

Enclosures

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1. Correspondence With Commissioner Jordan
2. Dakota County Police Report
3. Beltrami County Sentencing Transcript

DEC 19 1995

Charlie Weaver

State Representative

ASSISTANT MINORITY LEADER

District 49A

Anoka and Coon Rapids



Minnesota House of Representatives

COMMITTEES: EDUCATION; K-12 EDUCATION FINANCE; ENVIRONMENT AND NATURAL RESOURCES;
LOCAL GOVERNMENT AND METROPOLITAN AFFAIRS; WAYS AND MEANS

December 19, 1995

Speaker Irv Anderson
463 S.O.B.
St. Paul, MN 55155

DEC 29 1995
JMA

Dear Speaker Anderson:

By this letter, and pursuant to House Rule 6.10, we are formally requesting the House Committee on Ethics convene for the purpose of investigating the following conduct of Rep. Bob Johnson:

1. On September 22, 1995, Rep. Johnson called Public Safety Commissioner Michael Jordan and threatened him with legislative reprisals if the Commissioner did not allow the State Patrol to drive Rep. Johnson from Bemidji to the funeral of former Gov. Rudy Perpich.

2. On August 26, 1995 Rep. Johnson was arrested for Driving While Intoxicated in the City of Burnsville. He was found in his car several hours after he was seen causing damage to two different mailboxes with his car. He pleaded guilty to DWI in Dakota County and was fined \$200 and given one year probation. He has since violated that probation and is scheduled to appear before a Dakota County judge where he could receive up to 90 days in jail and an additional \$500 in fines.

3. During his arrest in Burnsville, Rep. Johnson called Capitol Security and asked them to come to Burnsville to give him a ride home from the police station. Capitol Security refused.

4. On September 28, 1995, Rep. Johnson was arrested again for DWI in Sherburne County with a blood-alcohol level of .30 - three times the legal limit. He again pleaded guilty and was fined \$1500 and sentenced to serve 30 days in jail.

5. On October 11, 1995, Rep. Johnson was arrested in Beltrami County for his third DWI. He again pleaded guilty and was sentenced to 60 days in jail.

Rep. Johnson's breach of the public trust through his repeated acts of driving while intoxicated, which puts the lives of innocent



Page Two
Dec. 19, 1995

citizens in danger, warrants a full-scale Ethics Committee inquiry. Additionally, his conduct in threatening the Commissioner of Public Safety with legislative reprisals if he did not comply with his inappropriate demands, and his inappropriate request for transportation from Capitol Security, have raised serious doubts about his fitness to continue to serve in office.

The actions of Rep. Johnson have also violated the recently adopted (June 21, 1995) House of Representatives Code of Conduct.

Future sentencing of Rep. Johnson may very well result in his incarceration during the legislative session, which would effectively disenfranchise the citizens in District 4A.

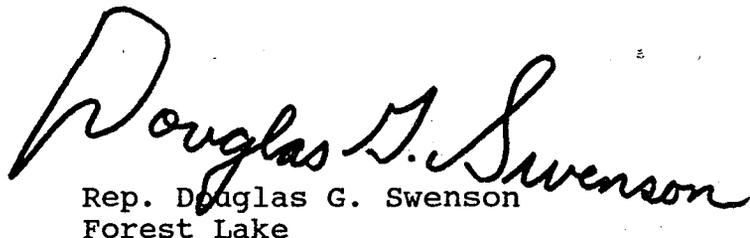
Due to the extreme seriousness of the ethical and legal transgressions committed by Rep. Johnson, it is our request that the Committee on Ethics debate and vote on a recommendation to expel Rep. Johnson from the Minnesota House of Representatives pursuant to the Constitution of the State of Minnesota, Article IV, Section 7.

We also request that a preliminary hearing be held on our complaint immediately, pursuant to the procedures adopted by the Committee on Ethics on March 14, 1995.

Sincerely,



Rep. Charlie Weaver, Jr.
Anoka



Rep. Douglas G. Swenson
Forest Lake

Bob Johnson
State Representative

District 4A
Beltrami and Hubbard Counties

To	Michael Jordan	From	Rep. Bob Johnson
Co.	Public Safety	Co.	
Dept.		Phone #	
Fax #	7-5728	Fax #	

CHAIR, LABOR-MANAGEMENT RELATIONS
COMMITTEES: ECONOMIC DEVELOPMENT, INFRASTRUCTURE & REGULATION FINANCE; GOVERNMENTAL OPERATIONS;
STATE GOVERNMENT FINANCE

September 22, 1995

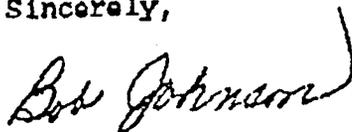
Commissioner Michael S. Jordan
Department of Public Safety
1000 NCL Tower
445 Minnesota Street
St. Paul, MN 55101

Dear Michael:

While I understand your decision regarding the use of state cars for the Perpich funeral, I do not appreciate your threats to take this problem to the media. As I said on the phone, I don't feel you can make decisions regarding the Legislature in such an arbitrary manner and I am disappointed that at such a tragic time you would be so disrespectful and be so willing to involve the media in what is a minor misunderstanding.

If you would like, I would be happy to meet with you in my office or your office regarding this matter. Whatever your decision, I expect in the future that you will not treat either a State Senator or State Representative in the disrespectful manner in which you treated me.

Sincerely,



Bob Johnson
State Representative

cc: Roger Moe, Senate Majority Leader
Irv Anderson, Speaker of the House
Arne Carlson, Governor

OFFICE OF THE COMMISSIONER
445 Minnesota Street
Suite 1000
North Central Life Tower
St. Paul, MN 55101-2158
TTY ONLY: (612) 282-8658
Fax: (612) 297-5728
Telephone (VOICE): (612) 296-6842



STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

September 22, 1995

The Honorable Bob Johnson
Minnesota State Representative
Minnesota House of Representatives
Room 551 State Office Building
St. Paul, MN 55155

Dear Representative Johnson:

It is certainly not my intention to engage in an argument with you. However, after receiving your letter, concerning our phone conversation of this afternoon, it is imperative that I respond to the inaccuracies and inappropriate insinuations that were presented.

1. The decision that I made was in regard to your request to utilize a State Patrol aircraft for the trip from Bemidji to the Twin City area, not a State Patrol squad car. However, in either case, the use of State Patrol vehicles for the purpose requested would be inappropriate.
2. I did not threaten to take the "problem" regarding the use of State Patrol vehicles to the media. However, I did comment that the series of threats that you made to me and the vulgar and obscene language that you used to make them might be of interest to the media.
3. Your comments suggesting disrespectful treatment are not true. During our conversation, I treated you in a polite and respectful manner. Further, I don't believe that making a decision, relative to the use of State Patrol vehicles, that was not favorable to you should be deemed disrespectful.

AN EQUAL OPPORTUNITY EMPLOYER

Representative Bob Johnson
Page 2
September 22, 1995

4. Please be assured that my decision was not of an — arbitrary nature. While I appreciate the context of the request, given all the factors to be considered and the available options for such travel, the decision that was made was both objective and appropriate.

In closing, I appreciate your offer to discuss this matter further. However, I would like to reiterate that in no way were you treated in a disrespectful manner. Quite the contrary, it was your behavior that was disrespectful to me. If I can offer any additional information or perspective on this issue, I would be more than willing to meet with you.

Sincerely,



Michael S. Jordan
Commissioner

MSJ:bjj

CC: Governor Arne Carlson
Representative Irv Anderson, Speaker of the House
Senator Roger Moe, Senate Majority Leader

DATE : September 25, 1995

TO : FILE CONFIDENTIAL

FROM : Michael S. Jordan
Commissioner

PHONE : 296-6642

SUBJECT : PHONE CONVERSATION WITH REPRESENTATIVE BOB JOHNSON SEPTEMBER 22, 1995
REGARDING HIS REQUEST FOR TRANSPORTATION TO FORMER GOVERNOR RUDY
PERPICH'S FUNERAL

On September 22, at approximately 2:00 P.M., I received a call from Major Gene Halverson, Minnesota State Patrol. Major Halverson had called to relate a conversation he had had with Captain Dave Allen, Commander of the MSP Flight Section. Major Halverson informed me that Captain Allen had received a call from Representative Bob Johnson, Bemidji, requesting that MSP transport him to the funeral of former Governor Rudy Perpich on September 25. Major Halverson believed that that was inappropriate use of the State Patrol craft. I concurred with him in that opinion and requested that he let Captain Allen know that the request should be denied.

