

NARRATIVE:

On January 3, 2010, at 1920 hours, I was on patrol as a Colorado State Trooper in the County of Gunnison, State of Colorado. I was eastbound Colorado 50 at milepost 153 when I observed a pair of headlights coming up behind me at a high rate of speed. I actived my radar and measured the speed at 80 miles per hour in a 65 mile per hour zone. I pulled into the center turning lane and switched my radar to stationary and clocked the vehicle at 67 miles per hour in the 55 mile per hour zone. I actived my lights and the vehicle was slow in reacting.

On Contact, I could smell a strong unknown alcoholic beverage coming from the driver as he spoke with me. The driver could not provide me with his Colorado drivers license. The driver advised me that he was the owner of the vehicle with a date of birth of May 23, 1950. The owner of the vehicle was Duncan L. McArthur. Mr. McArthur provided me with his Colorado drivers license number

I asked the defendant if he had anything to drink tonight and he said, "No." I observed that the defendant's eyes were blood-shot and watery. As the defendant was talking he slurred his speech.

I asked the defendant out of the vehicle. The defendant was unsteady and staggered as he walked to the back of his vehicle. I asked him if he would be willing to perform some voluntary roadside maneuvers to ensure he was safe to driver. The defendant agreed by saying, "Sure." The defendant did not perform the roadside maneuvers as a sober person would. During the Horizontal Gaze Nystagmus the defendant had lack of smooth pursuit, nystagmus at maximum deviation, and nystagmus prior to forty-five degrees. During the Walk and Turn the defendant could not keep his balance during the instruction phrase, stepped off the line nine times and missed the heel to toe nine times during the first nine steps. The defendant missed the heel to toe nine times and stepped off the line nines times during the second nine steps. The Defendant could not complete the One Leg stand. He put his foot down at the count of one, swayed side to side and hopped. During counting the defendant missed 44 when counting from 40 to 50. During the Alphabet the defendant started from A B C D H, A B C D G and could never complete the alphabet.

At 1939 hours, I placed the defendant under arrest for driving under the influence of alcohol. I handcuffed the defendant, double locked the handcuffs and searched his person. I placed the defendant in the back right seat of my patrol car. I advised him that you had three choices for a chemical test. The choices were a breath test, a blood test or a refusal. The defendant advised me that he did not want to refuse. The defendant told me that he would like to take a breath test. I asked the defendant if he wanted his vehicle towed or to be left on scene. The defendant told me, "leaved on scene." I grad his keys, cell phone and locked his vehicle.

At 1952 hours, I started the first twenty minute observation period. I asked the defendant if he had any foreign objects in his mouth or nose and the defendant said, "No." At 2017 hours, the defendant provided me with the error of NO. 02 Agreement. That error is when the difference of the two breath samples is greater than a .020%. I started a second observation period at 2025 hours. I asked the defendant if he had dentures and he pulled them out and showed them to me. I advised them that dentures were considered foreign objects and that we had to start the twenty minute observation period again. I started a third twenty minute observation at 2038 hours. At 2100 hours, after an error free test the defendant provided me with a BrAC of .177% per 210 liters of breath.

Date of Report
1/3/2010

Investigator's Name / IBM #
Mark L. Hanson 3448

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ADDITIONAL INFORMATION:

Radar Information

Golden Eagle II Serial#XE13635

Tuning fork: 30 MPH Serial#37920

Tuning fork: 55 MPH Serial#39782

Radar was check at 1045 hours, and at 2227 hours.