

No. WD 69651

FILED

2009 JAN 20 AM 10:40

IN THE
MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

90400

ADAM F. WHITE,

FILED

Respondent,

OCT 14 2009

v.

Thomas F. Simon
CLERK, SUPREME COURT

DIRECTOR OF REVENUE, STATE OF MISSOURI,

Appellant.

Appeal from the Henry County Circuit Court
The Honorable Wayne P. Strothmann, Judge

RESPONDENT'S BRIEF

**FROM FILE ROOM
DO NOT REMOVE
SERVICE BRIEF**

James E. Switzer
James E. Switzer, L.L.C.
Missouri Bar No. 41270
jswitzer53@hotmail.com

136 S. Main, P. O. Box 425
Clinton, MO 64735
Telephone: (660) 885-6828
Facsimile: (660) 885-5009

ATTORNEY FOR RESPONDENT

SCANNED

WAVE SOUND
3VOMER TOR OC
HOOE 221122



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<i>Wilson v. Dir. of Revenue</i> , 35 S.W. 3d 923, 925-26 (Mo.App. W.D. 2001)	7

STATEMENT OF FACTS

On September 20, 2007, Sgt. Bremer was operating his patrol car westbound on Missouri 7 in the left lane driving at 45 m.p.h. (L. F. 3-5)

Sgt. Bremer was driving in the left lane for no apparent reason. (T. 25)

As Mr. White's vehicle approached from the rear, Sgt. Bremer noticed nothing abnormal about the operation of the vehicle other than Mr. White was passing Sgt. Bremer. (T. 26)

Sgt. Bremer did not stop Mr. White for speeding. (T. 27).

As Mr. White passed Sgt. Bremer, he was maintaining his lane and there was nothing abnormal about his operation of the motor vehicle. (T. 27)

Mr. White exited the roadway to the right to Les's Conoco. (T. 27-28)

Sgt. Bremer did not observe a right turn signal. (T. 28)

Sgt. Bremer did not activate his light system but pulled up behind Mr. White and then activated the light system for safety purposes. (T. 28)

As Mr. White exited the vehicle, Sgt. Bremer did not observe Mr. White to exhibit difficulties exiting the vehicle, that he stumbled as he exited, or that he used the vehicle for stability. (T. 29)

Sgt. Bremer contacted Mr. White and advised him of the turn signal issue at which point Mr. White indicated he did not know his turn signal was not working. (T. 29-30)

Sgt. Bremer and Mr. White inspected the vehicle to see if they could activate the turn signal. (T. 30-31)

Sgt. Bremer even handed Mr. White his flashlight so he could look under the vehicle's dash. (T. 31)

The sergeant had no concern in handing the heavy flashlight to Mr. White. (T. 31)

In terms of observations made prior to the arrest/custody, sergeant marked moderate for odor of alcohol beverage; blood shot for eyes/pupils. (T. 4)

Sgt. Bremer did not mark anything for balance/walking, speech, or unusual actions. (T. 4)

When questioned as to his basis for the marking "swaying" for balance/walking, Sgt. Bremer indicated Mr. White's body swayed an inch in circumference meaning one-half inch one direction and one-half inch the other direction. (T. 41)

Sgt. Bremer had Mr. White conduct the one leg stand, and the sergeant noted no difficulty in completing that test. (T. 45-46)

While Mr. White was completing the one leg stand, Sgt. Bremer did not note any swaying. (T. 46)

On the Alcohol Influence Report, Sgt. Bremer marked as a positive response "loses balance while turning/improper turn" on the walk and turn test. When questioned, Sgt. Bremer indicated Mr. White pivoted on his left foot as

opposed to standing on his left foot and taking small steps with his right foot to turn around. (T. 47)

When asked to recite the alphabet, Mr. White completed the task in a slow and deliberate fashion. (App. 4, T. 48-49) Mr. White properly enunciated each letter of the alphabet, otherwise the sergeant would have noted it as slurred speech. (T. 49)

POINTS RELIED ON

The trial court did not err in holding there was no probable cause to believe Adam White was driving while intoxicated.

Missouri Supreme Court Rule 73.01(c)	8
<i>Cox v. Director of Revenue</i> , 37 S.W. 3d 304, 307 (Mo.App. 2000)	13
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ARGUMENT

The trial court did not err in holding there was no probable cause to believe Adam White was driving while intoxicated.

STANDARD OF REVIEW

Appellate review of a court-tried civil matter is governed by *Murphy v. Carron*, 536 S.W. 2d 30 (Mo. Banc 1976), *Innis v. Dir. Of Revenue*, 83 S.W. 3d 691, 694 (Mo.App. W.D. 2002). Accordingly, “the trial court’s decision will be affirmed unless it is not supported by substantial evidence, it is against the weight of the evidence, or it misstates or misapplies the law.” *Id.* (quoting *Wilson v. Dir. Of Revenue*, 35 S.W. 3d 923, 925-26 (Mo.App. W.D. 2001)); *see also Walker v. Dir. Of Revenue*, 137 S.W. 3d 444, 446 (Mo. Banc 2004). “In determining whether there is substantial evidence supporting the judgment of the trial court we defer to the ability of the trial court to ascertain the facts. The trial court is accorded wide discretion even if there is evidence in the record which would support a different result.” *Krtek v. Dir. Of Revenue*, 975 S.W. 2d 468, 471 (Mo.App. S.D. 1998) (internal citation and quotation marks omitted). “In a driver’s license revocation case, a trial court has the prerogative when weighing witness credibility, to accept or reject all, part, or none of the testimony of any witness.” *Long v. Dir. Of Revenue*, 65 S.W. 3d 545, 548 (Mo.App. W.D. 2001) (internal quotation marks omitted). Even so, the court’s deference “is not limited to the issue of credibility of witnesses, but also to the conclusions of the trial court.” *Id.* “[W]here evidence is presented which, if believed, would support a

finding in favor of one party, but contrary or inconsistent evidence is also presented, then it is up to the judge to resolve the factual issues, including determining the credibility of witnesses.” *Hampton v. Dir. Of Revenue*, 22 S.W. 3d 217, 220 (Mo.App. W.D. 2000)

Meanwhile, “[a]ppellate courts should exercise the power to set aside a decree or judgment on the ground that it is ‘against the weight of the evidence’ with caution and with a firm belief that the decree or judgment is wrong,” *Murphy*, 536 S.W. 2d at 32, keeping in mind that “[t]he mere existence of evidence from which another conclusion might have been reached is not enough to demonstrate that the holding of the trial court is contrary to the weight of the evidence.” *Purdun v. Purdun*, 163 S.W. 3d 598, 601-02 (Mo.App. W.D. 2005). Moreover, “[a]ll fact issues upon which no specific findings are made shall be considered as having been found in accordance with the result reached.” Rule 73.01(c). When “neither party requested and the trial court did not make specific findings of fact and law, the trial court is assumed to have made findings consistent with the judgment issued.” *Pride v. Lewis*, 179 S.W. 3d 375, 378 (Mo.App. W.D. 2005).

