

**D.U.I. PROBABLE CAUSE AFFIDAVIT**

ON THE 22 DAY OF November 2020 AT 5:49  A.M  P.M.

CASE #: 20-057769 DEFENDANT: SULLIVAN, RICHARD JAMES

**PERSONAL CONTACT/DRIVING PATTERN/OBSERVATION OF DRIVER:**

I was contacted by Traffic Unit Supervisor Sergeant Hawkins in reference to responding to the intersection of E. Ocean Ave and S. SR 5 (Federal Highway) in reference to a Vehicular Accident involving Serious Bodily Injuries. This incident occurred within the City of Boynton Beach, Palm Beach County, Florida.

Upon arrival I was met by Sgt. Hawkins, Traffic Homicide Investigator Officer Rini and Officer Paramore. In the crash occurred in the middle of the intersection of E. Ocean Ave and S. SR 5. There was a Red Cadillac XT6 bearing Florida tag EPEM42 in the westbound lanes of Ocean Ave, just west of the intersection. The Cadillac had heavy front left damage to the vehicle. There was a White/Blue Suzuki Motorcycle bearing Florida tag 9941NT, in the outside, southbound, lane of SR. The Suzuki was in pieces, with heavy front-end damage. After being informed of the facts of crash by Officer Rini and Officer Paramore it was learned that the driver of the Cadillac, W/M Sullivan, Richard (04/07/39) was traveling northbound on SR 5, in the left turn lane to travel west on Ocean Ave. The driver of the motorcycle, W/F Bezerra, Neuvaneide (03/13/62) was traveling southbound in the inside lane of SR 5, approaching the intersection of Ocean Ave. At the time of the crash, Sullivan had proceeded with his left turn into the intersection at the same time Bezerra had entered the intersection. Bezerra had sustained major injuries throughout her body and was deem a trauma alert by Boynton Beach Fire Rescue. Bezerra was transported Delray Medical Center for advance medical treatment. Sullivan and his passenger, W/F Fishman, Tatyana (07/01/62) did not sustain any injuries. Witness, W/M Hohnstine, James (04/27/45) stated that he had witness the entire crash and was first to make contact with Sullivan. At the conclusion of the crash investigation it was undetermined of the actual traffic light functions at the time of the crash. Sullivan stated that he had a green left turn arrow to travel west on Ocean Ave. Hohnstine could only advised that his traffic light, west bound lane, was red. At the time the investigation, surveillance cameras from local business were unavailable and would be review at a later time.

I was then approached by Sgt Rivera (#912), who was one of the first officers on scene at the time of the crash, who advised that while speaking with Sullivan he detected an odor of an unknown alcoholic beverage emanating from Sullivan's breath. Sgt. Rivera advised that Sullivan's speech was thick and slurred and his eyes were bloodshot/glassy. Sgt. Rivera advised Sullivan stated he had consumed one alcoholic drink while at dinner at Prime Catch Restaurant.

After obtaining the above information I then made contact with Sullivan and Fishman. Fishman was seating on a seat and Sullivan was standing and walking around. Boynton Beach Fire Rescue was still on scene. Due to the crash, Sullivan’s age and Sullivan making statement’s in my presence that his legs were hurting, I requested Boynton Beach Fire Rescue to change Sullivan’s vitals and any chief complaints he may have. After being evaluated by fire rescue, I escorted Sullivan to the front of my fully marked patrol vehicle (4734); which was video recording. As Sullivan walked he swayed side to and side, in a slow manner. I then advised Sullivan that the reason for my presence was solely to conduct a DUI investigation, which he stated that he understood. I then read Sullivan his Miranda Warnings, which he stated that he understood. Sullivan advised that he was traveling home from dinner at Prime Catch Restaurant. Sullivan advised that while he was completing his left turn onto Ocean Ave from SR 5, Bezerra had failed to stop at the red traffic light for southbound lanes. I asked Sullivan if he has any physical disabilities, which he stated that he had a hip replacement four years ago and that he has lower back problems. Sullivan advised that he has not been at the gym lately due to COVID. After explaining to Sullivan the concerns from the other officers of his signs of possible impairment, as well as I could detect the odor of an unknown alcoholic beverage emanating from Sullivan’s breath as we spoke, Sullivan advised that he had consumed one glass of Tanqueray and water. Sullivan’s eyes were bloodshot/glassy and his speech was thick and slurred. Sullivan was licking and smacking his lips as he spoke. Sullivan advised that he only had one drink. Based on the above facts, I asked Sullivan if he will be willing to Submit to Series of Roadside Sobriety Task, which he didn’t understand the question. Sullivan asked if I was requesting him to drive my police car around to see him drive. After attempting to explain to Sullivan what the tasks consist of, he advised that he wasn’t sure if he was qualify enough to do them. Sullivan advised that after standing for a long period of time he legs below his knee go numb. Let it be noted that Sullivan had been walking and standing around the scene for approximately two hours prior to this point of the investigation. Sullivan then agree to do the roadside.

