

Key West Police Department

Report 11/29/2015 02:21

Incident Report

Case # 01-15-005322

I N C I D E N T	Case #	Report	Occurred From	Occurred To	Report Type
	01-15-005322	11/29/2015 02:21	11/29/2015 01:58	11/29/2015 01:58	Original
	Dept. Classification		Case Status	Case Status Date	Cleared
	TRAFFIC RELATED OFFENSE (CRIMINAL)		CLEARED BY ARREST	11/29/2015	11/29/2015 04:15
	Common Name				
CIRCLE K (1ST/NRB) - 1890 N ROOSEVELT BV KEYWEST, FL 33040 (MONROE County)					
Day of Week : SUNDAY					
Dispatched : 11/29/2015 01:58			Location Type : HIGHWAY/ROADWAY		
Responded : 11/29/2015 01:58			Beat Assignment : 4		
Arrived : 11/29/2015 01:58			Alcohol Related : Yes		
Map Reference : 2241GA5XN			Drug Related : Unknown		
Related Cases : A0LK85E[CITA-CITATIONS]			Total Damaged Property Value : \$0.00		
Location Type : HIGHWAY/ROADWAY			Total Stolen Property Value : \$0.00		
			Total Recovered Property Value : \$0.00		

O F F E N S E 1	State Classification		Attempted/Committed
	Statute/Ordinance		COMMITTED
	Location Type		Disposition Date
	MOTOR VEHICLE		11/29/2015
	Federal Classification : TRAFFIC OFFENSE DUI ALCOHOL OR DRUGS-316.193(1)		
John Eller (SUSP,Primary Role);			Federal Disposition : CLEARED BY ARREST
State of Florida (VICT,Primary Role);			# of People Arrested : 1
Mary Mayer (OCCUPANT (VEHICLE),Primary Role)			
Evidence Collected : Yes			
End of Offense: 1			

P E R S O N 1	Person Type	Business/Person Name		Business Phone
	SUSPECT/ARRESTEE	John Michael Eller		
	Home Phone	Person Address		
		KEY WEST FL 33040 ,MONROE County		
	Other Phone	Employer Address		
	(302) 540-9479			
	Race	Sex	SSN	DL Exp. Date
	WHITE	Male		09/26/2023
	DL Number			
	E460473533460			
Birth Date	Birth Place			
Age : 62				
DL State : FL				
DL Country : UNITED STATES				
Ethnic Origin : NON-HISPANIC				
Min. Height : 5'10"				
Min. Weight : 195 lbs				
Adult/Juvenile : ADULT				
Relationship : OTHER OF State of Florida, FRIEND OF Mary Mayer				
Shirt : Blue t shirt				
Pants : Khaki shorts				
Shoes : Tennis shoes				
Hair Color : BROWN				
Hair Length : SHORT				
Hair Style : STYLED				
Facial Hair : NONE				
Teeth : VERY WHITE				
Eye Color : HAZEL				
Build : MEDIUM/AVERAGE				
Complexion : TANNED				
Glasses : Yes				
Hand Use : RIGHT HANDED				
Status : ARRESTEE				
Religion : UNKNOWN				
Marital Status : UNKNOWN				
Speech : SLURRED				
Residency Type : CITY				
Residency Status : FULL YEAR				
Citizenship : UNITED STATES				
Body Marks:				
End of Person: 1				

Reporting Officer	Department	Report Status:
ALEXANDER, JR RODRIGUEZ (3465)	KEY WEST POLICE DEPARTMENT	Approved
Supervising Officer		Date/Time
Verifying Officer	Department	Date / Time
SGT FRANK T DUPONTY (1951)	KEY WEST POLICE DEPARTMENT	11/29/2015 05:41

