

ARRESTEE: SMITH, SALLY E

OWI

SUMMARY

Vehicle was stopped on Jackson just north of Irving in the northbound lanes of traffic, curb lane. This is a driving lane. Vehicle was stopped and running. Officer pulled up behind vehicle out of community caretaker to see if there were any problems. One occupant who was the driver, Sally E. Smith 6-16-93. It was discovered that she was drinking. Failed field sobriety tests. PBT'd .208. Arrested for Operating While Intoxicated 1st offense. Vehicle was towed by Loren's Towing. Sally was transported to Winnebago Co. Jail for Intox. Paperwork completed. Cited for OWI and PAC. Intox was .17. Released to her sister Jasmine L. Smith 9-25-90.

DETAILS

On 4-1-17 around 2:00 a.m. I was on routine patrol in fully marked _____ Police Department squad #02 in full _____ Police Department uniform. I had been traveling eastbound on W. Irving approaching Jackson St. I stopped for the flashing red light. I looked to my north and I saw approximately 100' to the north on Jackson St. north of Irving in the curb lane for northbound traffic there was a small two door vehicle that was stopped in the lane of traffic. Note that there was no parking on this roadway. It is four lanes, two lanes north and two lanes south and it is posted No Parking.

I did wait at the stoplight for approximately ten to fifteen seconds and this vehicle did not move. At this time I thought that potentially there might be some type of mechanical problem that I could assist with and also provide emergency lighting as it was early morning hours and it was dark. I did slowly travel northbound on Jackson in the curb lane. I did not have my emergency lights on at this time. I thought that potentially if a vehicle would come up behind the stopped vehicle that if there were no problems it would potentially drive away. This was not the case and I was able to get within a half car length of the stopped vehicle. I noted that it appeared as though the tail lights were on and there was what appeared to be exhaust fumes coming out of the exhaust pipe. It appeared to be running.

At this time I noted that there was one occupant that I could see and they were in the driver's seat. The vehicle still did not move, therefore I did activate my emergency lights to provide for safety as we were in the lane of traffic. I wanted to check on the driver to make sure they were OK and did not need any

assistance. The license plate on the vehicle was 776SFM. It returns to Sally E. Smith 7-22-93. It is a 2006 Honda Civic 4-door, white in color with a VIN 4Z3AH57H03E023831 expiring in 2017.

I made a passenger side approach. The female in the vehicle did roll down her window. I asked her why she was sitting here and she said she was waiting for someone to come out of one of the houses. When I asked her what house the person had gone into she was not sure. I asked her if she had a driver's license on her and she said no she did not. She did verbally identify herself as Sally E. Smith. When I asked for her birthdate she said 22-22-93. I asked her to clarify the month of her birth and she then said 7. She gave me an address of 717 S. Main St., Fond du Lac, WI 54935. She then gave me her cell phone of 715-626-4169.

I could smell a strong odor of a fruity substance coming from the vehicle. I was unsure if this was alcohol or some type of perfume at this time. I asked the driver if she had been drinking tonight and she said no. I wanted to get closer to the driver, therefore I did go to the driver's side at this time and had closer contact with her. At this time while I was standing next to her I could smell an even stronger odor of this fruity substance and it did appear as though her eyes were somewhat glossy. As I was talking to Sally her speech was somewhat slurred as she was not able to make complete sentences. She would try to tell me something and would have to repeat it several times. At this time I told her that I believed that she had been drinking tonight. She said that yes she had, she had what she thought was about 5 wine coolers. She indicated at this time that she was 23 years old so she was of legal age to drink. She also stated "I know that I am drunk and probably should not be driving, but I did not go that far."

At this time based on her admission to drinking and my other noted observations I did have her exit the vehicle. She did have to turn the vehicle ignition off and she also rolled up her windows. I noticed that she had jeans on and it appeared that she may have urinated herself as that area of her pants appeared to be wet. When I asked her what that was, she said that she had to pee bad and could not hold it. We walked to the east side sidewalk area which was dry, level and clear of any debris. I did have her place her back to my squad lights. Note that at this time I also ran her through dispatch. She came back with a valid driver's license.