At approximately 3:00 P.M. on September 22, Barbara Johnson interrupted a meeting that I was holding with Kathy Carlson of PEMR to inform me that Representative Bob Johnson was on the phone. Barb told me that she had let Representative Johnson know I was in a meeting, but he demanded that she interrupt me so he could speak to me immediately. I ended my meeting with Kathy Carlson and spoke to Representative Johnson.

He began the conversation mentioning the fact that he had lost his voice and was not feeling well due to after affects of the mini-session in Bemidji. He then went on to comment on my not allowing the State Patrol to transport him to St. Paul. During our conversation he spoke only about the use of a State Patrol squad car, and made no mention of requesting the use of the State Patrol aircraft for said transportation. Based on my conversation with Major Halverson, the only request that I knew of that Representative Johnson had made was for the use of a State Patrol aircraft. During our phone conversation, he never made a direct request for the use of a squad car, he only commented on the fact that I had denied him the use of a squad car.

I told Representative Johnson that based on both past practice and the current circumstances that I was of the opinion that the decision that was made to deny him use of either State Patrol vehicle was appropriate. At that point Representative Johnson became quite

angered and began to issue a series of threats relative to his intention to adversely affect the funding for the Department of Public Safety. He also made comments relative to how I had had difficulties during my confirmation hearing during the Session in 1995, and if I thought those were bad, they were nothing compared to the crucifixion I would go through in the upcoming budget session in 1997. He went on to use several vulgarities in his description of what would occur to me when this was done and listed several other representatives he would enlist in his cause.

He used as a rationalization that I was "playing politics" in not letting him use State Patrol vehicles. I told him emphatically that this was not a political decision, but rather one having to do with appropriate use of State Patrol resources. As he continued to levy his threats and spoke to me in what I considered to be a threatening, argumentative and obscene tone, I made the comment that I wondered how the media would react to knowing how a state representative would threaten the commissioner of a major state department, because he did not get his way. At that point Representative Johnson's tone changed considerably, and he made reference that there was no reason to bring the media into this. I did not tell him I would bring the media into this, I was only rhetorically posing how it would appear for the general public to know that this type of badgering and threatening manner was used because a decision was made with which an elected official did not agree. Representative Johnson's tone continued to soften and, in my mind, he was almost on the verge of tears as he was beginning to discuss his relationship with former Governor Perpich and how important it was for him to attend the funeral. During our discussion he made comment that he would have to purchase a plane ticket costing \$400 to make the trip to attend the funeral. He explained that he needed transportation due to the fact that he had been in an automobile accident colliding with a deer and his vehicle would not be repaired until late in the week of September 25. During our conversation, he never made reference to trying to procure an alternative type of transportation, such as renting a car, riding with another legislator, etc. He continued to discuss his relationship with former Governor Perpich and his family. He also claimed that his outburst was somewhat caused by his poor state of health, and he eventually ended the phone conversation.

At approximately 4:05 P.M. on September 22, I received the attached letter by fax from Representative Johnson. The representation made in his letter was absolutely in contradiction to the phone conversation that we had. Therefore, I immediately responded to him and those copied on his letter via the letter attached.

This is my best recollection of the events that transpired.

Dictated but not read by:

Michael S. Jordan
Commissioner

NSJ:bjj

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COUR.
FIRST JUDICIAL DISTRI

STATE OF MINNESOTA,
Plaintiff,

vs.

Robert A. Johnson
Defendant.

(Date of Birth: 12-1-45)

PETITION TO ENTER GUILTY PLEA
IN MISDEMEANOR VIOLATION

File No. _____

1. I am charged with (name of offense) DUI; Test Refusal; Accident.
on (date) 8-26-95 in (city or
county) DAKOTA

2. I plead guilty to the offense of (name of offense) DUI
in violation of (statute or ordinance) 169.121(a).

3. I am pleading guilty because on (date) 8-26-95
in (city or county) Dakota County I committed the following
acts: I drove my automobile while I was under the
influence of alcohol

4. I understand that the maximum possible sentence on a misdemeanor is
a \$700.00 fine, or 90 days imprisonment, or both. In the case of driving
while under the influence or a similar charge, I understand that any future
violations could be treated as a gross misdemeanor with a maximum penalty of
a \$3,000.00 fine, one year in jail, or both.

In the case of assault, I understand that any future assault against the
same person could be treated as a gross misdemeanor with a maximum penalty
of a \$3,000.00 fine, one year in jail, or both.

5. I understand that I have the right to be represented by an attorney
and that if I cannot afford to pay for an attorney, one will be appointed to
represent me without cost.

6. I have fully discussed the charge(s), my constitutional rights, and
this petition with my attorney, (name of attorney) Paul W. Ryan
(OR)

6a. I give up my right to be represented by an attorney. I understand
that representing myself without an attorney may be a disadvantage to me as
I must follow the rules of procedure and the rules of evidence.

7. I understand I have the following constitutional rights which I
knowingly and intelligently waive (give up):

- a. the right to a trial to the court or to a jury of six
members in which I am presumed to be innocent until proven
guilty beyond a reasonable doubt;
- b. the right to cross-examine all witnesses against me;

92861

- c. the right to remain silent or to testify for myself;
- d. the right to subpoena witnesses to appear on my behalf;
- e. the right to a pretrial hearing to contest the admissibility of evidence obtained from a search and seizure and/or admission and confession.

8. I am entering my plea freely and voluntarily. No one has made any threats or promises to get me to make this plea, except as indicated in number 9. below.

9. I am entering my plea of guilty based on the following plea agreement with the prosecutor: (if none, so state) Dismiss other CT
on plea to DWI; Disturbance

10. I understand that if the court does not approve of this agreement, I have the right to withdraw my plea of guilty and have a trial.

11. If my plea is accepted, I have the right to be present at the time of sentencing and to exercise my right to speak on my own behalf by making whatever statements or presenting whatever evidence that I wish.

Dated this 1 day of Sept, 1995.

Signed: Robert Johnson
 (Defendant)

Printed Name: Robert Johnson

_____ states that (s)he is the attorney for the defendant in the above-entitled criminal action, that (s)he personally explained the contents of the above petition to defendant; and that (s)he personally observed defendant date and sign the above petition.

Dated this _____ day of _____, 19____.

 (attorney for defendant)

PETITION AND PLEA OF GUILTY ACCEPTED BY MAIL:

 (Judge)

 (Date)

 (Court)

BURNSVILLE POLICE DEPARTMENT

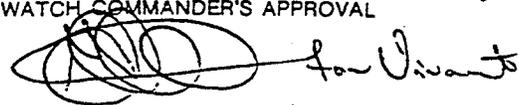
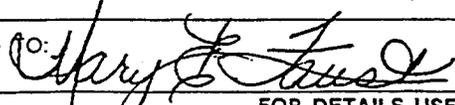
ARREST REPORT

5-148

UOC TITLE DUI/PDMVACC		ARREST DATE/TIME 8-26-95 1950		TICKET NUMBER 5-343576		CASE FILE # 95016834		
LOCATION OF OFFENSE 101 McAndrews				ARRESTING OFFICER CA Carpenter				BADGE NO. 63
LAST NAME Johnson		FIRST Robert		MIDDLE Alan		ALIAS/NICKNAME		
LOCAL ADDRESS 75 Washington Ave #15 Bemidji MN 56601		PHONE 818-759-7948		RACE/COMPLEXION white		BUILD Med	SEX M	
LENGTH OF TIME AT ABOVE RESIDENCE 1yr.		OWN () RENT (x)	AGE 49	HEIGHT 5-10	WEIGHT 200	HAIR igt brn	EYES blue	
HOME ADDRESS Same		DATE OF BIRTH 12-1-45		PLACE OF BIRTH Mpls.				
OCCUPATION/COMPANY social worker, Bemidji		COMPANY PHONE 759-3130		LENGTH OF EMPLOYMENT 25 yrs.		IMMEDIATE SUPERVISOR Jerry Abbo #		
SALARY OR WAGE \$30,000 yrs.		EDUCATION/TRAINING/MILITARY BA,		READ <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		WRITE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
MARKS/SCARS/DEFORMITIES/MEDICAL/TATTOOS None								