DISCUSSION

Appellant argues the trial court’s judgment was against the weight of the evidence and misapplied the law regarding probable cause. In contrast, however, the evidence was contrary and inconsistent.

Sgt. Bremer testified he was driving in the left lane of westbound 7 Highway from the Highway 13 and 7 Junction to the location of the traffic stop.

He indicated he had no idea why he was in the left lane as opposed to the right lane. (T. 25) He noticed the approach of Mr. White's vehicle from the rear but did not observe anything abnormal about the operation of the vehicle other than Mr. White was passing him in the right lane when the sergeant was driving the speed limit.

After Sgt. Bremer was passed by Mr. White, Sgt. Bremer moved into the right lane and began following Mr. White. Even when he began following Mr. White, he did not stop him for speeding. (T. 27) Mr. White was observed to be maintaining his lane, and Sgt. Bremer did note any deviation to the left or right that he felt was abnormal for the operation of the vehicle. (T. 27)

Sgt. Bremer witnessed the operation of the brake lights but did not observe a right turn signal as Mr. White pulled from the roadway into the convenience store parking lot. Even at that time, Sgt. Bremer did not activate his emergency equipment but did so only after he stopped behind Mr. White in the parking lot and only for purposes of safety.

Sgt. Bremer testified as he observed Mr. White exit the vehicle he made no observations of any difficulty in exiting the vehicle, did not see him stumble, and did not see any contact Mr. White had with the vehicle for the purpose of providing stability. When confronted with the right turn signal, Mr. White indicated he did not know his turn signal was inoperative. (T. 30)

In that initial contact, Sgt. Bremer noticed nothing abnormal about Mr. White's person or behavior. Sgt. Bremer and Mr. White then attempted to discern

the cause of the defective signal. Sgt. Bremer stood at the rear of the car while Mr. White jiggled wires and checked fuses to make the turn signal operational. Sgt. Bremer even offered his heavy flashlight to Mr. White to investigate the source of the problem. During the time the individuals were checking the tail lights operation, Sgt. Bremer did not observe Mr. White to be stumbling or swaying. (T. 32-33) At that time, Sgt. Bremer testified he noticed a slight odor of alcohol about Mr. White's person.

Sgt. Bremer testified, as he was assisting Mr. White, he noticed a number of beer cans in the floor of the vehicle. There was no indication of how long the cans had been in the car and certainly nothing to indicate any alcohol was found in the vehicle. He did not make a determination whether there was any odor of alcohol from the vehicle that was deposited upon Mr. White's clothing.

Sgt. Bremer testified he then administered the gaze nystagmus test (NGT) on which there really is "no pass and fail". (T. 19) Sgt. Bremer noted, while administering the NGT, he had Mr. White place his arms down at his side, his feet together, and stand in an upright position. The sergeant admitted one of the instructions from the National Highway Transportation and Safety Administration (NHTSA) manual for the administration of the test indicates the individual is to be kept from facing the roadway so the traffic will not cause a visual stimulus to the eyes. (T. 41). The sergeant did not confirm he had followed that suggestion. (T. 39-40) When performing the HCT test, the sergeant indicated Mr. White "swayed in an approximate one inch circle from center" which the sergeant described as

being one-half inch in on direction and one-half inch in the other direction. (T. 41)

The sergeant testified, from his NHTSA training, the additional field sobriety tests are designed to test whether a person can maintain or divide attention between listening to oral instructions and watching visual cues. (T. 45) Mr. White was asked to listen to the sergeant's verbal and visual instructions to complete the one leg stand test. In that instance, there was no indication of swaying, use of arms to balance, hopping, putting the foot down or refusal or indication of an inability to perform the test. In fact, Mr. White completed the test according to the sergeant's instructions. (T. 44-45)

After receiving both verbal and visual instructions from Sgt. Bremer as to the walk and turn test, Mr. White completed the test as instructed with the exception when he "turned incorrectly by spinning on a left foot and not taking a series of small steps as instructed". (T. 49) In all other respects, he completed the walk and turn test without further negative report from the sergeant.

When asked to complete the alphabet, Mr. White did so and completed the request in a slow and deliberate fashion which the officer thought to be unusual. Despite that belief, the officer admitted Mr. White enunciated properly each and every letter of the alphabet, otherwise, he would have noted slurred speech in the test results. (T. 49)

This is not a case where Mr. White was observed to drive in an erratic fashion. The sergeant's attention was drawn to Mr. White because, as he

described, a dark colored Suzuki Samari slowly passed on the. (T. 2) The officer's initial observation did not alert him to any indication of the presence of alcohol. The officer assisted Mr. White in locating the solution to the traffic signal problem and even proffered to Mr. White a heavy flashlight. The tests that followed thereafter were contradictory.

The officer's conclusion, with the exception of the horizontal gaze nystagmus test which he could not recall whether it was administered according to the NTHSB suggestions, was not supported by other field sobriety tests. Sgt. Bremer had to be reaching when he noted Mr. White swayed in a one inch circumference circle meaning one-inch to the left and then one-half inch to right. It is difficult to imagine a more inconsequential movement in this circumstance. Moreover, when forced to surrender one supporting leg to complete the one leg stand, the officer made no notation of swaying, staggering, or hopping. Similarly, the walk and turn test was as inconsequential that Mr. White followed the instructions as to the difficult heel toe test and when completing the required number of steps, pivoted (spun) as opposed to taking small steps with the right leg.

Admittedly, there were beer cans in the vehicle. The officer made no determination if the cans were fresh or whether there was any alcohol in the vehicle. Mr. White admitted the consumption of a 12 ounce beer at 5:00 p.m. and it was approximately 8:45 in the evening. (T. 5)

Simply, the evidence presented to the Court by the Director was contradictory in that certain unscientific tests did not indicate the individual was

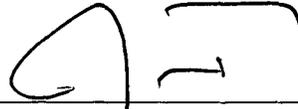
under the presence of alcohols and other unscientific tests showing only indicators of a *de minis* nature.

The trial court is required to assess the facts by reviewing the situation as would appear to a prudent, cautious, and trained police officer. *Cox v. Director of Revenue*, 37 S.W. 3d 304, 307 (Mo.App. 2000). Here the evidence was equivocal as to whether a prudent, cautioned, and trained police officer would have arrived at the conclusion as proffered by Sgt. Bremer.

CONCLUSION

The trial court did not err in finding there was no probable cause to believe Mr. White was driving while intoxicated.