At this time Sgt. Jones showed up on scene as did Officer Johnson. I then put Sally through the standardized field sobriety tests. I put her into the instructional phase for the horizontal gaze nystagmus. I gave her the instructions. She said she understood and had no questions. She was not wearing contacts. I then checked for equal tracking and pupil size. They were both normal. I then checked for eyes do not pursue smoothly. There was nystagmus in both the left and right eye. I did this test twice in both eyes. This is two clues. I then checked for distinct jerkiness at maximum deviation. There was nystagmus in both the left and right eye. I did this test twice in both eyes. This is two more clues for a total of four. I then checked for jerkiness onset before 45 degrees. There was nystagmus in both the left and right eye. I did this test twice in both eyes. This is two more clues for a total of six.

Four of six is needed for a failure, therefore this is a failure of the horizontal gaze nystagmus test. I also checked for vertical nystagmus and it was present.

The next test I had her perform was the walk and turn test. I put her into the instructional position. I told her to hold that position and also indicated that I would demonstrate and explain the test to her. While we were standing there she could not keep her balance and had to resume more of a normal standing stance. When I was done instructing her of the test I asked her if she understood. She said yes. I asked her if she had any questions and she said yes. I asked her what those were. She said she would ask as she went. I told her I could clarify anything at this time and she said that was not necessary. Note that when I had been demonstrating for her when I made my demonstration of the pivot she asked me what she needed to do and I showed her once again the proper pivot by keeping the left foot planted and taking small choppy steps with the right foot to go back in the opposite direction. This was demonstrated twice to her. When I was done explaining everything to her she was no longer in the instructional stance, therefore I did have to place her back into that position. I then had her begin the test.

Note that cannot keep balance is the first clue. On the first set of nine steps I observed that on steps 2, 5 and 9 she missed heel to toe. Misses heel to toe is a second clue. When she got to the end of the 9th step and had to pivot she asked me if I wanted her to pivot. I told her she needed to do as instructed. At this time she did keep her left foot planted but did not take the small choppy pivot steps but rather took one big step to pivot. Improper turn is a third clue. On the second set of nine steps she missed heel to toe on steps 1 and 3 and she stepped off line on step 2. Note that the majority of her missed heel to toe steps were by about 1" to 2". Misses heel to toe is a 4th clue. Note that when she stepped off line it was by about 6" to her right. Also note in the second set of nine steps she did not count from about steps 2 through 7 but she did count at the end when she was finished with her 9th step. A total of four clues were observed -- cannot keep balance, steps off line, improper turn and misses heel to toe. Two of eight clues is needed for a failure. There were four observed, therefore this is a failure of the walk and turn test.

The final test that I had her perform was the one leg stand test. I got her into the instructional position. I explained the test and demonstrated it for her. I asked her if she had any questions. She said no. I asked her if she understood. She said yes. She began the test. She picked her right foot off the ground approximately 6". When she got to one thousand ten and then counting to one thousand eleven she actually said one thousand ten twice. By her count of about one thousand eighteen she began to sway from side to side. Sways while balancing is the first clue. By her count of about 25 seconds she put her foot down which is a second clue. She then said "crap I'm done." Two clues were observed. Two of four is needed for a failure, therefore this is a failure of the one leg stand test.

The next test I had her perform was the preliminary breath test. She submitted to a sample. Alcohol was present and the value was .208. Based on all the previously described information I felt as though I

had probable cause to arrest her for Operating While Intoxicated. Before I did take her into custody I did ask her to clarify where she had come from and she said that she had been at one of the houses in the area. She could not remember exactly what house it was. She said that her friend Kate was at one of the houses. Sally said that her vehicle was parked in a parking lot in the area. She said she left the house, walked to her vehicle at that location and then drove it down Irving which would be west on Irving and then down Jackson which would be north on Jackson and this brought her to the location where I made contact with her. Based on these statements and by her own admissions prior to being in custody, she did operate this motor vehicle. Note that I also did observe her in the driver's seat with the vehicle running. I believe the vehicle was in Park at that time.