FATHER'S NAME Herb Johnson		ADDRESS White Bear		PHONE 771-8419	
MOTHER'S NAME deceased		ADDRESS		PHONE	
SPOUSE Mary Faust		ADDRESS 101 McAndrews #204		PHONE 898-5968	
CHARGES Misd DUI		STATUTE NO. 169.121(6)			
CF YES Misd Test Refusal		STATUTE NO. 169.121(a)			
MAKE OF VEHICLE 302 ESS		LIC.# Accident driver to stop		DRIVER'S LIC.# 169.0955 J-525-745-040-917	
VICTIM NAME		ADDRESS		RESIDENTIAL PHONE	
				WORK PHONE	

Subject was involved in a H & R earlier in the day. Upon return to the apartment building to check for the suspect I located him passed out in his vehicle with the keys in his pocket. The arrest was made approx. 1 1/2 hrs. after the H & R. Subject failed a BBT. Subject was arrested after paramedics cleared him. Subject refused a test (see CF# 95016819) Status: Cleared by Arrest

KOTA CO. CHECK CLEAR? <input type="checkbox"/> YES <input type="checkbox"/> NO		SCOTT CO. CHECK CLEAR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		2000 CHECK CLEAR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		RAMSEY ALERT CLEAR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		PRINT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		MUG <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
JAILED <input type="checkbox"/> DEPUTY'S SIG.				DATE 8/26/95		WATCH COMMANDER'S APPROVAL 					
RELEASED TO: 				TIME 7:30							

FOR DETAILS USE NARRATIVE REPORT

SHIFT COMMANDER APPROVAL 		FORMAL COMPLAINT NEEDED <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> GROSS MISDEMEANOR <input type="checkbox"/> FELONY				TAPED NARRATIVE <input type="checkbox"/> YES <input type="checkbox"/> NO	
DATE 8/22/95						TAPE #:	

UOC TITLE H S R	DATE/TIME REPORTED 8-26-95 1256	TICKET NUMBER 5-343576	CASE FILE # 95016834
	DATE/TIME OCCURRED 8-26-95 1255		

LOCATION OF OFFENSE 2729 Diamond Dr.	REPORTING OFFICER CA Carpenter	BADGE NO. 63
--	--	------------------------

CODE	FULL NAME (Last, First, Middle)	DOB	RESIDENT ADDRESS	RESIDENTIAL PHONE	WORK PHONE
V/RP/W	Mundahl, Bruce Vernon	1-22-49	12729 Diamond Dr.	894-1336	507-263-372
✓	Wolander, Carl Prastmark	1-7-40	12708 Diamond Dr.	890-7895	698-8831
W	Holker, Therese Marie	5-5-46	3013 Rainier Ct.	890-6910	Unk.

BRAND N/A	MODEL	TIRE SIZE	SERIAL # AND/OR P.I.N.	SPEED <input type="checkbox"/> 10 <input type="checkbox"/> 5 <input type="checkbox"/> 3 <input type="checkbox"/> 1	EST. VALUE
COLORS - SEAT N/A	GRIPS	FENDERS	FRAME	<input type="checkbox"/> Boys <input type="checkbox"/> Girls	

MAKE Ford	YEAR 90	LICENSE 302ESS	STATE MN	S EST.	MAKE	YEAR	LICENSE	STATE	S EST.
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QUANTITY	BRAND NAME	SERIAL NUMBER AND/OR P.I.N.	ARTICLE TYPE w. DESCRIPTION	VALUE
2	—	—	Mailboxes damaged	10⁰⁰

CODE	R - REFERRED A - CLRD/ARREST J - JAILED T - TICKETED C - EXC CIRD S - SUSPECT	TOTAL VALUE \$
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CODE	FULL NAME (Last, First, Middle)	DOB	SEX	RACE	ADDRESS	RESIDENTIAL PHONE	WORK PHONE
A	Johnson, Robert Alan	12-1-45	M	W	1075 Washington Ave #15	218-759-7948	759-3131

On 8-26-95 at approximately 1500hrs. I responded to 12729 Diamond Dr. on the report of a damage to property. V/RP/W) Mundahl had witnessed ^{vehicle} MN/LIC 302ESS run into his mailbox, causing damage, and then leave the scene. Mundahl followed the suspect to 101 McAndrews road after he started to believe the driver was possibly intoxicated due to his poor driving. (W) Holker also witnessed the vehicle hit mailboxes and leave the scene. A state accident report was completed and the suspect was located later again in his vehicle, and arrested for DUI (See CF#9516834 for more) Cleared ^{11/24/95} _{11/24/95} ^{ATC}

TRANSFERRED TO	BADGE	DATE 8/27/95	SHIFT OFFICER APPROVAL	FORMAL COMPLAINT NEEDED <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> GROSS MISDEMEANOR <input type="checkbox"/> FELONY	TAPED NARRATIVE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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Name: Robert Alan JOHNSON DOB: 12-1-45 Case File # 95016834

Officer: CA Carpenter Badge # 63 Date/Time interview 8-26-95 2016

OBSERVATIONS:

Appearance: Disarranged Soiled Mussed X Orderly

Level of Alcoholic Beverage: X Strong Moderate Faint

Speech Pattern: X Unintelligible X Confused X Slurred Other

Effects of Alcohol: X Extreme Obvious Moderate Slight

INTERVIEW; Miranda: Date: 8-26-95 Time: 2017

You have the right to remain silent.
Anything you say can be used against you in a court of law.
You have the right to talk to a lawyer and have one present with you while you are being questioned.
If you cannot afford a lawyer, one will be appointed to represent you before any questioning is done.
Do you understand each of these rights I have explained to you? "yes"
Having these rights in mind, do you wish to talk to us now? Yes No X

Were you operating the vehicle in which you were stopped? Yes No

Were you involved in an accident? Yes No

At what street or highway were you on? Actual

In what direction were you travelling? Actual

Have you been drinking? Yes No Where?

At what time have you been drinking? How much?

At what time did you start? Stop

Do you feel the effects of what you have had to drink? Yes No

Have you been smoking marijuana or taking any other drugs. Yes No What?

How much?

Are you sick or have you been injured lately? Yes No How?

Do you have any physical or mental disability? Yes No What type?

Are you taking any type of medications? Yes No What type?

Are you wearing dentures? Yes No

When did you last sleep? How much?

When did you last eat? What?

Have you ever been arrested for DWI in the past? Yes No Where?

At what city? Were you represented by an attorney at that time? Yes No

Is your drivers license currently valid? Yes No

Has this been a misdemeanor? Yes No

Was the vehicle you were driving covered by liability insurance? Yes No

Name of insurance company?

3URNSVILLE POLICE DEPARTMENT

PROPERTY AND INVENTORY REPORT

JOC TITLE PD MVACE H+R EVIDENCE RECOVERED FOUND OTHER C.F. No. 930-16818

Receiving Officer P. Wally Lund #39 Date/Time 8-26-95 2130 Citation No. N/A EVIDENCE TECH USE 16834

Ar. ing Officer C. Carpenter #63 Property taken into custody at: (Address) 100 Cree Center Parkway - Mount Bay #4

SUSPECT Full Name Johnson, Robert Alan D.O.B. 12 / 11 / 45 8-26-98

Address 1075 Washington Ave #15 Phone No. (Home) Phone No. (Work)

City/County/State/Zip Bemidjy / Hubbard / MN / 55601

Full Name VICTIM OWNER FINDER See Carpenters Reports

Address Phone No. (Home) Phone No. (Work)

City/County/State/Zip

CASE DISPOSITION: EXC. CLRD. PENDING ARREST ADLT. JUV. REFERRAL INACTIVE ASST. & ADVSD.

PROPERTY PLACED IN: 8-26-95 2330 Property Room Locker No. 26 Prisoner Inventory Other (explain)

Brand N/A Model Boys Girls Tire Size Serial No. and/or P.I.N. Speed Colors Frame Fenders Seat Grips Est. Value

Table with 3 columns: Itm, PROPERTY Itemize; Describe; List Serial Nos., Est. Value. Contains 10 rows of evidence descriptions.

OFFICER DISPOSITION: Other Return to Owner Hold Destroy Prisoner Transfer CONTROLLED SUBSTANCES: Type _____ Weight _____ Quantity/Count Deliver to BCA by: Date _____ New BCA Case Yes No

CHAIN POSSESSION: Table with 6 columns: Item, Time, Date, Place, Delivered By, Received By.

