

17 CT 7214

ARREST / NOTICE TO APPEAR

PROBABLE CAUSE AFFIDAVIT

 1. Arrest
 2. N.T.A.
 3. Request for Warrant
 4. Request for Capias
1

JUVENILE

A	OBTS Number		PROBABLE CAUSE AFFIDAVIT					
D	Agency ORI Number	Agency Name				Agency Report Number		
M	FL 0500200	BOCA RATON POLICE DEPARTMENT				3 2 2017-005719		
N	Charge Type: Check as many as apply.	<input type="checkbox"/> 1. Felony <input checked="" type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 2. Traffic Felony <input type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other				Special Notes:		
D	Name (Last, First, Middle)	Alias			Race	Sex	Date of Birth	
E	GERTSIK, VITALIY				W	M	02/24/1969	
C	Charge Description	Charge Description						
H	316.193(1) DUI							
R	Charge Description	Charge Description						
G	Victim's Name (Last, First, Middle)				Race	Sex	Date of Birth	
E	STATE OF FLORIDA,							
S	Local Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Address Source		
T	100 NW 2ND AVE, BOCA RATON, FL 33432				(561) -			
I	Business Address (Name, Street)	(City)	(State)	(Zip)	Phone	Occupation		
M					(56) -			

The undersigned certifies and swears that he/she has just and resonable 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. was observed by _____ who told _____ that he/she saw the arrested person committ the below acts.
 confessed to _____ admitting to the below facts. was found to have committed the below acts, resulting from my (described) investigation.

On the 19 day of April, 2017 at 22:26 (Specifically include facts constituting cause for arrest.)

On 04/19/17 at approximately 2153 hours, as I was conducting routine patrol I observed a blue Hyundai (FL tag AVCF39) driving without its headlights on or taillights on in the area of 4000 N Military Trl. The Hyundai continued southbound on Military Trail, swerving to the left and right failing to maintain its lane. I initiated a traffic stop and we made our final stop in the area of 2600 N Military Trl. Officer Alvino and Officer Loconsole arrived on scene as my back-up officers.

I approached the vehicle and observed a W/M, later identified by his FL DL as Vitaliy Gertsik, in the driver seat. It should be noted that Gertsik was the sole occupant of the vehicle. Gertsik stated that he was driving from his job and stopped at the gas station at 801 W Yamato Rd and bought two Coors Beers to drink. I then asked Gertsik to exit his vehicle and he stumbled as he exited. I then began to speak to Gertsik in front of my marked patrol car (Unit# 306) with audio and video recording. Gertsik swayed back and forth as I was speaking to him.

According to Gertsik he was headed home from work. Gertsik stated he was headed southbound on Military Trl towards his home at 5590 Wellesley Park in Boca Raton. While speaking to Gertsik, I was able to immediately smell an odor of an alcoholic beverage coming from his breath. His eyes were red and glassy. His speech was slow and slurred. It should be noted that I later checked the interior of the vehicle and discovered three open Steel Reserve beer cans on the front passenger floor.

I then asked Gertsik if he would be willing to participate in some Standardized Field Sobriety Tasks to dispel my alarm that he is driving impaired. Gertsik stated, "yes". I asked Gertsik if he had any medical issues or injuries, and he stated "No". It should be noted we were on a flat smooth dry surface.

The first task was the horizontal gaze nystagmus, I explained Gertsik the instructions

ADMINISTRATIVE	SWORN AND SUBSCRIBED BEFORE ME	 #173
	GUILLOT, NELSON NOTARY PUBLIC / CLERK OF COURT / OFFICER (F.S.S. 117.10)	SIGNATURE OF ARRESTING / INVESTIGATING OFFICER
	04/20/2017 DATE	GRAHAM, DALE LEO (773) NAME OF OFFICER (PLEASE PRINT)
		04/20/2017 DATE

COURT

STATE ATTORNEY

CENTRAL RECORDS

JAIL

CRIME ANALYSIS

P.I.O.

