

Incident/Investigation Report

Agency: UGA Police Department

Sol. J.P.

Case Number: 10-2062

Incident Information

Date/Time Reported 10/02/2010 02:37	Date/Time Occurred 10/02/2010 02:37	Date/Time Found 10/02/2010 02:37	Officer (810216630) GAGLIANO, JOHN
Incident Location Baldwin St / Lumpkin St, Athens, GA 30602			Supervising Officer (810136008) FULCHER, TY

Incident Types

1	Incident Type State	Description DUI - ALCOHOL	Statute 40-6-391	UCR 90D	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. 2. 3.
Entry		Exit	Criminal Activity		
Bias Motivation		Bias Target	Bias Circumstances		Hate Group
2	Incident Type State	Description STOPPING, STANDING, PARKING PROHIBITED	Statute 40-6-203	UCR 999	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. 2. 3.
Entry		Exit	Criminal Activity		
Bias Motivation		Bias Target	Bias Circumstances		Hate Group

Victims

Seq. # 1	Type SOCIETY/ PUBLIC	Injuries None	Residency Status		Ethnicity	
Name (Last, First, M) STATE OF GEORGIA			Race	Sex	DOB	Age 0
Address					Home Phone	
Employer Name/Address					Business Phone	
Victim of Crimes 1,2						

ORIGINAL

Incident/Investigation Report

Agency: UGA Police Department

Case Number: 10-2062

Offenders

Seq. # 1	Type INDIVIDUAL	Name (Last, First, M) KELLY, JAMES BRADFORD					
AKA		Race W	Sex M	DOB	Age 23	Height 6'01"	Weight 160 lbs
Address [REDACTED]						Home Phone [REDACTED]	
Employer Name/Address NEW ORLEANS IN ATHENS						Business Phone	
Scars, Marks, Tattoos or other distinguishing features							
Physical Characteristics							

Suspect Details

Vehicles

Seq. # 1	Year 2005	Color BLACK / BLACK	Style PICKUP	Make CHEVROLET	Model SILVERADO
VIN [REDACTED]	License Plate Type	License / State [REDACTED]	License Year 2010	Owner KELLY, JAMES KEITH	
Status	Status Date		Value		
Vehicle Notes					

Assisting Officers

(810197110) PARRISH, DALE

ORIGINAL

Incident/Investigation Report

Agency: UGA Police Department

Case Number: 10-2062

Notes/Narratives

NARRATIVE

On 100210 at approximately 0237 hours, while turning east on Baldwin Street from Lumpkin Street I observed a black 2005 Chevrolet Silverado 271 (GA tag: [REDACTED]) stopped at the red light at the intersection of Baldwin Street and Lumpkin Street. I observed that the light was green but the vehicle remained stopped at the light. The vehicle was the lead vehicle at the light and had several vehicles behind it. I then pulled next to the driver who was stopped in the west bound lane of Baldwin Street. I was only a few feet across from the driver and observed that the driver was passed out in the driver's seat. I then exited my patrol vehicle and began tapping on the driver's side window. The driver did not respond to my tapping on his window. There was two college aged males on the sidewalk who stated to me that the driver had been passed out behind the wheel for about 20 minutes prior to my arrival. They stated that they also tried to wake him up by beating on the window. I continued to try to wake up the driver by beating on his driver's side window but the driver was still unresponsive. I then radioed in my location and the situation to dispatch. Through the driver's side window I observed the vehicle was in drive and the driver's foot was on the brake. I then tried to open the driver's door but it was locked.

During this time, I then waved the other vehicles behind the black Chevrolet Silverado to drive around the vehicle. The vehicle was the lead vehicle at the red light. By this time Sgt. Parrish arrived on scene and he attempted to wake up the driver by beating on the side of the vehicle and by shaking the entire vehicle. The driver remained unresponsive to these attempts. Sgt. Parrish then instructed dispatch to contact EMS and Athens Clarke County police department to see if they had a Slim Jim to open the vehicle's door.

Another UGA police officer arrived on scene and blocked the south bound turning lane of Lumpkin Street so that no more vehicles would turn from Lumpkin Street onto Baldwin Street while we were trying to wake up the driver.

An ACC PD officer arrived on scene at 0247 hours with a Slim Jim. At 0252 hours, the officer was able to unlock the driver's door and Sgt. Parrish was able to put the vehicle into park and removed the keys from the ignition. National EMS arrived on scene at 0251 hours and woke up the driver by shaking him. The driver was very confused and did not know where he was. EMS personnel asked the driver if he was a diabetic and began checking his blood sugar level. The driver stated that he was not a diabetic and did not have any other medical problems. EMS continued to check the driver and stated that he was okay.

Personal Contact

After EMS left the scene, I asked the driver to exit his vehicle and to walk to the sidewalk. The driver exited his vehicle and stumbled to the sidewalk. I then asked the driver for his driver's license and he was identified as James Bradford Kelly (GA - [REDACTED]). I then began asking the driver what he was doing sleeping behind the wheel. The driver stated that he had worked a double shift at work today and was very tired. The driver stated that he began work at 1030 hours and finished his shift at 2230 hours. As the driver was talking to me, I could smell an odor commonly associated with an alcoholic beverage coming from his breath. The driver's speech was slow and slurred.