Respectfully submitted,



James E. Switzer MO #41270
James E. Switzer, LLC
136 S. Main, P. O. Box 425
Clinton, MO 64735
660-885-6828 660-885-5009 Fax
jswitzer53@hotmail.com

Attorney for Respondent

AFFIDAVIT OF SERVICE

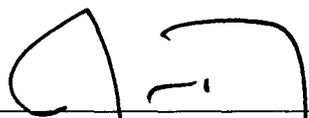
STATE OF MISSOURI)
)
COUNTY OF HENRY)

Comes now James E. Switzer, attorney at James E. Switzer, LLC, and being of lawful age and having first duly sworn on his oath, states that Respondent's Brief in the cause herein was by him caused to be delivered the stated number of copies to the following named persons at the addresses indicated:

Original plus 7 copies along with disk to: Missouri Court of Appeals
 Western District
 1300 Oak Street
 Kansas City, MO 64106-2970

2 copies along with disk to: Richard L. Holtmeyer
 Assistant Attorney General
 P. O. Box 899
 Jefferson City, MO 65102
 T: 573-751-4489
 F: 573-751-8464

On the 19th day of January, 2009.



James E. Switzer MO #41270
James E. Switzer, LLC
136 S. Main, P. O. Box 425
Clinton, MO 64735
660-885-6828 660-885-5009 Fax
jswitzer53@hotmail.com

Attorney for Respondent

STATE OF MISSOURI)
)
COUNTY OF HENRY)

On this 19th day of January, 2009, before me personally appeared James E. Switzer, to me known to be the person described in and who executed the foregoing document, and acknowledged to me that he executed the same as his free act and deed and for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.


NOTARY PUBLIC

My Commission Expires



PEGGY J. POWELL
My Commission Expires
November 15, 2009
Henry County
Commission #05544929

CERTIFICATE OF BRIEF

I hereby certify pursuant to Rule 84.04(b) that the Brief includes the information required by Rule 55.03, that the Brief complies with the limitations contained in Rule 84.04 (b), that the Brief contains the following number of words 3,477, in not less than 13 point type, double-spaced, and that the disk containing the Brief is virus free.



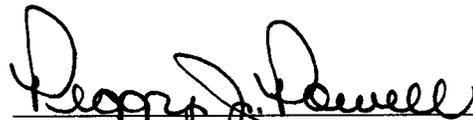
James E. Switzer MO #41270
James E. Switzer, LLC
136 S. Main, P. O. Box 425
Clinton, MO 64735
660-885-6828 660-885-5009 Fax
jswitzer53@hotmail.com

Attorney for Respondent

STATE OF MISSOURI)
)
COUNTY OF HENRY)

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NOTARY PUBLIC

My Commission Expires:



PEGGY J. POWELL
My Commission Expires
November 15, 2009
Henry County
Commission #05544929

APPENDIX TABLE OF CONTENTS

Petitioner's Exhibit 1 A1-A12

DRIVER LICENSE BUREAU
P O BOX 3700
JEFFERSON CITY MO 65105-3700

STATE OF MISSOURI
Department of Revenue



Telephone: (573) 751-4833
Fax: (573) 526-3452
E-mail: dlbmail@dor.mo.gov

JAMES SWITZER
ATTORNEY AT LAW
PO BOX 425
CLINTON MO 64735



OCTOBER 16, 2007

RE: ADAM FORD WHITE

MAILING COVER SHEET

SPECIAL INSTRUCTIONS/REMARKS:

- Enclosed is the information you requested.

DU1348:DANA

DLB321
200728800301221

A-1

1-A

07275A00124



MISSOURI DEPARTMENT OF REVENUE
DRIVERS LICENSE BUREAU
PO BOX 3700
JEFFERSON CITY MO 65105-3700
NOTICE OF SUSPENSION/REVOCAION OF YOUR DRIVING PRIVILEGE

FORM 2385 (REV. 7-05)	TELEPHONE NUMBER (573) 751-4833	FAX NUMBER (573) 526-3452
SUSPENSION/REVOCAION STARTS 15 DAYS FROM DATE NOTICE IS ISSUED		

USE ONLY WHEN BAC TEST RESULTS ARE OBTAINED

DRIVER'S NAME LAST WHITE	FIRST ADAM	MIDDLE FORD	DRIVER LICENSE NUMBER 5070229007	DATE NOTICE IS ISSUED
STREET, RFD. OR BOX 201 NE 201 RD			DRIVER LICENSE EXPIRATION DATE 04-12-13	09-2007
CITY CLINTON	STATE MO	ZIP CODE 64735	DRIVER LICENSE CLASS E	ENDORSEMENTS -
RESTRICTIONS -				

FOR DRIVERS UNDER AGE 21, INDICATE THE REASON(S) FOR THE STOP:

You have been stopped/arrested upon probable cause that you were driving a vehicle while your blood alcohol level was over the legal limit. Your right to drive will be suspended/revoked 15 days from the date of this notice if you do not request a hearing. If you did not give your driver license to the police officer, you must send it to the Drivers License Bureau at the address shown above. (Sections 302.505 to 302.525, RSMo). This notice is separate from any traffic tickets you may have received because of this offense. You will be sent an additional notice if you are convicted in court.

SUSPENSION INFORMATION

If you have not had any alcohol offenses within the past five years, your license will be suspended for 30 days. After your suspension, you may receive a 60-day restricted driving permit for work, school, and to attend an alcohol education/treatment program. The permit may be issued to you if you file proof of insurance (SR-22). An SR-22 is not required for minors suspended for testing .020% or more.

REVOCAION INFORMATION

Your license will be revoked for one year if your driving record shows one or more alcohol offenses within the past five years for:

- refusal to submit to a chemical test;
- any conviction for blood alcohol content of .08% or more;
- any conviction for driving while intoxicated; or
- any administrative alcohol suspension or revocation.

After you are reinstated, you must retest for a Missouri driver license.

HEARING INFORMATION

You may request a hearing if you wish to show that you were not arrested/stopped for driving with a blood alcohol level over the legal limit. **WHAT HAPPENS IN COURT WITH YOUR TRAFFIC TICKET HAS NOTHING TO DO WITH THIS HEARING** (for more hearing information, see the back of this form).

TEMPORARY 15 DAY DRIVING PERMIT

This is your permit to drive during the next 15 days only if your Missouri driver license is not expired and is not currently suspended/revoked as a result of a prior incident. You must carry this notice with you while driving.

Valid License Surrendered YES (Attached) NO

LAW ENFORCEMENT NOTE - Check driver record for the most current information.

This permit is not valid if the driver license is expired, suspended, or revoked or if the person is not licensed to drive in Missouri.

BY ORDER OF THE DIRECTOR OF REVENUE OR HIS/HER DELEGATE

PRINTED NAME OF ARRESTING OFFICER SGT. W.P. BREMER	NAME OF POLICE AGENCY M.S.H.P.
I ACKNOWLEDGE RECEIPT OF THIS NOTICE FROM THE ARRESTING OFFICER	SIGNATURE OF PERSON ARRESTED/STOPPED <i>[Signature]</i>

REQUEST FOR ADMINISTRATIVE HEARING (NOT TO BE COMPLETED BY ARRESTING OFFICER)

I request a hearing to review the suspension/revocation of my driving privilege (see back of notice for instructions).