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Key West Police Department

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P E R S O N 2	Person Type VICTIM		Business/Person Name State of Florida			Business Phone	
	Home Phone		Person Address				
	Other Phone		Employer Address				
	Race	Sex	SSN	DL Exp. Date	DL Number		
	Birth Date		Birth Place				
	Relationship : OTHER OF John Eller, OTHER OF Mary Mayer Victim Type : GOVERNMENT Will File Charges : Yes Can Identify Offender : Yes Sobriety of Victim : SOBER Extent of Injury : NONE Injury Type 1 : NONE Injury Type 2 : NONE Medical Treatment : NOT NEEDED Hospital Taken To : None Body Marks:						
End of Person: 2							

P E R S O N 3	Person Type OCCUPANT (VEHICLE)		Business/Person Name Mary Kathleen Mayer			Business Phone	
	Home Phone		Person Address KEY WEST FL 33040 ,MONROE County				
	Other Phone (302) 218-2642		Employer Address				
	Race WHITE	Sex Female	SSN	DL Exp. Date 11/28/2020	DL Number 0943854		
	Birth Date 11/28/1968		Birth Place				
	Age : 47 DL State : DE DL Country : UNITED STATES Ethnic Origin : NON-HISPANIC Min. Height : 5'04" Min. Weight : 180 lbs Adult/Juvenile : ADULT Relationship : FRIEND OF John Eller, OTHER OF State of Florida Body Marks:						
End of Person: 3							

V E H I C L E 1	Tag # 7214RJ	Tag Expiration 09/26/2016	Year 2015	Make ZHEJIANG	Model	Vehicle Style MOTORCYCLE
	Tag Country UNITED STATES		Tag State FL	Vehicle Type MOTORCYCLE	VIN L5YACBPA6F1105465	Category
	Top Color : RED Permit/Decal # : 13929488 Vehicle Disposition : TOWED BY P.D.			Keys in Vehicle : Yes Vehicle Locked : Not Applicable Association : OWNER IS John Eller		
	End of Vehicle: 1					

P R O P E R T Y 1	Category EVIDENCE/SEIZED		Property Type RECEIPT		Make	Model
	Serial #		Color WHITE	Description RECEIPT OF DRINK PURCHASES		Condition
	UCR Type : MISCELLANEOUS Associations : OWNER IS John Eller Relationship to Offense(s) : YES IS Offense 1 Quantity/Weight : 2 Value : \$1.00				Rec. Officer : RODRIGUEZ, ALEXANDER, JR Recovery Location : Use Address from Incident Location Information Recovered By : Ofc. A. Rodriguez Recovery Date and Time : 11/29/2015 00:00 Recovery Value : \$1.00	
	End of Property: 1					

Reporting Officer ALEXANDER, JR RODRIGUEZ (3465)		Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Supervising Officer			Date/Time
Verifying Officer SGT FRANK T DUPONTY (1951)		Department KEY WEST POLICE DEPARTMENT	Date / Time 11/29/2015 05:41

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Topic ORIGINAL

On Sunday, November 29, 2015 at approximately 0155 hours, I (Ofc. A. Rodriguez) was traveling west on Eaton Street approaching the intersection of William Street when I saw a motor scooter turn east onto Eaton Street from the north side of the intersection. I noticed the motor scooter to have two occupants (male driver and female passenger) and that it wobbled to its left, causing the motor scooter to veer towards the westbound lane of Eaton Street before continuing its turn onto Eaton Street.

I turned around to travel east on Eaton Street and caught up to the motor scooter, bearing Florida license plate 7214RJ, and noticed it to continue to wobble and swerve within its lane. I activated my vehicle's COBAN (in car audio and video system) to record the driving pattern of the motor scooter. The traffic light at the intersection of Eaton Street and Grinnell Street changed to red for east and westbound traffic. The motor scooter stopped past the white stop bar and in the crosswalk. When the traffic light turned green, the motor scooter began to continue east on Eaton Street where it continued to swerve within its lane on Eaton Street and onto Palm Avenue.

The traffic light at Palm Avenue and the entrance to Trumbo Point/Peary Court had changed to red for traffic traveling north and south and the motor scooter stopped past the white stop bar again. I noticed the taillight appeared to be broken on the lower portion of the housing and white light was coming from that portion of the housing. I continued to follow the motor scooter when the traffic light changed to green, and the motor scooter continued to swerve within its lane, traveling very close to the double yellow lines on the south side of the intersection.