**PROBABLE CAUSE AFFIDAVIT
SUPPLEMENT**

1. Arrest 3. Request for Warrant
2. N.T.A. 4. Request for Capias

1

JUVENILE

OBTS Number		PROBABLE CAUSE AFFIDAVIT SUPPLEMENT					
D M I N	Agency ORI Number FL 0500200	Agency Name BOCA RATON POLICE DEPARTMENT	Agency Report Number 3 2 2017-005719			Special Notes:	
Charge Type: Check as many as apply. <input type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony		<input checked="" type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor		<input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other			
D E F	Name (Last, First, Middle) GERTSIK, VITALIY			Alias		Race W	Sex M Date of Birth 02/24/1969

and he stated that he understood. Gertsik was swaying side to side while standing. Gertsik stated he does not wear contacts. There was a lack of smooth pursuit in each eye. There was distinct and sustained nystagmus at maximum deviation in each eye. There was an onset of nystagmus prior to 45 degrees in each eye. Gertsik also failed to keep his head still as instructed.

The second task was the walk and turn. Gertsik could not maintain the starting position as he was instructed. Gertsik did not have his arms at his side and did not stay still. He was swaying back and forth. I explained the instructions and Gertsik advised that he understood the instructions. Gertsik failed to maintain his feet, heel to toe, and made 10 step instead of 9. Gertsik failed to turn around to complete another 9 steps as instructed.

P
R
O
B
A
B
L
E
E
The third task was the one leg stand. Gertsik was unable to maintain the starting position. He was swaying back and forth and did not keep his arms to his side. Gertsik failed to maintain his balance and stopped the task after only counting to "One one thousand". Gertsik did not follow the instructions even though he stated he understood them.

C
A
U
S
E
The fourth task was the finger to nose (L-R-L-R-R-L). I asked Gertsik if he understood the instructions and he stated "yes". Each time Gertsik failed to not put his index finger back down to his side after touching his nose as he was instructed to.

S
T
A
T
E
E
The fifth task was the Rhomberg Balance. Gertsik did not maintain the starting position by having his arms to his side and feet together. I asked Gertsik to estimate 30 seconds in his head and once he was done he was told to say stop. On my watch, I observed Gertsik yell stop at the 20 second mark.

M
E
N
T
Based on my observation, I arrested Gertsik for driving under influence pursuant F.S.S. 316.193(1). Gertsik's vehicle was towed by West Way Towing.

I transported Gertsik to BRPD to be processed. Officer Rafalko conducted the Intoxilyzer 8000 testing. I asked Gertsik to provide a breath sample and he stated "Yes". Gertsik blew a .201 and .207 breath alcohol content.

ADMINISTRATIVE	SWORN AND SUBSCRIBED BEFORE ME GUILLOT, NELSON NOTARY PUBLIC / CLERK OF COURT / OFFICER (F.S.S. 117.10) 04/20/2017 DATE	SIGNATURE OF ARRESTING / INVESTIGATING OFFICER GRAHAM, DALE LEO (773) NAME OF OFFICER (PLEASE PRINT) 04/20/2017 DATE	PAGE 2 OF 2
----------------	---	--	-----------------------