IF YOU WANT AN IN-PERSON HEARING YOU MUST CHECK THE BOX BELOW. IF YOU DO NOT CHECK THE BOX FOR AN IN-PERSON HEARING, A TELEPHONE HEARING WILL BE SCHEDULED. NO FURTHER REQUEST FOR AN IN-PERSON HEARING WILL BE GRANTED.

CHECK ONLY ONE BOX

I REQUEST A TELEPHONE HEARING I REQUEST AN IN-PERSON HEARING IN THE COUNTY OF ARREST

NAME OF PERSON ARRESTED (PRINT YOUR NAME)	DATE OF BIRTH	DRIVER LICENSE NUMBER	STATE OF ISSUE
STREET, RFD. OR BOX (YOUR ADDRESS)		CITY, STATE, ZIP CODE	
HOME TELEPHONE ()	OFFICE TELEPHONE ()	CITY AND COUNTY WHERE ARRESTED	DATE OF ARREST
DRIVER'S SIGNATURE		ARRESTED BY	
ATTORNEY INFORMATION (OPTIONAL)	ATTORNEY'S NAME	ATTORNEY'S BAR NUMBER	ATTORNEY'S ADDRESS

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RIGHTS AND RESPONSIBILITIES

HOW DO I REQUEST A HEARING?

- Within 15 days from the date this notice was issued, a written request must be received by, or postmarked to:
Missouri Department of Revenue
Drivers License Bureau
PO Box 3700
Jefferson City MO 65105-3700
- If you do not correctly request a hearing within 15 days from the date of this notice, your hearing will be denied and no further appeal is possible.
- If a hearing is granted, a permit to drive will be mailed to you if you have surrendered your drivers license and are eligible to drive in Missouri. The permit will allow you to drive until 15 days after the decision from the hearing is mailed to you.
- Your hearing date and time will be mailed to you. If you have hired an attorney, please ensure you have provided the person's full name and current mailing address on your request for hearing.

WHAT WILL HAPPEN AT THE HEARING?

- Your hearing will be conducted by telephone unless you checked the "IN-PERSON" box on the front of this notice.
- The issue at the hearing is to decide if there is reason to believe you were driving with a blood alcohol level over the legal limit. (Section 302.505, RSMo)
- After the hearing, the Director of Revenue will mail you the final decision.
- If the hearing decision requires your privilege to drive to be suspended/revoked, you may appeal the decision to the Circuit Court in the county of arrest. You must file your appeal with the Circuit Court within 15 days after the hearing decision is mailed.

HOW DO I GET REINSTATED?

- Send the following items to the Drivers License Bureau, PO Box 200, Jefferson City MO 65105-0200 before your suspension/revocation period ends.
 - ✓ Substance Abuse Traffic Offender Program (SATOP) completion form or a comparable program completion form. The Division of Alcohol and Drug Abuse will send the form directly to the Department of Revenue after you complete the program. If you have questions regarding SATOP-comparable programs, please contact a certified SATOP Offender Management Unit near you or contact the Division of Alcohol and Drug Abuse at (573) 522-4020.
 - ✓ \$45 reinstatement fee. Money order or personal check is acceptable. Please include your full name, address, date of birth and driver license number.
 - ✓ Proof of insurance (SR-22). It must be kept for two (2) years from the starting date of your suspension/revocation. The SR-22 is not required for minors suspended/revoked for the first time testing .020% or more.

VISIT OUR WEBSITE AT www.dor.mo.gov

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07275A00124

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MISSOURI DEPARTMENT OF REVENUE
DRIVER LICENSE BUREAU
ALCOHOL INFLUENCE REPORT

FORM 2389 (REV. 12-2008)	ORI NUMBER MOMHPAA00	REPORT NUMBER 09200701256
	UC NUMBER (IF APPLICABLE) 060479946	

DATE OF ARREST/CUSTODY 09/20/2007	TIME OF INITIAL CONTACT 2047 (ML)	TIME OF ARREST/CUSTODY 2100 (ML)	COUNTY OF ARREST/CUSTODY Henry - 042
LOCATION OF ARREST/CUSTODY M-7 in Les's Auto parking lot			<input type="checkbox"/> COUNTY OR CITY ORDINANCE <input checked="" type="checkbox"/> RSMo 577.010 or 577.012
REASON FOR INITIAL CONTACT <input checked="" type="checkbox"/> TRAFFIC VIOLATION <input type="checkbox"/> ACCIDENT <input type="checkbox"/> SOBRIETY CHECKPOINT <input type="checkbox"/> OTHER - EXPLAIN			SUBJECT WAS OBSERVED DRIVING/OPERATING BY Sergeant William P Bremer

FULL NAME White, Adam Ford						DATE OF BIRTH (MM DD YY) 04/12/1986	
ADDRESS 201 NF 201 Rd				CITY, STATE, ZIP CODE Clinton, MO 64735			
HAIR White	SEX Male	HEIGHT 6-0	WEIGHT 190	EYES Hazel	HAIR Brown		
DRIVER LICENSE NUMBER S070229007		STATE MO	COL HOLDER? <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO	VEHICLE LICENSE NUMBER 2AG-36M		STATE MO	
LICENSE CONFISCATED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	YEAR 2007	MAKE Suzuki	MODEL Samurai	COLOR BLACK	VIN IS4JC51V4H4127533		

OFFICER'S OBSERVATION MADE PRIOR TO ARREST/CUSTODY (Check appropriate box(es) and add any pertinent remarks.)

BREATH	ODOR OF ALCOHOLIC BEVERAGE: <input type="checkbox"/> FAINT <input checked="" type="checkbox"/> MODERATE <input type="checkbox"/> STRONG <input type="checkbox"/> NONE
	ODOR OF MARIJUANA/CHEMICAL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
EYE(S)/PUPIL(S)	<input type="checkbox"/> NORMAL <input type="checkbox"/> WATERY <input checked="" type="checkbox"/> BLOODSHOT <input type="checkbox"/> GLASSY <input type="checkbox"/> STARING <input type="checkbox"/> DILATED <input type="checkbox"/> CONSTRICTED <input type="checkbox"/> SLOW REACTION TO LIGHT <input type="checkbox"/> ARTIFICIAL EYE
BALANCE/WALKING	<input type="checkbox"/> UNCERTAIN <input checked="" type="checkbox"/> SWAYING <input type="checkbox"/> STAGGERING <input type="checkbox"/> STUMBLING <input type="checkbox"/> FALLING <input type="checkbox"/> OTHER
SPEECH	<input type="checkbox"/> SLURRED <input type="checkbox"/> CONFUSED <input type="checkbox"/> INCOHERENT <input type="checkbox"/> STUTTERING <input type="checkbox"/> MUMBLING <input type="checkbox"/> OTHER
CLOTHING/FOOTWEAR	DESCRIBE: Camo shorts, Blue and white striped shirt, brown shoes, green ball cap
UNUSUAL ACTIONS	<input type="checkbox"/> PROFANITY <input type="checkbox"/> HICCUPS <input type="checkbox"/> BELCHING <input type="checkbox"/> VOMITING <input type="checkbox"/> FIGHTING <input type="checkbox"/> OTHER
ATTITUDE	DESCRIBE: Cooperative

SOBRIETY TESTS GIVEN PRIOR TO ARREST/CUSTODY (Check appropriate box(es) and add any pertinent remarks.)