I followed the motor scooter to the red light at the intersection of N. Roosevelt Blvd. and Palm Avenue, where it again, stopped beyond the white stop bar. When the traffic light turned green, I activated my overhead emergency lights, signaling the driver to stop.

The driver stopped at the entrance to Circle K, 1890 N. Roosevelt Blvd., on First Street. I activated my BWC (body worn camera) and met with the driver, later identified by his DAVID (Driver and Vehicle Information Database) photograph as John Michael Eller. I introduced myself to Eller and explained the reason for the stop. When I was able to view the taillight closer and touch the bottom portion that appeared to be broken, I realized it was not broken, and that it was the design of the taillight. I continued to explain the numerous traffic control devices that Eller violated and when he spoke, I noticed a thick, heavy slur in Eller's speech. I asked Eller if he had any medical issues and he denied having any. I asked Eller if there was anything that would cause his speech to be slurred, and he denied having slurred speech.

Eller told me he had consumed two "Tanqueray" drinks (Gin) while at Hog's Breath Saloon. Eller told me he believed it to be approximately 0100 hours and told me he had left work two hours prior to the traffic stop. Eller told me he did not have any other alcoholic beverages throughout the night. I noticed Eller's eyes to be watery, glassy and his conjunctivae to be reddened. Eller's eyelids were droopy. Eller did not have his driver's license on his person, and after I obtained his information, I returned to my patrol vehicle to run his information through F/NCIC using my in car computer.

As I began to walk back to my patrol car, Eller said, "Officer, for what it's worth, I'm retired police." I acknowledged Eller's statement and stated that he should be well aware that I have a job to do.

Reporting Officer ALEXANDER, JR RODRIGUEZ (3465)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Supervising Officer		Date/Time
Verifying Officer SGT FRANK T DUPONTY (1951)	Department KEY WEST POLICE DEPARTMENT	Date / Time 11/29/2015 05:41

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I returned to Eller and asked him to step off of the motor scooter and to speak with me in front of my patrol vehicle. Eller appeared to be unsteady as he dismounted the motor scooter. When I spoke with Eller in front of my patrol vehicle, he told me that his passenger, "Kathy" (Mary Kathleen Mayer), told him the correct time was approximately 0200 hours. I tried to determine if the correct time that Eller left work was 2300 hours or if it was 0000 hours due to his discovery of the actual time being one hour later than he originally estimated. Eller did not wish to speak with me because he "knew what I was doing". During the time I spoke with Eller, I noticed a moderate odor of an alcoholic beverage coming from Eller's breath and person.

I asked Eller if he was diabetic, epileptic, or if he had any inner ear problems and he denied all listed ailments. Eller told me he wore glasses because he was nearsighted, did not have blindness in either eye, and did not have any issues with mobility.

I asked Eller if he would perform field sobriety exercises and he refused to do so. I asked Eller again, and he continued to refuse. I placed Eller into handcuffs, double locked, and searched him. In Eller's front pockets was cash that he asked be turned over to Kathy. In Eller's front left pocket, I located a receipt and a customer copy of a credit card payment. There was also a Visa credit card in Eller's front left pocket with his name on it.

The receipt was from the La Te Da bar and the tab was opened at 2123 hours on November 28, 2015. There was a total of three Tanqueray drinks, three Campari drinks, and two Jack Daniels drinks, totaling to \$66.87. There was also an employee discount of 30% provided to the tab and the name under the discount line read "Kathy". On the customer copy of the credit card payment, it showed the credit card swiped was a Visa and the last four digits were 3780. The date showed November 28, 2015 at 2254 hours. The last four digits of the Visa credit card with Eller's name on it matched the last four digits of the credit card used to pay for the bar tab at La Te Da.

I asked Eller if he would submit to a lawful test of his breath for the purpose of determining its alcohol content and he refused. I read Eller the Implied Consent warning and he stated he understood, but still refused to provide a sample of his breath.