CLAIMANT'S RECEIPT I certify that I have received: items # _____ and that I am the lawful owner or claimant. Released By: _____ Name _____ Address _____ Date _____ Signature _____

INCIDENT: PDMVacc H+R DATE/TIME ARR./CLR: 8-26-95 2130 -2330 P.E.O. NAME: Wally Lind, SCSA CASE FILE #: 6834
 9501687

LOCATION OF INVESTIGATION: near Centre Pkwy WEATHER CONDITIONS: drizzle OTHER OFFICERS PRESENT: None

PHOTO(S) INDOOR OUTDOOR VEHICLE/DESCRIPTION: Blue 1990 Ford Taurus GL - 4 dr
 25mm Color Print ASA 100-36 SS 125 f5.6 to MN Lic # 302 ESS
 22 Wetwater Fleck - Photos of Vehicle / Damage / Evidence

POINT OF ENTRY/DAMAGE: N/A POINT OF EXIT/DAMAGE: N/A

TOOL MARKS: N/A CAST TOOLS RECOVERED: N/A

RACE EVIDENCE - FIBERS GLASS HAIR PAINT SOIL BLOOD SEMEN OTHER
 Red-White Transfer Grass

FINGERPRINTS - LATENTS (Lift) N/A LATENTS (Item) ELIMINATION DECEASED

FOOTPRINTS - PHOTO: N/A ITEM CAST TIRE TRACKS - PHOTO: N/A ITEM CAST

DIAGRAM/OFFICERS NAME(S): None WEAPONS RECOVERED: N/A CARTRIDGE BULLET

WEAPON DESCRIPTION INFO: N/A

VICTIM(S) NAME	DOB	SEX	RACE	HGT.	WGT.	HR.	EYES	DECEASED	ASSAULT

MEDICAL EXAM DOCTORS NAME: LOCATION OF EXAM:

OBSERVED INJURIES ON VICTIM	PHOTO(S)	DIAGRAM
1		
2		
3		

VICTIM CLOTHING: V1 V2 V3

DEPUTY CORONER: AUTOPSY ORDERED PATHOLOGIST:

ADDITIONAL DETAILS/EVIDENCE OBSERVATIONS:
 Process H+R Vehicle for Evidence - Photographed Taurus and damaged areas (License Plate assembly - Hood - both outer mirrors - antenna - windshield - Left rear quarter Panel - top of trunk lid). Paint Transfer samples LR QP / Trunk lid and Control sample, Bent Plate Collected, Grass embedded in Plastic Piece under front bumper Collected. Foreign matter Transfer Top of Front Plate assembly Collected. Green Plastic Elements embedded in side mirror and Wing window seam collected. Numerous scratches on Drivers side photographed. end of Report

IMPLIED CONSENT LAW PEACE OFFICER'S CERTIFICATE

▶ (PLEASE TYPE OR PRINT LEGIBLY, CROSS OUT REFERENCES TO INAPPLICABLE ITEMS.)

Name of Peace Officer CA Carpenter	Name of Police Agency Burnsville
--	--

I certify to the Commissioner of Public Safety, State of Minnesota, that I am a member of the above police agency and:

1. I am a "peace officer" within the meaning of Minnesota Statutes, Section 169.123, Subdivision 1.
2. On (Date) **8-26-95**, I had probable cause to believe that the person named below had been driving, operating or physically controlling a motor vehicle within the State of Minnesota on **101 McAndrews (Private Property)** in the City or Township of **Burnsville** in **Dakota** County, while under the influence of alcohol or a controlled substance, or a commercial motor vehicle with the presence of alcohol, contrary to law.

Full Name Robert Alan Johnson	Date of Birth 12-1-45
Address 1075 Washington Ave #15	City, State, Zip Bemidji MN 56601
Driver License Number J-525-745-040-917	State of Issue MN

3. Reason for initial contact:
 - Vehicle stopped by officer because:
 - Accident Vehicle already stopped (describe): **driver passed out asleep in his vehicle, car keys in his right pocket**
 - Other (describe): **Vehicle was involved in a HSP earlier in the day which was under investigation**
4. Probable cause that person was driving, operating or in physical control.
 - Saw person Person admitted Other: _____
5. Probable cause that person was under influence (in addition to other information)
 - Odor of alcohol; bloodshot, watery eyes; slurred speech poor balance
 - Other (describe): _____
6. Check at least one of the following:
 - DWI arrest accident refused PBT (preliminary screening breath test);
 - failed PBT with alcohol concentration of .10 or more
7. Other pertinent information _____
8. The person was requested to submit to a test to determine (alcohol concentration) (or) (presence of a controlled substance), pursuant to the provisions of Minnesota Statutes, Section 169.123, and was read the Implied Consent Advisory on the other side of this form by: (Name and Agency)
CA Carpenter Burnsville P.D.
9. The person: (X APPLICABLE BOX)
 - Refused to provide a test sample to determine the presence of **(alcohol)** (or) (controlled substance).
 - Provided a sample (blood) (breath) (urine) for analysis, which indicated an alcohol concentration of _____.

The sample was submitted for analysis to:

Name of Agency, Analyst or Breath Test Operator
Address of Agency or Analyst
City, State, Zip
Sample Identification Number (Blood or Urine Tests Only)

MEDICAL PERSONNEL CERTIFICATE

Pursuant to Minn. Stat. § 634.15, I certify as follows: at the request of the undersigned peace officer, I withdrew a sample of blood from:

NAME: _____

AT: _____
(Location)

I am authorized and qualified to draw blood samples pursuant to Minn. Stat. § 169.123, Subd. 3.

I withdrew the sample of blood at _____ A.M./P.M., after preparing the site of withdrawal with a non-alcohol substance.

I used a sterile needle and container in withdrawing and receiving the blood sample.

I gave the blood sample to the undersigned peace officer.

DATE: _____ Signature

Printed Name

Occupation (M.D., R.N., M.T., L.T., etc.)

Signature of Peace Officer

SEND WITH COPY OF ALCOHOL INFLUENCE REPORT, ARREST OR ACCIDENT REPORT, BREATHALYZER OR INTOXILYZER RECORDS, LABORATORY REPORT TO:
Department of Public Safety
Driver and Vehicle Services Division
Implied Consent Section
108 Transportation Building
St. Paul, MN 55155

Attach Notice of Revocation (Form PS-31123) if issued.

Signature of Peace Officer CA Carpenter
Printed Name of Peace Officer CA Carpenter
Badge Number 63
Business Telephone Number 895-4600
Date 8-26-95

BURNSVILLE POLICE DEPARTMENT

Mess. Key

Control Number

NCIC Identifier

ECI 4501100B MNO190100

Date Reported

Time Reported

Location Grid Number

082009 1250 54

INCL

1279

H-R

Diamond Dr

LOCATION

REPORTED BY

COMPLAINANT

ADDRESS

Mundahl, Karen

PHONE

PHONE

8941336

Incident Rpt.

No. Rpt.

Other Rpt.

H-R

RECVD BY

SUPV. APP.

Line NBR

How Recd.

Squad or Badge #

Time Asg.

Time Arr.

Time Cir.

3 P 123 1430 1430 1602

DATE ENTERED C.J.R.S.

INCIDENT

ARREST

PROPERTY

082009

Line NBR

ISN

UOC

UOC Status

Line NBR

ISN

UOC

UOC Status

4 01 19450 S 5

If multiple lines are to be entered a slash (/) must follow each line except the last.

SYNOPSIS

30255 nuy Tawrus

mubny

witness: Hager - 3417 E Phwy 890-8124

@Mick Hager 1529 - 1550

101 w 204

R03458 R03725 AUG 26 1995 18:34:55
HIT STOLEN VEHICLE FILE
BMW LIC/302ESS

AUG 26 1995 18:35:35

BT
IC/302ESS. LIY/96. LIT/PC.
JOHNSON ROBERT ALAN
075 WASHINGTON AVE #15 BEMIDJI 56601
IN/1FACP52U6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.
MO/TAURUS GL, 4DR SEDAN
XM/APR. DOB/120145. STICKER:T1917883.

R03725 AUG 26 1995 18:34:55 ACK

MESSAGE WAITING PRESS PA1

R03459 R03725 AUG 26 1995 18:34:55

AUG 26 1995 18:35:48

BT
ROBERT ALAN JOHNSON
075 WASHINGTON AVE #15 BEMIDJI MN 56601
EX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
LN/J525745040917. OLT/1. CLS/C. EXP 120199
STATUS:VALID GLASSES
PHOTO #:5752124023. ISU/052095.
JOHNSON ROBERT ALAN
075 WASHINGTON AVE #15 BEMIDJI 56601
IN/1FACP52U6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.
MO/TAURUS GL, 4DR SEDAN
XM/APR. DOB/120145. STICKER:T1917883.