<input checked="" type="checkbox"/> HORIZONTAL GAZE NYSTAGMUS 1. <input checked="" type="checkbox"/> Eyes Tracked Equally 2. <input checked="" type="checkbox"/> Pupils of Equal Size 3. <input type="checkbox"/> Resting Nystagmus 4. LEFT: <input checked="" type="checkbox"/> No smooth Pursuit RIGHT: <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Distinct Nystagmus at maximum deviation <input type="checkbox"/> Onset before 45° with some white shock (See certification on page 4) Swayed in an approximate 1 inch circle from center. <input type="checkbox"/> VERTICAL GAZE NYSTAGMUS PRESENT	<input checked="" type="checkbox"/> WALK-AND-TURN <input type="checkbox"/> Fails to maintain heel-to-toe stance <input type="checkbox"/> Starts before instructed to begin <input type="checkbox"/> Stops while walking to steady self <input type="checkbox"/> Does not touch heel to toe (i.e., misses by more than 1/2 inch) <input type="checkbox"/> Loses balance while walking (i.e., steps off line) <input type="checkbox"/> Uses arms for balance <input checked="" type="checkbox"/> Loses balance while turning/improper turn <input type="checkbox"/> Incorrect number of steps <input type="checkbox"/> Cannot perform or refused to do test Explain:	<input checked="" type="checkbox"/> ONE LEG STAND (Subject may stand on either foot for test. Indicate foot stood on below.) <input checked="" type="checkbox"/> Left <input type="checkbox"/> Right <input type="checkbox"/> Sways while balancing <input type="checkbox"/> Uses arms for balance (i.e., raises arms more than 6 inches) <input type="checkbox"/> Hops <input type="checkbox"/> Puts foot down <input type="checkbox"/> Cannot perform or refused to do test. Explain: Completed
--	--	---

OTHER (ANY OTHER TEST(S) GIVEN NOT LISTED ABOVE) (E. ALPHABET, COUNTING, ROMBERG, FINGER-TO-NOSE)
Alphabet- Slow and deliberate - Completed

A4

44

IMPLIED CONSENT TIME ADVISED: 2120 (MIL)

<p>FOR USE IN DWI ARREST ONLY</p> <p><input checked="" type="checkbox"/> 1. You are under arrest and I have reasonable grounds to believe you were driving a motor vehicle while you were in an intoxicated or drugged condition; OR...</p>	<p>FOR USE IN ZERO TOLERANCE ONLY</p> <p><input type="checkbox"/> 1. You have been stopped and are under the age of 21; I have reasonable grounds to believe that you were driving a motor vehicle with a blood alcohol content of .020% or more; OR...</p>	<p>FOR USE IN NON-DWI ARREST FOR FATALITY OR SERIOUS PHYSICAL INJURY ONLY.</p> <p><input type="checkbox"/> 1. You were involved in a motor vehicle collision which resulted in a <input type="checkbox"/> fatality/serious physical injury, or <input type="checkbox"/> arrest and ticket for a traffic violation involving serious physical injury or fatality.</p>
<p><input checked="" type="checkbox"/> 2. To determine the alcohol/drug content of your blood, I am requesting you submit to a chemical test of your</p> <p><input checked="" type="checkbox"/> Breath <input type="checkbox"/> Blood <input type="checkbox"/> Other _____ (Check no more than two)</p>		
<p><input checked="" type="checkbox"/> 3. If you refuse to take the test(s), your driver license will immediately be revoked for one year.</p>		
<p><input checked="" type="checkbox"/> 4. Evidence of your refusal to take the test(s) may be used against you in prosecution in a court of law.</p>		
<p><input checked="" type="checkbox"/> 5. Having been informed of the reasons for requesting the test(s), will you take the test(s)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Time: 2120 (MIL)</p>		
<p>IF SUBJECT REFUSED TEST(S), WAS ATTORNEY REQUESTED PRIOR TO REFUSAL?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO NA</p>	<p>TIME SUBJECT ASKED FOR ATTORNEY</p> <p>NA</p>	<p>NAME OF PERSON PHONED FOR ADVICE</p> <p>NA</p>

15 MINUTE OBSERVATION PERIOD STARTED AT: 2105 (MIL)

CHECK TYPE OF INSTRUMENT USED AND BOXES FOR EACH STEP (ATTACH MOST RECENT MAINTENANCE REPORT COMPLETED PRIOR TO THIS BREATH TEST) IF BLOOD TEST, SEE PAGE 1.

<p><input type="checkbox"/> INTOXILIZER 5000</p> <p><input type="checkbox"/> 1. Subject observed for at least 15 minutes by _____. No smoking or oral intake of any material during this time; if vomiting occurs, start over with the 15 minute observation period.</p> <p><input type="checkbox"/> 2. Assure that power switch is ON and then press the START TEST button.</p> <p><input type="checkbox"/> 3. Enter test record card.</p> <p><input type="checkbox"/> 4. Enter subject and officer information.</p> <p><input type="checkbox"/> 5. When display reads PLEASE BLOW, insert mouthpiece and take the subject's breath sample.</p> <p><input type="checkbox"/> 6. When test record is printed, remove test record and attach printout to this report.</p>	<p><input checked="" type="checkbox"/> DATAMASTER</p> <p><input checked="" type="checkbox"/> 1. Subject observed for at least 15 minutes by <u>Sergeant William P Bremer</u>. No smoking or oral intake of any material during this time; if vomiting occurs, start over with the 15 minute observation period.</p> <p><input checked="" type="checkbox"/> 2. Assure that power switch is ON.</p> <p><input checked="" type="checkbox"/> 3. Press RUN button.</p> <p><input checked="" type="checkbox"/> 4. When display requests INSERT TICKET, insert evidence ticket.</p> <p><input checked="" type="checkbox"/> 5. Enter subject and officer information.</p> <p><input checked="" type="checkbox"/> 6. When display reads PLEASE BLOW and gives audible beep, take subject's breath sample.</p> <p><input checked="" type="checkbox"/> 7. When printer has completed printing out test result, remove ticket from printer. Attach printout to this report.</p>												
<table border="1"> <tr> <th>TEST DATE</th> <th>TEST TIME</th> <th>BAC CONTENT</th> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>	TEST DATE	TEST TIME	BAC CONTENT				<table border="1"> <tr> <th>TEST DATE</th> <th>TEST TIME</th> <th>BAC CONTENT</th> </tr> <tr> <td>09/20/2007</td> <td>2128</td> <td>.102</td> </tr> </table>	TEST DATE	TEST TIME	BAC CONTENT	09/20/2007	2128	.102
TEST DATE	TEST TIME	BAC CONTENT											
TEST DATE	TEST TIME	BAC CONTENT											
09/20/2007	2128	.102											

OTHER (ATTACH CHECKLIST OF LAB REPORT)

CERTIFICATION OF EXAMINATION BY OPERATOR

AS SET FORTH IN THE RULES PROMULGATED BY THE DEPARTMENT OF HEALTH RELATED TO THE DETERMINATION OF BLOOD ALCOHOL BY BREATH ANALYSIS, I CERTIFY BY COMPLETING THE BELOW THAT:

1. There was no deviation from the procedure approved by the department. 3. I am authorized to operate the instrument.

2. To the best of my knowledge the instrument was functioning properly. 4. No radio transmission occurred inside the room where and when this test was being conducted.