I placed Eller into the rear of my patrol vehicle and seat belted him prior to transporting him to the MCDC DUI room.

Upon arrival to the MCDC DUI room, I completed a 20 minute observation period of Eller beginning at 0247 hours during which he did not take anything orally or regurgitate. During the 20 minute observation period I asked Eller again to provide a sample of his breath and he refused. I read Eller the Implied Consent warning again and he stated he understood but still refused to provide a breath sample, and signed the warning.

I operated the Intoxilyzer 8000, s/n 80-000870, indicating refusal after Eller continued to refuse to provide a sample of his breath.

I explained the results of the breath test to Eller at 0316 hours.

I issued Eller a DUI citation and explained to him that he must appear before the Honorable Judge Miller on December 21, 2015 at 0830 hours at the Key West Courthouse, 302 Fleming Street. Eller

Reporting Officer ALEXANDER, JR RODRIGUEZ (3465)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Supervising Officer		Date/Time
Verifying Officer SGT FRANK T DUPONTY (1951)	Department KEY WEST POLICE DEPARTMENT	Date / Time 11/29/2015 05:41

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	expressed his understanding, signed the citation, and I provided him with his copy. I completed an Affidavit of Refusal to Submit to Breath, Urine, or Blood Test. My vehicle's COBAN (vehicle 5105) and my BWC recorded the incident. Eller was operating a motor vehicle under the influence of an alcoholic beverage to the extent his normal faculties were impaired, which is a violation of FSS 316.193(1). Cleared by arrest.
	End of Narrative: 1

Reporting Officer ALEXANDER, JR RODRIGUEZ (3465)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Supervising Officer		Date/Time
Verifying Officer SGT FRANK T DUPONTY (1951)	Department KEY WEST POLICE DEPARTMENT	Date / Time 11/29/2015 05:41

☐ ARREST
☐ WARRANT
☐ COMPLAINT AFFIDAVIT

OBTS #

Filing Agency KWPD				Case # 0115005322		Doc. Control #		State ID #		FBI #								
Defendant's Last Name Eller						First John		Middle Michael		Suf		Alias		Citizenship UNITED STATES				
Race W	Eth NH	Sex M	Hgt 5'10"	Eyes HAZEL	Hair BROWN	Wgt 195	Comp TANNED	Age 62	DOB 09/26/1953	Birthplace		Scars, Marks, TT						
Facial Hair NONE		Build MED	Marital St		Hand Use RH		Glasses Yes	Speech SLURRED		Parole/Probation NONE		Language Spoken ENGLISH						
Permanent Address KEY WEST, FL 33040-									Home Phone:		Local Address:							
Email Address									Cell Phone: (302) 540-9479		Place of Employment		Occupation					
Arrest Location 1890 N ROOSEVELT BV KEY WEST, FL 33040-						Area/ Zone 5		Work Phone:		Arresting Officer ALEXANDER, JR 3465								
Violation Location 1890 N ROOSEVELT BV KEYWEST, FL 33040-						Area/ Zone 5		Date/Time of Violation 11/29/2015 01:58			Date/Time Arrested 11/29/2015 02:12							
DL # E460-473-53-346-0		State FL	Breathalyser By RODRIGUEZ, ALEXANDER, JR			Reading	Miranda Advisement Invoked 5th		By Whom RODRIGUEZ, ALEXANDER, JR		Indication Of: Y N UK							
Domestic Violence No		Weapon Seized				Officer Injured No		Caution										
Drug Type: N		Type: N-N/A A-Amphetamine	B-Barbiturate C-Cocaine E-Heroin		H-Hallucinogen M-Marijuana O-Opium		P-Paraphernalia/ Equipment S-Synthetic		U-Unknown Z-Other		Activity: N		Activity: B-Buy N-N/A P-Possess S-Sell		E-Use T-Traffic M-Manufacture/ Produce/ Cultivate		K-Dispense/ Distribute Z-Other	