R03725 AUG 26 1995 18:34:55 ACK

MESSAGE WAITING PRESS PA1

TRAFFIC ACCIDENT REPORT

(FOR POLICE USE ONLY AS REQUIRED BY STATUTE)

FOR DPS USE ONLY

CASE NO. 15010834

NO-RUN TENDED	PUB PROP	VEHICLES	KILLED	INJURED	\$ MIN
	N	1	0	0	N

MONTH	DATE	YEAR	DAY	TIME	AM/PM
8	26	95	Sat.	1256	

ROUTE NUMBER OR STREET NAME	AT INTERSECTION WITH	OR	MI	N	E	W
Diamond Dr. (12700 Blk.)			200			

CITY	INT ELEM	REFERENCE POINT	ROUTE SYS	ROUTE #, STREET, CORP LIMIT, REF POINT OR FEATURE
Burnsville			LS	Sable Dr.

DRIVER LICENSE NUMBER - 1	STATE	CLASS	DRIVER LICENSE NUMBER - 2	STATE	CLASS	FACTOR 1
J-525-745-040-917	MN	C				
NAME (FIRST, MIDDLE, LAST)	RESTRICTNS COMPLETED	WITHDRWN	NAME (FIRST, MIDDLE, LAST)	RESTRICTNS COMPLETED	WITHDRWN	FACTOR 2
Robert Alan Johnson	Y	N				
ADDRESS	DATE OF BIRTH	ADDRESS	DATE OF BIRTH	INJURED		
1075 Washington Ave #15	12/1/45					
CITY, STATE, ZIP		CITY, STATE, ZIP		PHYSCL		
Bernidji MN 56601						
ADDRESS CORRECT	SEX	EJECT	RSTRNT	INJCOD	TO HOSP	TRANSPORT
Y	M	4	99	N	N	898-5968

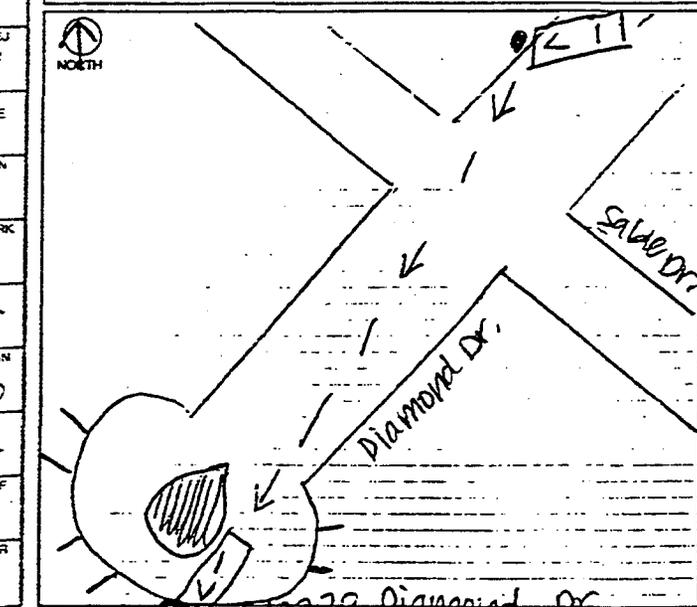
OWNER NAME	OWNER NAME	VEHTYP			
SAME	private property				
ADDRESS	ADDRESS	FIRE			
CITY, STATE, ZIP	CITY, STATE, ZIP	TOW			
MAKE	MODEL	YEAR	COLOR	SEQUENCE OF EVENTS	DMGLOC
Ford	Taur.	90	Blue	1-1-1	
PLATE #	STATE	YEAR	INSURANCE		DMGSEV
302 ESS	MN	96			

ED PASSENGERS/WITNESSES	UNIT	POSTN	AGE	SEX	EJECT	RSTRNT	INJCOD	TO HOSP	TRANSPORT
Holker, Therese Marie DOB/5-5-46 3013 Rainer Ct. Burnsville, MN 55337 ph# 890-6910									AMBULANCE OTHER
Mundahl, Bruce Vernon, DOB/1-22-49 12729 Diamond Dr. Burnsville MN 55337 ph# 894-1336									AMBULANCE OTHER

5-342576

OWNER OF OTHER DAMAGED PROPERTY AND/OR YELLOW TAG NUMBER(S)

AMBULANCE SERVICE(S) AND/OR STATE AMBULANCE RUN NUMBER(S)



DESCRIPTION, CHARGES PENDING, AND OR CITATIONS ISSUED

(W) #1 witnessed the vehicle E Bon Burnsville ~~plow~~ swerving back and forth using the entire roadway and hitting mail boxes. (W) #1 followed the vehicle witnessing it hit 2 more mail boxes on Diamond Dr. (W) #2 saw vehicle hit his mail box and then followed him home after a long route. (W) #2 believes Driver was intoxicated and lost 6 hours after the accident the driver was located passed out in his vehicle. see narrative Driver was arrested for DUI

- Mail box

DEVICE	WORKING	SPEED LIMIT	INTRNL	WEATHER	PHOTOS TAKEN	LIGHT	DIAGRAM
0	0	30	9	2	Y	1	8

OFFICER	BADGE #	AGENCY	PATROL	LOCAL	OTHER
Patrol officer CA Carpenter #63		Burnsville	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

MOTOR CARRIER	HAZ MAT	HAZ PLAC	MAT'L CLASS/ID	MAT'L CLASS/ID	MAT'L CLASS/ID	BOY TYP
	MOTOR CARRIER ID	MC SOURCE	AXLES DOWN	AXLES UP	TRAILER HITCH	
	ICR #	INSPECTOR #				GVWR

R03458 R03725 AUG 26 1995 18:34:55
NO HIT STOLEN VEHICLE FILE
QMW LIC/302ESS

AUG 26 1995 18:35:35

EXT

LIC/302ESS. LIY/96. LIT/PC.
JOHNSON ROBERT ALAN
1075 WASHINGTON AVE #15 BEMIDJI 56601
VIN/1FACP52U6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.
VMO/TAURUS GL, 4DR SEDAN
EXM/APR. DOB/120145. STICKER:T1917883.

R03725 AUG 26 1995 18:34:55 ACK

MESSAGE WAITING PRESS PA1

R03459 R03725 AUG 26 1995 18:34:55 AUG 26 1995 18:35:48

EXT

ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
DLN/J525745040917. OLT/1. CLS/C. EXP 120199
STATUS:VALID GLASSES
PHOTO #:5752124023. ISU/052095.
JOHNSON ROBERT ALAN
1075 WASHINGTON AVE #15 BEMIDJI 56601
VIN/1FACP52U6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.
VMO/TAURUS GL, 4DR SEDAN
EXM/APR. DOB/120145. STICKER:T1917883.

R03725 AUG 26 1995 18:34:55 ACK

MESSAGE WAITING PRESS PA1

BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: Hit and Run DUI	Ticket:	CF: 95016834
By: Officer DESLAURIERS Badge 42	Date: 08-26-95	Page 1

NARRATIVE

On 08-26-95, at 1856 hours, I DESLAURIERS driving Unit #9 responded to 101 West McAndrews to assist Officer Christy CARPENTER. All I knew initially was she advised she had located a party sleeping in a vehicle in an underground garage.

Upon my arrival I entered the underground garage of the north side of the #101 Building at McAndrews. The vehicle was bearing MN License 302 ESS. As I approached the vehicle, I observed a white male laying on his back across the driver's seat and passenger seat with his feet on the ground. The driver appeared to be passed out. Officer CARPENTER had found the driver in this position and had waited for my arrival to attempt to wake the driver.

As I looked into the vehicle on the driver's side I could immediately smell a very strong odor of alcohol coming from inside the vehicle. Officer CARPENTER attempted to wake the driver by tapping on his leg and shaking him. We had a lot of difficulty raising the driver to consciousness and we shook him several times and the driver finally woke up, sat up and exited the vehicle on the driver's side.