NAME OF OPERATOR Sergeant William P Bremer		TROOP OR AGENCY A		DEPARTMENT OF HEALTH PERMIT NUMBER 631574		EXPIRATION DATE 06-19-08		BLOOD ALCOHOL CONCENTRATION BY WEIGHT .102%
DATE 09/20/2007	MODEL NUMBER Datamaster	SERIAL NUMBER 204161	INVENTORY NUMBER 127301					

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2A

FORM DOR-2389

ORI NUMBER MOMHPAA00

REPORT NUMBER 09200701256

PAGE 3

MIRANDA RIGHTS

BECAUSE YOU ARE UNDER ARREST, I AM INFORMING YOU OF YOUR CONSTITUTIONAL RIGHTS (MIRANDA WARNING)

- 1. You have the right to remain silent.
- 2. Anything you say can and will be used against you in a court of law.
- 3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
- 4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
- 5. You can decide at any time to exercise these rights and not answer any questions or make any statements.

RIGHTS GIVEN AT <input type="checkbox"/> SCENE <input checked="" type="checkbox"/> STATION <input type="checkbox"/> HOSPITAL <input type="checkbox"/> EN ROUTE TO STATION	DO YOU UNDERSTAND THE RIGHTS I'VE EXPLAINED TO YOU? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TIME ADVISED 2127 (MIL)	DATE 09/20/2007
---	--	----------------------------	--------------------

INTERVIEWER TO COMPLETE

INTERVIEW DATE 09/20/2007	TIME 2127	INTERVIEWER'S NAME Sergeant William P. Dromer
WAS SUBJECT INVOLVED IN AN ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE OF ACCIDENT	TIME OF ACCIDENT (MIL)

ACCIDENT INFORMATION (IF APPLICABLE) RECORD PERSON'S RESPONSES

WERE YOU INVOLVED IN A MOTOR VEHICLE ACCIDENT TODAY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	WHERE?	WERE YOU OPERATING THE VEHICLE AT THE TIME OF THE ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO
WERE YOU INJURED IN THE ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	HOW?	
HAVE YOU CONSUMED ANY ALCOHOLIC BEVERAGES SINCE THE ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		
IF SO, WHAT?	WHEN?	WHERE?
		HOW MUCH?

INTERVIEW RECORD PERSON'S RESPONSES

WHAT TIME IS IT NOW? 9:33	WHAT IS THE DATE? Refused	WHAT DAY OF THE WEEK IS IT? Thursday	WHAT CITY (COUNTY) ARE YOU IN NOW? Clinton
WHAT DID YOU LAST EAT?	WHEN DID YOU LAST EAT?		
WHAT IS YOUR OCCUPATION?	WHEN DID YOU LAST WORK?	WHEN DID YOU LAST SLEEP?	HOW LONG?
WHAT WERE YOU DOING DURING THE LAST THREE HOURS?			

ARE YOU WEARING FALSE TEETH? <input type="checkbox"/> YES <input type="checkbox"/> NO	WERE YOU OPERATING THE VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		
HAVE YOU BEEN DRINKING? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, WHAT?	TIME STARTED?	TIME STOPPED?
	HOW MUCH?	WHERE?	ARE YOU UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE? <input type="checkbox"/> YES <input type="checkbox"/> NO

HAVE YOU USED MARIJUANA OR ANY OTHER DRUG LEGAL OR ILLEGAL IN THE LAST 72 HOURS? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, WHEN?	WHERE?	HOW MUCH?	IF YES, WHAT?
--	---------------	--------	-----------	---------------

DO YOU HAVE ANY TEMPORARY OR LONG-TERM PHYSICAL / MENTAL CONDITION? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, EXPLAIN:
---	------------------

ARE YOU TAKING TRANQUILLIZERS, PILLS, MEDICINES, INJECTIONS OR DRUGS OF ANY KIND, SUCH AS INSULIN? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, WHAT?	WHEN?	WHERE?	HOW MUCH?
--	---------------	-------	--------	-----------

REFUSED

AL

JA

07275A00124

FORM DOR-2389

ORI NUMBER MOMHPAA00

REPORT NUMBER 09200701256

PAGE 4

STATEMENT OF BLOOD DRAWER (COMPLETE OR ATTACH SEPARATE STATEMENT)

In accordance with the provisions of section 577.029, RSMo, at the place of my employment and at the request and direction of a law enforcement officer, I withdrew blood from _____ for the purpose of determining the alcohol content of the blood, using good faith medical judgment, and in strict accord with my training and accepted medical practices that such procedure did not endanger the life or health of the person. A nonalcoholic antiseptic was used for cleansing the skin prior to venapuncture. The sample was labeled with the subject's identification and given to the requesting law enforcement officer. The blood was withdrawn into a clean and dry sterile vessel by means of a previously unused and sterile needle and was sealed with an air-tight, inert stopper.

DATE (MM/DD/YY)	TIME	LOCATION OF EMPLOYMENT (BUSINESS)
	(MIL)	

TITLE (CHECK ONE)	WORK TELEPHONE
<input type="checkbox"/> LICENSED PHYSICIAN <input type="checkbox"/> REGISTERED NURSE <input type="checkbox"/> TRAINED MEDICAL TECHNICIAN (Phlebotomist, Paramedic, etc.)	

SIGNATURE	NAME (TYPE OR PRINT)

VERIFICATION / IDENTIFICATION OF LAW ENFORCEMENT OFFICER'S (PLEASE COMPLETE AND ATTACH NARRATIVE STATEMENT OF FACTS FOR THIS INVESTIGATION)

THE FOLLOWING DOCUMENTS RELATING TO THIS ARREST/STOP ARE HEREBY INCORPORATED INTO THIS REPORT:

- Narrative (attached).
- Accident Report, if applicable.
- Missouri Driver License, if secured.
- Copy of most recent maintenance Report prior to test.
- Notice of Suspension/Revocation (Revenue's copy), if issued.
- All other reports incidental to this arrest/stop and BAC testing.
- Copy of citation (MUCS) and/or complaint filed with the Court, if applicable.
- Report(s) of the result(s) of all chemical tests conducted showing blood alcohol content if not included on page 2 of this form. (Checklist or Lab Report)

CERTIFICATION OF FIELD SOBRIETY TEST TRAINING (Check box if applicable)

I hereby certify that I have received a minimum of 8 hours training on administering, interpreting and scoring the horizontal gaze nystagmus test.