Defendant Vehicle Make:	Type:	Year:	Color:	Vehicle Registration State:
ZHEJIANG	MOTORCYCLE	2015	RED	
VIN#:			Tag #:	Vehicle Tag Expiration:
L5YACBPA6F1105465			7214RJ	09/26/2016
Vehicle Status:			Other Identifiers or Remarks:	
			TOWED BY ARNOLDS	

#	CODEFENDANT	ADDRESS	PHONE #	RACE	SEX	DOB
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Count	Offenses Charged	Statute	Warrant #	Court Date and Time	Citation #
1/M	TRAFFIC OFFENSE DUI ALCOHOL OR DRUGS-316.193(1)	AFFIC OFFENSE DL		12/21/2015 08:30	AOLK85E

Before me this date personally appeared **ALEXANDER, JR 3465** who being first duly sworn deposes and says that on the **29th day of November, 2015 at 1890 N ROOSEVELT BV KEYWEST, FL 33040**- the above named defendant committed the above offenses charged and the facts showing probable cause to believe the same are as follows

[NARR]: On Sunday, November 29, 2015 at approximately 0155 hours, I (Ofc. A. Rodriguez) was traveling west on Eaton Street approaching the intersection of William Street when I saw a motor scooter turn east onto Eaton Street from the north side of the intersection. I noticed the motor scooter to have two occupants (male driver and female passenger) and that it wobbled to its left, causing the motor scooter to veer towards the westbound lane of Eaton Street before continuing its turn onto Eaton Street.

I swear the above statement is correct and true to the best of my knowledge and belief.

ALEXANDER, JR 3465

T DUPONTY

KEY WEST POLICE DEPARTMENT

OFFICER/ELECTRONIC SIGNATURE

APPROVING SUPERVISOR

DIVISION / UNIT

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this _____ day of _____, (year) _____, who is personally

known to me or who has produced (ID Type) Police as identification and who DID take an oath.

LAW ENFORCEMENT OFFICER / CORRECTIONS OFFICER PER STATE STATUTE #

SIXTEENTH JUDICIAL COURT

MONROE County

State of FLORIDA

Page 1 of 3

KWPD

Monroe County Adult Arrest Form Continuation

OBTS # _____

ARREST # _____

LAST NAME	FIRSTNAME	MIDDLE NAME	SUF.	HGT	WGT	RC	SEX	DOB	Case #	Arresting Officer
Eller	John	Michael		5'10"	195	W	M	09/26/1953	0115005322	ALEXANDER, JR 3465

I turned around to travel east on Eaton Street and caught up to the motor scooter, bearing Florida license plate 7214RJ, and noticed it to continue to wobble and swerve within its lane. I activated my vehicle's COBAN (in car audio and video system) to record the driving pattern of the motor scooter. The traffic light at the intersection of Eaton Street and Grinnell Street changed to red for east and westbound traffic. The motor scooter stopped past the white stop bar and in the crosswalk. When the traffic light turned green, the motor scooter began to continue east on Eaton Street where it continued to swerve within its lane on Eaton Street and onto Palm Avenue.

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As I began to walk back to my patrol car, Eller said, "Officer, for what it's worth, I'm retired police." I acknowledged Eller's statement and stated that he should be well aware that I have a job to do.

I returned to Eller and asked him to step off of the motor scooter and to speak with me in front of my patrol vehicle. Eller appeared to be unsteady as he dismounted the motor scooter. When I spoke with Eller in front of my patrol vehicle, he told me that his passenger, "Kathy" (Mary Kathleen Mayer), told him the correct time was approximately 0200 hours. I tried to determine if the correct time that Eller left work was 2300 hours or if it was 0000 hours due to his discovery of the actual time being one hour later than he originally estimated. Eller did not wish to speak with me because he "knew what I was doing". During the time I spoke with Eller, I noticed a moderate odor of an alcoholic beverage coming from Eller's breath and person.

I asked Eller if he was diabetic, epileptic, or if he had any inner ear problems and he denied all listed ailments. Eller told me he wore glasses because he was nearsighted, did not have blindness in either eye, and did not have any issues with mobility.