Pen Exercise: During the task Sullivan swayed side to side and had a difficult time following direction. The task was explained numerous times to Sullivan, which he stated numerous times that he understood but would still not follow directions. Sullivan would not follow the pen as it moved and would look away as he attempted to track the pen. I asked Sullivan if he was okay, which he stated that his legs hurt. Therefore I had Sullivan seat on a chair and I continued the exercise.

**HORIZONTAL GAZE NYSTAGMUS:**

- |                                                                            |                                                                             |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> Left eye does not follow smoothly                 | <input type="checkbox"/> Right eye does not follow smoothly                 |
| <input type="checkbox"/> Left eye prior to 45 degrees                      | <input type="checkbox"/> Right eye prior to 45 degrees                      |
| <input type="checkbox"/> Distinct jerking in left eye at maximum deviation | <input type="checkbox"/> Distinct jerking in right eye at maximum deviation |
| <input type="checkbox"/> Vertical Nystagmus in left eye                    | <input type="checkbox"/> Vertical Nystagmus in right eye                    |

**WALK AND TURN:**

While attempting to explain the task to Sullivan, he advised that he could not stand in the instructional/beginning position because of his hip injury. I then explained and demonstrated the task to Sullivan, which he stated that he understood. During the walking stage, Sullivan took 11 steps forward and did not count out loud. Sullivan then just stopped and stared at me. Sullivan did not complete the task.

**ONE LEG STAND:**

Sullivan advised that he would not be able to complete the task.

**FINGER TO NOSE:**

Task was explained and demonstrated to Sullivan, which he stated that he understood. During the instructional stage, Sullivan swayed side to side. During the exercise stage, on every command Sullivan failed to touch the tip of his nose but instead touched the eyebrow. On the last Right and Left command, Sullivan used the wrong arm. Sullivan had his eyes opened during the task.

**ROMBERG/ALPHABET:**

Task was explained and demonstrated to Sullivan, which he stated that he understood. During the instructional stage, Sullivan swayed side to side. Sullivan advised that he was not comfortable reciting the English alphabet, therefore I had Sullivan count from 26 to 51. During the exercise stage, Sullivan swayed side to side and had his eyes opened.

Based on the above facts Sullivan was placed into handcuffs (D/L and Spaced) and arrested for suspicious of DUI. Sullivan was then placed in the back seat of my patrol vehicle (#4734) and transported to the Palm Beach County BAT facility. I arrived at the facility at 2027hrs, started my 20 minutes observations at 2032hrs and completed it at 2052hrs. Upon completion I requested Sullivan to provide a sample of his breath to determine the alcohol content, which he agreed. Sullivan provide a sample of .030 at 2102hrs and .028 at 2105hrs. Due to the fact that I suspect Sullivan to be under the influence of some sort of Chemical or Controlled substance, I requested Sullivan to submit to a Urine sample, which he agreed to. As protocol, I still read Sullivan Implied Consent and Miranda Warnings, which he stated that he understood. Q&As were completed. Sullivan provided a Urine Sample at 2130hrs.

Let it be noted that Sullivan provided the breath sample approximately three hours after the crash. Based on my training and experience, approximately .015 BAC diminish in ones body per hour therefore putting Sullivan at approximately .075 - .080 at the time of the crash . Due to the BAC results, Trooper Todd completed a DRE evaluation.

Post arrest it was brought to my attention that Bezerra had succumbed from her injuries.

Based on the facts, Sullivan was charged with Driving Under the Influence pursuant with F.S.S. 316. 193.1. Sullivan was processed and later TOT PBCJ.

Nothing further.

The following instrument was sworn to before me this 22 day of November 2020

By: PERSONALLY KNOWN / OFFICER CASTRO #905

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Notary/Police Officer (F.S.S. 117.10)

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Signature of Arresting Officer