I HEARBY SWEAR UPON MY OATH AND DO STATE AS FOLLOWS:

At all times mentioned herein, I was employed as a member of the below-stated Police Agency, and I am licensed, or exempt from certification pursuant to Chapter 590, RSMo, by the Director of Public Safety as having completed a program of mandatory standards for the training of peace officers in this State pursuant to Chapter 590, RSMo, and I arrested the above named person for violation of a county or city ordinance prohibiting driving while intoxicated or an alcohol-related traffic offense or Section 577.010 or 577.012, RSMo, or conducted a .020% or more blood alcohol content-related stop. I certify that the information I have provided is true and correct to the best of my knowledge under the penalties of perjury.

CHECK APPROPRIATE BOX	<input checked="" type="checkbox"/> HIGHWAY PATROL <input type="checkbox"/> MUNICIPAL OFFICER <input type="checkbox"/> COUNTY OFFICER <input type="checkbox"/> ELECTED OFFICIAL <input type="checkbox"/> OTHER
-----------------------	---

NAME OF LAW ENFORCEMENT OFFICER	BADGE NUMBER/RANK	NAME OF POLICE AGENCY/TROOP LETTER
William P Bremer	155 Sergeant	Troop A

COMPLETE MAILING ADDRESS	BUSINESS TELEPHONE NUMBER
501 S Blue Parkway	816-672-0800

CITY, STATE, ZIP CODE
Lee's Summit, MO 64063

SIGNATURE (MUST SIGN)
<i>Sgt. W.P. Bremer</i>

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8-7282-997

MOHP0000 MISSOURI STATE HIGHWAY PATROL UNIFORM CITATION 060479946

STATE OF MISSOURI IN THE CIRCUIT COURT OF HENRY COUNTY ASSOC

COURT ADDRESS (STREET, CITY, ZIP) COURT HOUSE CLINTON

COURT DATE NOV 6 2007 COURT TIME 9:00 AM COURT PHONE NO 805 6963

I KNOWING THAT FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY LAW, STATE THAT I HAVE PROBABLE CAUSE TO BELIEVE THAT:

ON/ABOUT (DATE) AT TIME HWY CLASS UPONWAY OR NEAR (LOCATION)
 01-20-07 2047 PM C 77-7 @ LES-S-AUTO

WITHIN CITY/COUNTY AND STATE AFORE SAID:

NAME (LAST, FIRST, MIDDLE) WHITE, ADAM FRED

STREET ADDRESS 201 NE 201 RD

CITY CLINTON STATE MO ZIP CODE 64735

DATE OF BIRTH 04-12-86 AGE 21 RACE W SEX M HEIGHT 6-0 WEIGHT 190

DRIVER'S LIC. NO. 5070229007 COL. YES A NO MO

LEAVE THIS LINE BLANK

EMPLOYER .102

ADDRESS (STREET, CITY, STATE, ZIP)

DR UNLAWFULLY OPERATE/DRIVE PARK C.M.V. WITHIN STATE

VEHICLE MAKE MODEL YEAR COLOR REGISTERED WEIGHT NUMBER STATE YEAR

1987 SUZUKI SAMURAI LL BK 2AC 36M MO 2009

DO THEN AND THERE COMMIT THE FOLLOWING OFFENSE. THE FACTS SUPPORTING THIS BELIEF ARE AS FOLLOWS:

OPERATED MOTOR VEHICLE WHILE IN AN INTOXICATED CONDITION

Subject taken into custody. (Complete "1" in summary of a warrant" section on reverse side.)

DRIVING POSTED SPEED LIMIT DETECTION METHOD

INFORMATION OF CHARGE CODE

577010 242001-0

SEAT BELT VIOLATION OFFENSE

OFFICER SGT. W.P. BREMER OR 155-A15 07-20-07

ON INFORMATION UNDERSIGNED PROSECUTOR CHARGES THE DEFENDANT AND INFORMS THE COURT THAT ABOVE FACTS ARE TRUE AND PUNISHABLE BY:

PROSECUTOR'S SIGNATURE DATE

I PROMISE TO DISPOSE OF THE CHARGES OR APPEARANCE OR PREPAYMENT OF FINE AND COSTS. WHICH I AM ACCUSED THROUGH COURT OR LIC. REC'D.

SIGNATURE X YES NO

MO 100-0051 (10-02) 09800701256 ARREST RECORD

Face This Side Down - This Edge In First

**BAC DataMaster
Evidence Ticket**

MISSOURI STATE HIGHWAY PATROL
 BAC DATAMASTER SERIAL NUMBER 20-161
 09/20/07

ARREST TIME: 21:00
 SUBJECT NAME:
 WHITE/ADAM/F
 DOB: 04/12/86 SEX: M
 STATE D.L.: MO/S070229007
 ARRESTING OFFICER:
 BREMER/W/P
 OFFICER I.D.: 155
 TESTING OFFICER:
 BREMER/W/P
 OFFICER I.D.: 155
 PERMIT NUMBER: 631374
 EXPIRATION DATE: 07/19/08
 MISCELLANEOUS DATA:

--- BREATH ANALYSIS ---

BLANK TEST	.000	21:28
INTERNAL STANDARD	VERIFIED	21:28
SUBJECT SAMPLE	.102	21:28
BLANK TEST	.000	21:29

SGT. W.P. BREMER

A8

8A

ALCOHOL INFLUENCE REPORT NARRATIVE

REPORTING OFFICER: Sergeant William P Bremet BADGE: 155 INCIDENT NO: 09200701256
SUBJECT: Adam Ford White OCCURRENCE DATE: 09/20/2007 COUNTY: Henry - 042

1. On September 20, 2007, at approximately 2045 hours, I was westbound on M-7 from the north junction. I was operating my patrol car at 45 miles per hour, in the left lane, when a dark colored Suzuki Samurai slowly passed me on the right. After the vehicle passed, I moved to the right lane and continued to follow the vehicle. As the vehicle approached Les's Auto, it failed to signal and turned right into Les's Auto parking lot.
2. I stopped behind the vehicle and noticed a bore Missouri registration 2AG-56M. Upon contacting the driver, as he exited his vehicle, I explained to him he had failed to signal his turn into the parking lot. I asked for his driver's license and insurance and he handed me a Missouri driver's license that identified him as Adam White of Clinton, Missouri. While Mr. White was attempting to get his turn signals to work, I noticed several beer cans strewn throughout the vehicle and detected a slight odor of intoxicants on or about his person. As he continued to work on the turn signals, I asked Mr. White to have a seat in my patrol car. While seated in my patrol car, I detected a stronger odor of intoxicants on or about his person. I asked Mr. White how much he had had to drink and he stated, "Nothing, I had one drink around 5:00." I asked Mr. White how big the drink was and he stated it was a 12oz can. I then had Mr. White perform the following field sobriety tests:
 - A. Preliminary Breath Test - .08% plus - Low breath sample and failed to place his lips around the mouth piece.
 - B. Horizontal Gaze Nystagmus - No smooth pursuit, distinct nystagmus at maximum deviation in both eyes and onset before 45 degrees in the right eye. While performing the test, Mr. White swayed in an approximately 1 inch circle from center.
 - C. One Leg Stand - Left leg; Completed
 - D. Walk and Turn - Turned incorrectly by spinning on left foot and not taking a series of small steps as instructed.
 - E. Alphabet - Completed, Slow and deliberate.