At this time I did inform her that she was under arrest for Operating While Intoxicated and I did place the handcuffs on her behind her back, checked them for tightness, safety locked them and checked them for tightness once again. I then searched her incident to the lawful custodial arrest in the presence of Sgt. Jones and Officer Johnson. I located 7 bottle caps in her right front pocket. They had the label of Seagram's Escapes and the flavor was Strawberry Daiquiri. These were put back into her pocket. No other items of weapons or contraband were found. When this was completed she was placed in the back of my squad car and safety belted in. Officer Johnson did conduct a search incident to arrest of the vehicle and advised me that he located an open wine cooler bottle in the center console. It had the label of Seagram's Escapes and the flavor was Strawberry Daiquiri. This bottle was half full of a pink liquid and it was dumped into the grass and the bottle was placed into a nearby garbage can. No other weapons or contraband was located. Note that from the vehicle we did take the vehicle keys which were ultimately turned over to the tow company. We also did take her cell phone, her wall phone charger and her car phone charger. This was at her request. Her cell phone was dying and we needed to get numbers from it to call somebody. She requested that we get those items. We asked her if she could get anyone to move the vehicle for her and she said she did not have anyone. We asked her what about the house she came from and she said that she was not sure if they would. She could not identify the proper house but I did have Officer Johnson go knock on two potential houses which she thought it may have been. He noted that at one of the houses there were people in the living room but no one would come to the door. He mentioned that the other house was an older gentleman, therefore at this time we had no one to come and get her car. It was parked in a lane of traffic. Sgt. Jones was on scene and OK'd this, therefore we did have the rotational wrecker come to get her vehicle. It was Loren's Towing. They did take her vehicle. She was provided with a business card. The keys were turned over to the tow driver.

As for a purse, there was none in the vehicle that we were aware of. Sally thought that maybe she left it at the house. Sgt. Jones was aware of the arrest, therefore at this time myself and Officer Johnson transported Sally up to the Winnebago Co. Jail for the Intoximeter process. We tried to call several people on her phone at her request with no answer, therefore at this time we did not have anybody to come and pick her up. Ultimately when we reached the jail I was able to get ahold of her sister Jasmine L. Smith 9-25-90. She agreed to come from New London, which is about an hour away, to pick her sister up.

Once at the jail I completed citation #O468912-7 for Operating While Intoxicated 1st offense, statute 346.63(1)(a) with a bond amount of \$937.50, six points and a mandatory court date of 6-1-2017 9:00 a.m. at the Winnebago Co. Safety Building, 420 Jackson St., Room #194. This citation was explained to her. She was given her copy. Another is included in this report. She was also issued citation #O468912-8 for Open Intoxicants in Motor Vehicle, statute 346.935(2) with a bond amount of \$263.50, 0 points and the same court information as listed above (although this citation is non-mandatory).

I did the 20 minute observation which occurred by my watch of 2:50 a.m. to 3:10 a.m. on 4-1-17 and did not observe her burp, vomit, or regurgitate. I did read the Informing the Accused to Sally word for word. I then asked her "Will you submit to an evidentiary chemical test of your breath?" She said yes. This was done on 4-1-17 at 3:01 a.m. She signed this form. She was given her pink copy and the original is included in this report. After the 20 minute observation was completed we did complete the Intoximeter. She did give two valid breath samples. The first one was a .172. The second was a .179 for a reported value of .17. Three copies are included with this report. I did sign all as observer and operator. I did give Sally her subject copy. I signed it as observer and operator. I explained it to her. .17 is over the legal .08 limit, therefore I did issue her citation #O468912-9 for Operating With a Prohibited Alcohol Concentration Greater Than .15 1st offense, statute 346.63(1)(b), bond amount \$937.50 and six points. This has a mandatory court date of 6-1-2017 at 9:00 a.m. with the same court information as the 1st citation. She was given her copy. A copy is included with this report.

Based on the reported value she was also issued the Notice of Intent to Suspend Operating Privilege/Temporary Driving Permit. It was read to her word for word. She was given her pink copies. The others are included with this report. She was also given the yellow Administrative Review Request. I also went over the Alcohol/Drug Influence Report with her. I did complete the top portion. I read her Pre-Interrogation Warning. I asked her if she understood her rights. She said yes. I asked her if she wished to answer questions and she said no. This was done on 4-1-17 at 3:30 a.m. I did mark on it that she refused. The copy is included in this report. We did have to wait some time as her sister was not there yet and they apparently had taken a wrong turn. We did have some phone contact with them. Around 4:25 a.m. her sister Jasmine did show up and the OWI Vehicle Operator Release Form was completed. Sally signed her portion on top, Jasmine signed her portion on the bottom and Sally was released to Jamie on 4-1-17 at 4:25 a.m. Note that Sally was very cooperative through this entire incident and did not cause any issues. She did have several questions about the process and procedure and the court process which I did try to answer to the best of my ability for her.

Note that handcuffs were taken from her back to her front so that she could sign the Informing the Accused form. They were placed on her front, checked for tightness, safety locked and checked for tightness once again. The handcuffs were removed from her when I released her to Jamie.

There is no further information to report at this time. End of initial narrative.