COURT

STATE ATTORNEY

CENTRAL RECORDS

JAIL

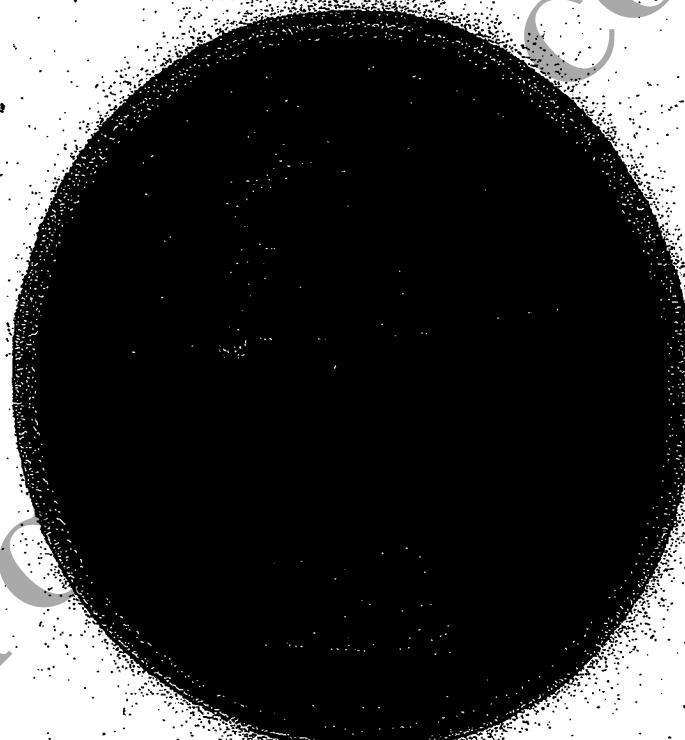
CRIME ANALYSIS

P. I. O.

17-5719

OBS = 2245
1015 = 2226

D. U. I. INFLUENCE REPORT



NOT A COPY

Boca Raton Police Services Department
100 Northwest Second Avenue
Boca Raton, Florida 33432

WITNESS LIST

ARRESTING OFFICER: GrahamName: Ofc. Alvina Phone # Home _____ Work 561-338-123Address: 100 NW 2nd Ave Boca Raton, FL 33433Can testify to: Back upName: Ofc. Loconsolte Phone # Home _____ Work "Address: "Can testify to: "Name: Ofc. Rafalko Phone # Home _____ Work "Address: "Can testify to: Breath Test

Name: _____ Phone # Home _____ Work _____

Address: _____

Can testify to: _____

Name: _____ Phone # Home _____ Work _____

Address: _____

Can testify to: _____

Name: _____ Phone # Home _____ Work _____

Address: _____

Can testify to: _____

Name: _____ Phone # Home _____ Work _____

Address: _____

Can testify to: _____

BOCA RATON POLICE DEPARTMENT

Agency Case# 17 - 5719

PART II D.U.I. REPORT

To be filled out at testing facility

I. INTRODUCTION

(Instrument Operator faces video camera)

A. The day is Wednesday, April, 19, 2017
(day) (month) (date) (year)

B. The time is now approximately 1105 AM/PM

C. The following is in reference to case number 17 - 5719

D. Present at this time is D. Graham & Rafalko of the Boca Raton Police
Department. (Officer's Name)

E. Officer D. Graham, Have you arrested Vitaliy Gertsik
(Defendant's name)

In violation of Florida State Statute 316.193?

F. Did this violation occur within the City of Boca Raton, Palm Beach County, Florida?

G. Mr/Mrs/Ms. Gertsik, I am required to
inform you these proceedings are being video taped.

Operator Note: Video tape breath request, breath sample, and interview.

BOCA RATON POLICE DEPARTMENT

Agency Case # 17-5719

H. AT THIS TIME THE ARRESTING OFFICER WILL REQUEST A BREATH SAMPLE.

Note: Read only the paragraph applicable to the type of test you are requesting.

A.

I am now requesting that you submit to a lawful test of your BREATH for the purpose of determining its alcohol content.

B.

I am now requesting that you submit to a lawful test of your URINE for the purpose of determining its alcohol content.

C.

I am now requesting that you submit to a lawful test of your BLOOD for the purpose of determining its alcohol content and the presence of chemical or controlled substances.

IMPLIED CONSENT WARNINGS

Note: Read only if the subject does not comply with your request.

2.

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 signature: _____

ALSO READ FOR CDL HOLDERS

IN ADDITION, your refusal to submit will result in the loss of your commercial privileges for one year from today. If this is your SECOND REFUSAL, you will be permanently disqualified from operating a commercial motor vehicle.