After completing the tests, I again asked Mr. White how much he had had to drink and he stated, "I don't know exactly, but I know it has been at least three hours."

3. At 2100 hours, I placed Mr. White under arrest for driving while intoxicated. His vehicle was left at the scene at his request. Mr. White was transported to the Henry County Jail in Clinton where the Implied Consent Law was explained to him at 2120 hours. He was asked to submit to a chemical test of his breath and tested .102 percent blood alcohol concentration by weight. At 2127 hours, I advised Mr. White of his Constitutional rights as set forth in the Miranda Warning.
4. Mr. White was issued the following Uniform Citation:
 - A. #060479946 - Driving while intoxicated.

Mr. White's court date was set for November 6, 2007, at 0900 hours. He was released to the Henry County Sheriff's Department in lieu of \$500.00 bond.

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07275A00124



MISSOURI DEPARTMENT OF HEALTH
STATE PUBLIC HEALTH LABORATORY
DATAMASTER MAINTENANCE REPORT

Complete this report in duplicate at the time of the regular monthly preventive maintenance check, and whenever instrument is repaired. Send copy to Department of Health; retain original in department file.

DATAMASTER SN 204161 INV # 177301	DATE OF INSPECTION 9-6-07
LOCATION OF INSTRUMENT (STREET AND CITY) 200 S. WASHINGTON, CLINTON	TIME OF INSPECTION 1657

CHECKLIST: Place a check (✓) to the left of each item if found to be satisfactory, and if applicable within established limits. Write in observed values where determined. Unchecked items must be corrected before using instrument.

DIAGNOSTIC CHECK (PRINTOUT ATTACHED)

<input checked="" type="checkbox"/> COMPUTER	<input checked="" type="checkbox"/> DETECTOR
<input checked="" type="checkbox"/> PROGRAM	<input checked="" type="checkbox"/> FILTERS
<input checked="" type="checkbox"/> HEATERS SAMPLE CHAMBER 49 °C	<input checked="" type="checkbox"/> QUARTZ STANDARD
<input checked="" type="checkbox"/> FLOW DETECTOR	<input checked="" type="checkbox"/> CALIBRATION
<input type="checkbox"/> PUMP HIGH SPEED	<input type="checkbox"/> PRINTER

INDICATOR LIGHTS

TIME AND DATE **9-6-07 1657**

SIMULATOR TEMPERATURE (34 °C ± 0.2 °C) **34.0 °C**

CALIBRATION CHECK -
Run three tests using a standard solution. All three tests must be within ± 5% of the standard value and must have a spread of .005 or less. Check the box corresponding to the standard solution being used. (PRINTOUT ATTACHED) (USE RECIRCULATION PUMP)

0.100% STANDARD - MUST READ BETWEEN 0.095% and 0.105% INCLUSIVE
 0.040% STANDARD - MUST READ BETWEEN 0.038% and 0.042% INCLUSIVE
(ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)

TEST 1 <input checked="" type="checkbox"/> .101	TEST 2 <input checked="" type="checkbox"/> .101	TEST 3 <input checked="" type="checkbox"/> .102
--	--	--

PERFORM R.F.I. TEST (PRINTOUT ATTACHED)

NUMBER OF REFUSALS, SINCE LAST MAINTENANCE REPORT, AND NUMBER OF BREATH TESTS IN EACH RANGE AS FOLLOWS: (DO NOT INCLUDE SIMULATOR TESTS)

REFUSALS 2	(0-04) 5	(.05-.09) 6	(.10-.14) 4	(.15-.19) 2	(Over .19) 0
-------------------	-----------------	--------------------	--------------------	--------------------	---------------------

List any new parts and describe any alteration or modification that was made to restore the instrument to operate satisfactorily and within established limits (use other side if necessary):

OPERATED WITHIN P.H.S.S. SPECIFICATIONS

REPCO MARKETING, INC

.10% VAPOR SOLUTION **BOTTLE #1370**

LOT # 016003 **EXP. DATE: 05-15-08**

SIGNATURE R.C. West	PRINT NAME R.C. WEST
TYPE / PERMIT NUMBER / EXPIRATION DATE 6200263 08-21-08	TELEPHONE NUMBER (816) 622-0800

A10

01A

07275A00124

REPCO MARKETING INC.

3101 188 STONYBROOK DRIVE
RALDIGH, N.C. 27604
919-876-5480

CERTIFICATE OF ANALYSIS

MANUFACTURER AND SUPPLIER: *Repco Marketing, Inc.*

LOT NUMBER: 06003

EXPIRATION DATE: May 15, 2008 at 11:59 p.m.

RepCo Marketing, Inc. certifies the following:

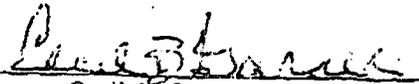
RepCo Marketing, Inc., manufactured, tested and supplied Lot Number 06003 of Alcohol Certified Solution for simulators. Random Samples of said Lot Number were analyzed utilizing a gas chromatograph and found to contain .120% gms/dl wt. /vol. ethyl alcohol in aqueous solution (i.e. ethanol).

The alcohol and distilled water used in the solution were found to be free of any interfering substance.

This solution will produce a vapor alcohol value of .100 +/-3% when heated to 34 Degrees Celsius +/-0.2 Degrees Celsius in a simulator.

The date of manufacture for this Lot Number is November 15, 2006. The expiration date for this lot number is May 15, 2008 at 11:59 p.m.

This document is a true representation of the original Certificate of Analysis.



Cecil B. Garner, President
Repco Marketing, Inc.

All

State of Missouri
DEPARTMENT OF HEALTH



P E R M I T

T Y P E I I I

WILLIAM P BREMER



Is hereby authorized to operate the following breath analyzer(s):

DATAMASTER

for the determination of the alcoholic content of blood from a sample of expired (alveolar) air, issued under the provisions of sections 577.020 through 577.041, RSMo 1985.

Date 6/19/2006

Traci C. Pollock

Director of State Public Health Laboratory

Number 631574

Julia M. Eckstein

Expires 6/19/2008

Director, Department of Health

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51A