As I observed the driver, who was later identified as Robert Allen JOHNSON, DOB: 12-01-45, JOHNSON appeared to be very intoxicated. He was having great difficulty walking and was having difficulty with his coordination. He used his left hand and arm to maintain his balance while hanging on to the vehicle. He immediately began to complain of chest pain and advised that he was a diabetic. Officer CARPENTER asked JOHNSON how much he had to drink and JOHNSON indicated he had drank a half of pint.

As JOHNSON continued to complain of chest pain a couple more times we decided to immediately order an ambulance to come to our location to access JOHNSON's medical situation. Paramedics Kelly HAUSER and Rick LARKIN responded to our location in Medic #1. We walked JOHNSON out of the underground garage to the Medic Unit and explained the situation to the Paramedics. The Paramedics checked JOHNSON's blood sugar which was normal and also hooked him up to a heart monitor and also received a normal indication. At this time I contacted a doctor at medical control who gave an okay to release JOHNSON if he so wished. After being assessed by the paramedics JOHNSON advised he did not want to be transported to the hospital and signed a medical release form indicating such.

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: Hit and Run DUI	Ticket:	CF: 95016834
By: Officer DESLAURIERS Badge 42	Date: 08-26-95	Page 2

While JOHNSON was being checked out by Paramedic Rick LARKIN, I Officer DESLAURIERS was present in the ambulance when Paramedic LARKIN asked JOHNSON specifically if he had been driving. JOHNSON had indicated that yes he had driven out to Burnsville that day and this was the response to a question in a series of questions leading up to what had taken place that day in an attempt to do the medical assessment. After JOHNSON admitted to Paramedic Rick LARKIN that he had been driving the medics had been concerned about trauma to the driver's side of the vehicle and wanted to access the possibility that JOHNSON might have hit his head in the accident. When the medics asked him if he had an accident that day he indicated he did not know what had taken place that day.

After JOHNSON had been released by the Paramedics he was taken into custody by Office CARPENTER for being in physical control of a motor vehicle while under the influence. At this time, I remained at the scene and was aware by being at the scene that JOHNSON had a room mate living in that apartment complex. His vehicle had noticeable damage across the hood to the trunk lid. The windshield was broken on the passenger side lower right near the antenna as well as the antenna being bent over.

When we initially contacted JOHNSON and he was sleeping in his vehicle the vehicle was pulled into a parking stall which did not belong to JOHNSON. His vehicle had squashed a garbage can up against the brick wall in the underground garage as well as done some minor damage to a couple bicycles that were parked in that particular stall.

I waited the arrival of Allen's Towing and was met by the Tow driver and I explained the situation to him. The Tow driver observed the vehicle and the damage that had been done in the underground garage to the garbage can and the bicycles. I gave the key to the Tow Driver and he drove the vehicle out of the underground garage and Impounded it to our Police Station which was done to preserve evidence as the vehicle was involved in a Hit and Run earlier that day. The case being investigated by Officer CARPENTER.

As the vehicle was pulled away from the squashed garbage can, I noted a large dent in the front license plate made by a round object. The license plate itself, where impact had been made, had the transfer of concrete particles. It was at this time that the vehicle was removed from it's parking spot in the underground garage by the Tow driver that I also noticed the damaged antenna, and the broken windshield. The Tow Driver, Mr. RICE, also advised that the vehicle had been driven into the ditch recently as there

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: Hit and Run DUI	Ticket:	CF: 95016834
By: Officer DESLAURIERS Badge 42	Date: 08-26-95	Page 3

was a large amount of grass and mud which had been packed under the front bumper and onto the frame. I assisted on placing the vehicle into an evidence bay at the old City Garage for later processing.

At the time this narrative was completed, Officer CARPENTER was continuing an investigation of the Hit and Run. The disposition of the case will be Pending. Possible Hit and Run and DUI charges. See Narrative Report 16834 by Officer CARPENTER for details.

End of Tape

By: Officer DESLAURIERS, Badge 42

Transcribed by: E. DONNELLY 08-30-95

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 1

SYNOPSIS:

On 08-26-95, a Ford Taurus, bearing MN license 302 ESS, was involved in a Hit and Run, Property Damage accident. Witnesses followed the vehicle until it stopped at 101 McAndrews Road, which is an apartment complex. One witness watched the lone male suspect enter the apartment building and respond to the second floor.

An attempt was made by myself to contact the suspect approximately two-and-a-half hours after the accident. At the time, the vehicle was still parked outside the 101 McAndrews address. The vehicle had fresh damage in multiple areas. No contact was made.

Approximately six hours after the initial call, another attempt was made to contact the suspect. The vehicle was no longer parked in the outdoor parking lot, and contact was not made at the apartment.

The vehicle was then located in the underground garage with the suspect asleep inside the vehicle. Once awakened, the driver was identified and claimed to have chest pain, and to be suffering from a diabetic reaction.

Paramedics evaluated the suspect and he signed a Medical Release form.

The suspect was arrested for being in physical control of a motor vehicle while under the influence of alcohol. His vehicle was impounded as evidence to the Hit and Run, and was processed.

The subject refused to provide a breath sample once at the Burnsville Police Department. He was cited for Misdemeanor DUI; Misdemeanor Test Refusal; and, Hit and Run.

The subject was released to the custody of Mary FAUST.

PERSONS AND PROPERTY:

Arrested: Robert Alan JOHNSON, DOB: 12-01-45
1075 Washington Avenue - #15
Bemidji, MN 56601
Home Phone: 218/759-7948
Work Phone: 218/759-3130

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 2

Local Address:
101 McAndrews Avenue - Apt. 204
Burnsville, MN 55337
Home Phone: 898-5968

Vehicle: MN License: 302 ESS
1990 Ford Taurus

Registered To:
Robert Alan JOHNSON

Also-Sensor: B-18070, last calibrated on 08-22-95,
by Badge 36.

Witness #1/
Victim #1: Bruce Vernon MUNDAHL, DOB: 01-22-49
12729 Diamond Drive
Burnsville, MN 55337
Home Phone: 894-1336
Work Phone: 507/263-3766

Witness #2: Therese Marie HOLKER, DOB: 05-05-46
3013 Rainer Court
Burnsville, MN 55337
Home Phone: 890-6910
Work Phone: Unknown

Victim #2: Carl Prastmark WOLANDER, DOB: 01-07-40
12708 Diamond Drive
Burnsville, MN 55337
Home Phone: 890-7895
Work Phone: 698-8831

SUSPECT'S
GIRLFRIEND: Mary FAUST
101 McAndrews Road - Apt. 204
Burnsville, MN 55337
Home Phone: 898-5968

Transfer to #:	Date:	W/C Approval:	FC Needed: <input type="checkbox"/> Misd <input type="checkbox"/> GM <input type="checkbox"/> Felony	Taped Nar: <input type="checkbox"/> Y <input type="checkbox"/> N
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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 3

NARRATIVE:

On 08-26-95, at 1256 hours, Dispatch received a call from Victim/Witness, MUNDAHL, regarding a Damage to Property. MUNDAHL stated that someone had driven into his mailbox causing damage to the mailbox, and he wanted to make a report.

At approximately 1500 hours, I was assigned to, and I responded to the call at 12729 Diamond Drive. Upon arrival, I met with MUNDAHL, who stated that a Ford Taurus, MN License 302 ESS, had caused damage to his mailbox, actually taking out the mailbox pole and the mailbox itself before the vehicle left the area.

MUNDAHL also stated that he believed the vehicle had taken down a mailbox at 12708 Diamond Drive, but that he had not spoken to that person yet.

MUNDAHL explained that after he witnessed the vehicle hit his mailbox, he then witnessed the lone occupant drive the vehicle. He described the driver as a white male he believed to be in his early 50s, with thin hair, approximately 6 feet tall, having an average build. MUNDAHL stated that there was no one else in the vehicle, and that after the incident occurred, he then followed the vehicle to another location in Burnsville.

It should be noted that MUNDAHL noticed the vehicle travel into MUNDAHL's cul-de-sac on the wrong side of the roadway, at which time the suspect, later identified as Robert Alan JOHNSON, DOB: 12-01-45, hit the mailbox.

MUNDAHL stated that the suspect then backed into a neighbor's driveway--after hitting the curb a number of times--and then took off, leaving the neighborhood.

MUNDAHL proceeded to follow the vehicle westbound on Burnsville Parkway, southbound on County Road 11, to northbound 35E. MUNDAHL stated the entire time he was following the suspect, he noticed the vehicle swaying back and forth using both lanes of the roadway, and in fact, hitting curbs and driving up onto the grass boulevard at times.