At this point I asked the driver if he had been drinking any alcoholic beverages. The driver stated that he had drank a couple of beers from 2230 hours to 0130 hours. I then asked the driver what was the date today and he replied that it was the 26th. I then asked the driver if he would perform voluntary field sobriety exercises and he stated that he would.

Before beginning the Standardized Field Sobriety Tests, I asked the driver if he had any kind of physical or medical problems that affected his eyes or would give him problems walking a straight line or standing on one leg. The driver stated no. The SFSTs were performed on the cement sidewalk in front of the Fine Arts Building at the corner of Baldwin Street and Lumpkin Street. The sidewalk was flat, dry concrete, and was lit by street lights and head lights. I also turned off my flashers.

STANDARDIZED FIELD SOBRIETY TESTS

ORIGINAL

Horizontal Gaze Nystagmus

Before beginning the HGN evaluation, I again asked the driver if he had any problems that affected his eyes and he stated that he did not. I then

Incident/Investigation Report

Agency: UGA Police Department

Case Number: 10-2062

Notes/Narratives

observed that the driver's eyes had equal pupil size and lacked any resting nystagmus, and I checked and observed that his eyes possessed equal tracking. I then checked the driver's eyes and observed the following 6 clues:

Lack of smooth pursuit in both eyes

Distinct and sustained nystagmus at maximum deviation in both eyes

Onset of nystagmus prior to 45 degrees in both eyes

I checked for, but observed no vertical nystagmus. During the HGN evaluation, I continued to smell the odor associated with alcoholic beverages coming from the driver's breath and noticed the driver's eyes were bloodshot.

Walk and Turn

I then showed the driver my SFS field notes card and told him to imagine that there was a straight line on the ground approximately the width of the card. The driver was wearing flip flops and I told him he could take them off if he wanted to. The driver then removed his flip flops. I placed him in the starting position with his left foot on the line and his right foot heel touching the toe in front of his left foot. I then told him not to do anything else until I told him to and he stated that he understood. As soon as the driver was in the starting position, I too got into the starting position and I stayed there until I began to demonstrate the exercise. I explained and demonstrated the exercise. The driver stated that he understood my instructions and demonstration. The driver displayed the following 3 clues:

The driver started prior to be told to begin.

Missed heel to toe on steps 1, 2, 4, and 6 & after the turn steps 2, 3, 4 and 5.

Stepped off line on steps 2, 3, and 6 & after the turn on steps 3, 4, and 5.

One Leg Stand

I put the driver in the starting position. I then explained the exercise and then demonstrated the exercise by raising my right foot. The driver stated he understood my instructions and demonstration. I observed the following 4 clues:

The driver used his arms for balance throughout the entire evaluation.

The driver displayed a noticeable sway from side to side.

The driver hopped in the beginning of the evaluation.

The driver put his foot down at 1015 and stopped performing the evaluation. I then told the driver to continue the evaluation until I told him to stop.

ORIGINAL

NONSTANDARDIZED FIELD SOBRIETY TESTS

Rhomberg Balance

During the Rhomberg Balance I observed that the driver had eye lid tremors and that he swayed slightly from side to side. The driver never stopped estimating the passage of 30 seconds until I stopped the evaluation. I stopped the evaluation after 90 seconds.

Finger to Nose

The pattern used was L,L,R,R, and L. During the finger to nose evaluation the driver touched the side of his nose on the first attempt and the last attempt.

Based on my observations of the driver passed out behind the steering wheel, observations during personal contact, and performance on the field sobriety exercises, I placed the driver under arrest for DUI Alcohol. The driver was placed in double locked handcuffs, searched incident to arrest, and seat belted him in the rear seat of my patrol vehicle. I then read him the Georgia Implied Consent Notice for suspects age 21 and over. The driver stated that he would provide the requested breath sample. I then gave the driver several attempts to call someone to remove his vehicle. After several failed attempts, the driver stated that no one was coming.

I then transported the driver to the UGA PD for paperwork and processing. At the UGA PD, at 0340 hours I (permit # 36413) conducted the

Incident/Investigation Report

Agency: UGA Police Department

Case Number: 10-2062

Notes/Narratives

state's breath test on the driver using the UGA PD Intoxilyzer 5000 (serial # 68-011710) and received an invalid result due to a sample introduced at an improper time. I then waited and conducted another breath test on the driver at 0357 hours which resulted in a reading of .165 grams. The driver declined to have an independent test performed and signed the Implied Consent Checklist.

The driver's vehicle was removed by James of Athens Paint and Body at 0352 hours.

I then transported the driver to the Athens Clarke County Jail. The driver was turned over to Deputy Jones along with his wallet, keys, and cell phone. The driver was issued one citation for DUI alcohol (# 025398) and one citation for stopping, standing, parking prohibited (# 025399).

CONTINUATION

[EMPTY]

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