialist Name/ID: AM/31562

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SEP 23 2019