After reading the implied consent warning, the arresting officer must request a breath sample again.

(IF REFUSAL THEN)

At this time Mr/Mrs/Ms. _____ has refused to submit to a breath test.

The date is _____ (Month) _____ (Day) _____ (Year) and the time _____ AM/PM

A refusal form will be completed by the arresting officer.

BOCA RATON POLICE DEPARTMENT
TESTING FACILITY TASK REPORT

SUBJECT: Vitaliy Gertsik

CASE #: 17-5719 DATE 4/19/17

BREATH TESTS RESULTS 201 207

1) TIME 11 11 AM/PM 2) TIME 11 14 AM/PM

3) TIME _____ AM/PM 4) TIME _____ AM/PM

BREATH OPERATOR: Rafalko

MAINTENANCE TECHNICIAN: Pare

TESTING OFFICER'S OBSERVATIONS

SPEECH: Slurred

ATTITUDE: Lathargic

CLOTHING: Blue T-Shirt / Black Shorts

MEDICAL CONDITION: NO

OTHER: Odor of alcohol emanating from person, Glassy eyes

COMMENTS: _____

BOCA RATON POLICE DEPARTMENT

Agency Case # 17-5719ADULT CONSTITUTIONAL WARNINGS
(Juvenile warning on reverse side)

"I am required to warn you before you make any statement that you have the following rights":

- 1) You have the right to remain silent and not answer any questions.
- 2) Any statement you make must be freely and voluntarily given.
- 3) You have the right to the presence of a lawyer and representation 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 statement 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 be and will be used against you in a court of law.

DO YOU UNDERSTAND THESE RIGHTS AS I HAVE READ THEM TO YOU AND DO YOU WISH TO SPEAK TO ME?

On video

QUESTIONS AND ANSWERS

Were you operating a motor vehicle at the time of the accident/stop? Yes

Where were you going? Home (5566 Wellesley Park Dr. Apt 204 Boca Raton)

What street or highway were you on? Military Trail

Direction of travel? South

Where did you start driving from? work (6590 W Roger Cir Boca Raton)

What City (County) were you stopped in? Boca Raton

What time did you start? Thinks after 8 AM What time is it now no idea

What is today's date? no idea What day of the week is it? Wednesday

When did you last eat? 2:00 pm What did you eat? Pita sandwichWhat have you been doing the past three hours prior to this stop/accident? workingHow much do you weigh? 175 Have you been drinking? Yes What were you drinking? 2 beer (stcel Resc
(Yamato tnf congr)How much? 2 Where? Gas station With whom were you drinking? No oneWhen did you have your first drink? 8:10 AM/PM When did you stop drinking? 8:30 AM/PMHow did you consume your last two drinks? DrinkAre you under the influence of alcohol now? Yes No Can you feel the affects of alcohol? Yes No Have you consumed alcohol since the accident? Yes No N/ACan you feel the affects of alcohol? Yes No Have you consumed alcohol since the accident? Yes No How much? — What? —Where? —What line of work are you in? Installer FurnitureWhen did you last work? 04-19-17Do you have any physical defects or injuries? Yes No If yes, explain:
sprained wristAre you sick or injured? Yes No If yes explain:Do you limp? No Did you get a bump on the head? NoWere you involved in an accident today? NoHave you taken any drugs or smoked marijuana today? NoWhat? — When? —Have you seen a doctor or dentist today? No Who? —Are you taking any prescription medicines? Yes No What? — When? —Do you have: Epilepsy? Yes No Inner ear trouble? Yes No
Glass Eye? Yes No Ear Infection? Yes No
False Teeth? Yes No Diabetes? Yes No Any eye problems not correctable by glasses or contact lenses? NoDo you take insulin? Yes No If yes, when was your last injection?Have you ever had a driver's license in any other state? Yes, New YorkI am now ending this videotaping. The time now is approximately 11:26 AM/PMThe date is: April (month) 09 (day) 2017 (year).