I asked Eller if he would perform field sobriety exercises and he refused to do so. I asked Eller again, and he continued to refuse. I placed Eller into handcuffs, double locked, and searched him. In Eller's front pockets was cash that he asked be turned over to Kathy. In Eller's front left pocket, I located a receipt and a customer copy of a credit card payment. There was also a Visa credit card in Eller's front left pocket with his name on it.

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I swear the above statement is correct and true to the best of my knowledge and belief.

ALEXANDER, JR 3465

T DUPONTY

KEY WEST POLICE DEPARTMENT

OFFICER/ELECTRONIC SIGNATURE

APPROVING SUPERVISOR

DIVISION / UNIT

STATE OF FLORIDACOUNTY OF MONROE

The foregoing instrument was acknowledged before me this _____ day of _____, (year) _____, who is personally

known to me or who has produced (ID Type) Police as identification and who DID take an oath.

LAW ENFORCEMENT OFFICER / CORRECTIONS OFFICER PER STATE STATUTE # _____

SIXTEENTH JUDICIAL COURT

MONROE County

State of FLORIDA

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Form NS ARREST 3.0, REV: 04/18/2014

KWPD

Monroe County Adult Arrest Form Continuation

OBTS # _____

ARREST # _____

LAST NAME	FIRSTNAME	MIDDLE NAME	SUF.	HGT	WGT	RC	SEX	DOB	Case #	Arresting Officer
Eller	John	Michael		5'10"	195	W	M	09/26/1953	0115005322	ALEXANDER, JR 3465

and the name under the discount line read "Kathy". On the customer copy of the credit card payment, it showed the credit card swiped was a Visa and the last four digits were 3780. The date showed November 28, 2015 at 2254 hours. The last four digits of the Visa credit card with Eller's name on it matched the last four digits of the credit card used to pay for the bar tab at La Te Da.

I asked Eller if he would submit to a lawful test of his breath for the purpose of determining its alcohol content and he refused. I read Eller the Implied Consent warning and he stated he understood, but still refused to provide a sample of his breath.

I placed Eller into the rear of my patrol vehicle and seat belted him prior to transporting him to the MCDC DUI room.

Upon arrival to the MCDC DUI room, I completed a 20 minute observation period of Eller beginning at 0247 hours during which he did not take anything orally or regurgitate. During the 20 minute observation period I asked Eller again to provide a sample of his breath and he refused. I read Eller the Implied Consent warning again and he stated he understood but still refused to provide a breath sample, and signed the warning.

I operated the Intoxilyzer 8000, s/n 80-000870, indicating refusal after Eller continued to refuse to provide a sample of his breath.

I explained the results of the breath test to Eller at 0316 hours.

I issued Eller a DUI citation and explained to him that he must appear before the Honorable Judge Miller on December 21, 2015 at 0830 hours at the Key West Courthouse, 302 Fleming Street. Eller expressed his understanding, signed the citation, and I provided him with his copy.

I completed an Affidavit of Refusal to Submit to Breath, Urine, or Blood Test.

My vehicle's COBAN (vehicle 5105) and my BWC recorded the incident.

Eller was operating a motor vehicle under the influence of an alcoholic beverage to the extent his normal faculties were impaired, which is a violation of FSS 316.193(1).

Cleared by arrest.

I swear the above statement is correct and true to the best of my knowledge and belief.

ALEXANDER, JR 3465

T DUPONTY

KEY WEST POLICE DEPARTMENT

OFFICER/ELECTRONIC SIGNATURE

APPROVING SUPERVISOR

DIVISION / UNIT

STATE OF FLORIDACOUNTY OF MONROE

The foregoing instrument was acknowledged before me this _____ day of _____, (year)_____, who is personally

known to me or who has produced (ID Type) Police as identification and who DID take an oath.

LAW ENFORCEMENT OFFICER / CORRECTIONS OFFICER PER STATE STATUTE # _____

SIXTEENTH JUDICIAL COURT

MONROE County

State of FLORIDA

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Form NS ARREST 3.0, REV: 04/18/2014