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 4

MUNDAHL stated that once on northbound 35E, he proceeded to follow the vehicle. It exited on Cedar Avenue, Cliff Road, back onto 35E, back onto Cedar, and a number of different roads and highways before it actually stopped at 101 McAndrews Road.

MUNDAHL stated he followed the vehicle to 101 McAndrews Road, and witnessed the driver, JOHNSON, exit the vehicle after he parked it in the front parking lot. MUNDAHL stated he witnessed JOHNSON hit two curbs as he proceeded into the apartment complex parking area, just prior to parking the vehicle.

MUNDAHL observed JOHNSON exit the vehicle, shut the door, and then respond back to the vehicle, unlock it, and it appeared he turned the headlights off and then left the vehicle again.

MUNDAHL followed JOHNSON into the 101 McAndrews Building, at which time he witnessed JOHNSON fall down in the front entryway of the building. MUNDAHL stated he believed JOHNSON was extremely intoxicated due to his driving and his inability to keep his balance and, in fact, stand upright when walking in the building.

MUNDAHL stated that at the time, JOHNSON was wearing what he believed to be, gray shorts and a T-shirt - possibly light-colored. He said his shorts were hanging extremely low, as almost to be falling off of him.

MUNDAHL witnessed JOHNSON get into the elevator, and he watched the elevator go to the second floor. When he saw the number 2, he then left the area and responded home.

I spoke to Victim #2, WOLANDER, who resides at 12708 Diamond Drive. WOLANDER was outside fixing his mailbox when I approached the neighborhood. He stated that he did not witness the accident, but he heard a vehicle had run into his mailbox. WOLANDER stated that his mailbox pole was still intact, but that the actual box of the mailbox had been thrown approximately 15 feet after impact.

I spoke, by phone, to Witness #2, HOLKER, who stated she had initially seen the vehicle bearing MN License 302 ESS, at approximately 1245 hours. HOLKER stated she was driving with her daughter, traveling eastbound Burnsville Parkway, to take her daughter to a friend's house located at the end of Burnsville Parkway. HOLKER stated she noticed the vehicle weaving back and forth, using the entire roadway. In fact, on Burnsville Parkway, she witnessed the vehicle hit a mailbox, at which time it flew over

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 5

the front hood of the vehicle, up over the top of the vehicle, causing it to hit the telephone antenna on JOHNSON's vehicle, and then down the back of the trunk of the vehicle.

HOLKER stated she immediately believed the driver was possibly intoxicated, so she dropped her daughter at 3417 E. Burnsville Parkway to make a phone call to the Burnsville Police Department.

It should be noted that it was not initially known that this call, and the call on Diamond Drive, were related, and at the time, officers were unable to respond to check for the vehicle.

HOLKER stated that she believes within the next ten minutes approximately, she followed this vehicle into numerous cul-de-sacs in the area of Tuxedo Park, which contains Tiffany Courts, Sable Drive, Diamond Drive, and other such streets in that neighborhood.

HOLKER stated she saw the vehicle hit numerous mailboxes, and recalls the vehicle hitting both mailboxes on Diamond Drive. She stated that she witnessed the vehicle driving in the far left side of the roadway on Diamond Drive, which is in opposing traffic, and that when it got to the end of Diamond Drive--which ends in a cul-de-sac and is actually where the address of 12729 Diamond Drive is--she witnessed the vehicle drive down the left side of the roadway and run directly into the mailbox located at 12729 Diamond Drive.

HOLKER stated she followed the vehicle all throughout Tuxedo Park and into cul-de-sacs. She stated she had to pull into driveways for fear of her safety, as the vehicle was traveling up and over curbs and hitting objects. She feared that he would hit her vehicle if she stayed within a cul-de-sac with the same vehicle.

HOLKER explained that once the vehicle left the neighborhood, she then followed the vehicle on westbound Burnsville Parkway towards County Road 11.

Prior to approaching Park Avenue, HOLKER stated there is a hill, and you cannot see the top of the hill or opposing traffic for eastbound Burnsville Parkway. She stated that at one point, the vehicle was traveling along the left curb in opposing traffic, and she was fearful that the vehicle was going to have a head-on collision if there was another vehicle heading eastbound and did not see this vehicle.

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 6

HOLKER explained that she followed the vehicle to County Road 11, at which time another vehicle pulled up next to her and she realized they were both following the same vehicle, both believing that the vehicle had an intoxicated driver behind the wheel. HOLKER did not know who the person was, but with explanation, she believes it was MUNDAHL.

HOLKER then followed the vehicle southbound on County Road 11, to northbound 35E, to northbound Cedar Avenue, to the Cliff Road exit. She stated that as they exited onto Cedar Avenue northbound, she believed the vehicle was about to go into the ditch, as he almost missed the cloverleaf turn for northbound Cedar. She explained he was driving in excess of the speed limit, using the entire width of the roadway, weaving back and forth. She believes other vehicles on the roadway had knowledge of what was occurring, and they attempted to stay away from the vehicle.

HOLKER stated that once they were at the Cliff Road exit from Cedar Avenue, she witnessed MUNDAHL follow the vehicle onto eastbound Cliff, although she had a red semaphore and was unable to continue to follow the vehicle at that point.

HOLKER described the lone occupant as a white male in his late 40s, wearing glasses, very thin light brown hair, and he was slouching to the left as he drove. She was unable to see any clothing, so she was unable to give a description on what he was wearing.

At approximately 1530 hours, I responded to 101 McAndrews Road to attempt to locate the vehicle bearing MN License 302 ESS. I located the vehicle parked outside in front of the 101 McAndrews building, and I noticed fresh damage on the vehicle. The right lower portion of the windshield had been damaged, and there were fresh scrapes and scratches along the front right quarter panel, and along the right rear view mirror of the vehicle. On both front tires, scuff marks were located around the entire tire, as if it had been rubbing along a curb or another such item, causing the rubber to be damaged.

The vehicle also had grass located under the front bumper, and there were numerous dents, scratches, and scrapes on the front hood, with marks on the roof and the trunk area of the vehicle. There was also a scrape down the left rear quarter panel of the vehicle, and along the left rear view mirror of the vehicle.

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
By: C.A. CARPENTER, #63	Date: 08-27-95 @ 1525 HOURS	Page 7

I responded to the lobby of 101 McAndrews Avenue, and located a R. JOHNSON on the registry. I learned that JOHNSON was listed in Apt. 204, and I attempted to make contact at that apartment. No one answered the door, and in using the phone system located in the lobby, an answering machine came on with a female's voice stating that she was not at home.

At approximately 1850 hours, I responded back to 101 McAndrews in an attempt to again make contact with the suspect, JOHNSON. Again, I was unsuccessful in making contact at Apt. 204, and I also noticed that the vehicle was no longer located out in the parking lot.

Another vehicle pulled into the lot and was entering the underground garage area to 101 McAndrews. I followed that vehicle into the garage. Immediately, as I pulled into the garage, I noticed in the third parking stall, a vehicle that had its driver's door standing open. As I got closer to the vehicle, I could see that the dome light was on, and when I pulled right behind the vehicle, I realized it to be MN License 302 ESS, and I noticed a set of legs on the ground outside the driver's door of the vehicle.

I approached the vehicle, which was parked directly straight into the parking space, and I noticed a white male sleeping across both the driver's and the passenger's seat in the vehicle. The person was snoring heavily, had drool coming down his lip, and appeared to have been in the vehicle for some time as he had some perspiration along his forehead. I could immediately smell the strong odor of an alcoholic beverage coming from inside the vehicle.

I requested Dispatch to send a second officer prior to attempting to wake the person in the vehicle. At approximately 1856 hours, Dispatch assigned Officer DES LAURIERS, Badge 42, to assist me.

While awaiting his arrival, I noticed that the vehicle had pulled into the parking spot and was sitting up against a garbage can and some bikes. It appeared as though he had pushed them into the wall.

Officer DES LAURIERS arrived at the scene, and I attempted to awaken the subject. It took me quite some time to bring the subject to consciousness. At first, I attempted to shake his shoulder in an attempt to awake him, but there was no response and

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BURNSVILLE POLICE DEPARTMENT		NARRATIVE REPORT
MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
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he continued to snore. I then grabbed the subject by both hips and attempted to shake him, and at the same time, calling for him to wake up stating, "Mr. JOHNSON, wake up." Again, he did not hear me.

