

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 # 01-15-005322	Report 11/29/2015 02:21	Occurred From 11/29/2015 01:58	Occurred To 11/29/2015 01:58	Report Type Original	
	Dept. Classification TRAFFIC RELATED OFFENSE (CRIMINAL)		Case Status CLEARED BY ARREST	Case Status Date 11/29/2015	Cleared 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 Responded : 11/29/2015 01:58 Arrived : 11/29/2015 01:58 Map Reference : 2241GA5XN Related Cases : A0LK85E[CITA-CITATIONS] Location Type : HIGHWAY/ROADWAY			Location Type : HIGHWAY/ROADWAY Beat Assignment : 4 Alcohol Related : Yes Drug Related : Unknown Total Damaged Property Value : \$0.00 Total Stolen Property Value : \$0.00 Total Recovered Property Value : \$0.00		

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

P E R S O N 1	Person Type SUSPECT/ARRESTEE	Business/Person Name John Michael Eller			Business Phone
	Home Phone	Person Address KEY WEST FL 33040 ,MONROE County			
	Other Phone (302) 540-9479	Employer Address			
	Race WHITE	Sex Male	SSN	DL Exp. Date 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 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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PERSON 2	Person Type		Business/Person Name			Business Phone
	VICTIM		State of Florida			
	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						

PERSON 3	Person Type		Business/Person Name			Business Phone
	OCCUPANT (VEHICLE)		Mary Kathleen Mayer			
	Home Phone		Person Address			
	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						

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

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

Reporting Officer	Department	Report Status:
ALEXANDER, JR RODRIGUEZ (3465)	KEY WEST POLICE DEPARTMENT	Approved
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Verifying Officer	Department	Date / Time
SGT FRANK T DUPONTY (1951)	KEY WEST POLICE DEPARTMENT	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.

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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

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<p>expressed his understanding, signed the citation, and I provided him with his copy.</p> <p>I completed an Affidavit of Refusal to Submit to Breath, Urine, or Blood Test.</p> <p>My vehicle's COBAN (vehicle 5105) and my BWC recorded the incident.</p> <p>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).</p> <p>Cleared by arrest.</p>	End of Narrative: 1
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KWPD

Monroe County Adult Arrest Form Continuation

OETS # _____

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

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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 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

Monroe County Adult Arrest Form Continuation

KWPD

OBT'S # _____

ARREST #

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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 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