I then started to slap his lower-left calf. I did this numerous times. After using a loud voice and slapping his leg, he did wake up in a drowsy state.

Immediately after waking up, he grabbed his chest area and stated that he had chest pain, and wondered if Mary had called us. I asked him why Mary would call, but he could not give an exact answer or reason to my question. He continued to state that his chest hurt, and he also explained that he felt he might be having a diabetic reaction.

I asked him to step from the vehicle, and I asked him what his name was. He explained that he was Bob JOHNSON. I asked him if he had a drivers license or some form of identification on him. He stated he believed he did, but he was unable to locate any on him. He did, however, pull his keys from his right-front pocket.

It should be noted that I noticed his wallet on the front seat. I asked if that would have his drivers license, and he stated, "Yes," and that I could get it for him. At that time, I handed it to him and he presented me with a MN drivers license showing him to be, Robert Alan JOHNSON, DOB: 12-01-45.

I asked JOHNSON if it was his vehicle and if he was the only one who drove the vehicle. He stated, "Yes." I also asked him if he had been drinking on this date, and he stated that he had a half a pint in the morning, but he did not give any further details.

JOHNSON was asked if he had been driving, or how he got into the vehicle. He was unable to give me an answer as to why or when. He appeared very confused. When speaking with me, he slurred his words to a great extent, and he had difficulty keeping track of what was occurring.

After stating that his chest hurt, and that he felt he may be suffering a diabetic reaction, I asked Officer DES LAURIERS to summons paramedics to check his medical condition.

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MOC: H&R/DUI/MISD TEST REFUSAL	Ticket: 5-343576	CF: 95016834
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Once Mr. JOHNSON stated he felt he was possibly suffering a diabetic reaction, I responded to my vehicle for my Alco-Sensor. JOHNSON provided a breath sample into the Alco-Sensor, and it registered a red "FAIL".

Paramedics Kully HAUSER, and Rick LARKIN, responded to the scene and assisted with an evaluation of JOHNSON. JOHNSON was escorted to the medic rig, and Officer DES LAURIERS assisted inside the ambulance.

It should be noted that Officer DES LAURIERS was involved with the contact inside the ambulance, and he completed a report stating his involvement. (See his report for details.)

Paramedics then requested that I check the vehicle for any possible trauma that may have occurred when JOHNSON was involved in the accident. I responded to the vehicle, but did not observe any signs of trauma showing that JOHNSON may have been hit in the head.

Paramedics also asked that I check for any medications, as he had explained to them that he was on medication. I was unable to locate any medications within the vehicle, but I did locate an empty codeine prescription bottle for Mary FAUST.

The paramedics made contact with their supervising doctor, and stated that JOHNSON was physically fit and able to be released to our custody. JOHNSON stated that he felt much better, and he did sign a Release Form with our paramedics.

JOHNSON was then placed under arrest for Physical Control for a Motor Vehicle While Under the Influence of Alcohol. He was placed in the rear portion of my squad car, and Officer DES LAURIERS completed an impound on the vehicle so it can be investigated for the Hit and Run and processed by Officer LIND. (See Officer LIND's report for details on his involvement.)

It should be noted that JOHNSON's wallet was removed from his vehicle, along with a \$20 bill which had been on the seat under JOHNSON when he was awakened. Inside his wallet, an Express Teller ATM receipt was located, dated 08-26-95, at 12:11 p.m. This receipt was sitting next to a State Capitol Credit Union Card, and it appeared that they were both placed back into the wallet after obtaining money from the ATM machine. This was placed into evidence.

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Once at the Burnsville Police Department, JOHNSON was read the Implied Consent Advisory at 1956 hours. The entire Implied Consent Advisory, and some further conversation was recorded on a tape cassette, and that was placed into evidence. (See the cassette for details.)

During the reading of the Implied Consent Advisory, JOHNSON continued to state that he had not been driving, and I continued to explain that I had not witnessed him driving prior to my arrival, but that he was, what I believed to be, in physical control of the vehicle, being that his keys were in his pocket, and he was actually inside his vehicle. He continued to state that he was not driving, but he did state that he understood the entire Implied Consent Advisory, and would wish to speak with an attorney.

I assisted Mr. JOHNSON in contacting an attorney who resides in Bemidji. JOHNSON asked that I contact Bemidji's Information and obtain the phone number for a Mary Kay KLINE, which I did. I obtained the number of 218/751-2566, and he asked that I call that number for him.

JOHNSON stated he made contact with KLINE, and that she gave him the name of, Jennifer WELLENER, with the phone number of 780-8187. She resides in Circle Pines. JOHNSON asked that I write down this person's name and phone number as he stated it to me, and I dialed the number for him, but he was unable to make contact. We tried to make contact with this person twice but were unsuccessful in doing so.

I then asked JOHNSON if he wished to return a call to Mary Kay KLINE, and he stated that he did not.

JOHNSON made a decision on his own regarding a breath test, and he stated that he would not be willing to take a test. (See the Implied Consent Advisory for details.)

At 2016 hours, JOHNSON was read his Miranda Warning per the Alcoholic Influence Report. He stated that he understood his rights, but would not be willing to answer any questions.

JOHNSON was then asked to contact someone to pick him up. He chose to call his father. Later, he stated his father would be picking him up, so at that time I explained the Notice and Order of Revocation form to JOHNSON. He continued to state that he did not

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understand the form, and he would not be willing to sign it because he was not driving. JOHNSON was told that the form would still be issued to him. He stated that was fine, although he did not sign it.

It should be noted that after all necessary paperwork was completed, JOHNSON still appeared to be confused as to why he was under arrest, as he was not driving and did not feel that he should be under arrest. JOHNSON was then told what had occurred during the day: He was told of the run-in's with the mailboxes involving his vehicle, and the fact that two witnesses had seen him driving the vehicle and one had actually followed him to his residence. JOHNSON was told that I had attempted to make contact with him at approximately 1530 hours, and that it was at approximately 1850 hours when I returned to his complex to again try to make contact with him. JOHNSON was told that that is why I located him in the underground garage, as I was, in fact, looking for his vehicle to see if it had been placed into the garage from the outdoor parking lot. JOHNSON was told that when I located him, he was asleep in his vehicle, and it took me numerous attempts to awaken him.

JOHNSON was not asked any questions at that point, he was only told why he had been arrested. He immediately started to cry, and repeatedly stated, "Oh God." JOHNSON started apologizing to me, and he continued to state that he did not, by any means, make any intentional moves to hurt anyone, and that he did not remember what happened during the day. Again, no questions were asked, and I continued to complete the rear portion of the Implied Consent Advisory. JOHNSON stated that he felt he needed some help.

I spoke with Sergeant VIVANT, and was told that the paramedics wanted JOHNSON to be with a capable adult for the evening, and not be left alone if, in fact, he thought he was suffering from some type of diabetic reaction.

I was told that his 87-year-old father was having trouble with directions getting to the police department, so he would not be a likely candidate to care for JOHNSON.

I responded back to the cell area and asked JOHNSON if he could think of someone else who could take care of him and respond to take custody of him. JOHNSON stated that he wished to call State Capitol Security to see if he could obtain a ride from someone at that location. JOHNSON was provided a phone, and he called 411 to

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obtain the phone number for Capitol Security. He received an answer on the other end of the phone, and he briefly explained to whoever answered the phone that he was under arrest, and he wished to receive a ride from the Burnsville Police Department. He then handed the phone to me and I asked him what he wanted me to explain to the person on the other end of the line. JOHNSON stated that he wanted me to tell them the truth, that he only wanted a ride home.

I took the phone, and the person identified herself as, Tanja, with Capitol Security. I briefly explained that JOHNSON was under arrest for DUI, and was attempting to gain a ride home and find someone to care for him. Tanja put me on hold briefly, and within a short time stated that her lieutenant would be unable to pick up JOHNSON, but he could attempt to call the State Patrol for assistance.

I summoned Sergeant VIVANT back into the holding cell area, and it was determined that we would not contact the State Patrol. If JOHNSON could not find a sober, capable person to take care of him, we would then be placing him in Detox. We did not feel that he was capable to care for himself.

JOHNSON stated that he wished to contact his girlfriend, Mary FAUST. He asked that I call 411, to receive the number of a, Jan ISAACSON, who lives on Rice Street in St. Paul. JOHNSON stated that Mary FAUST was taking care of a friend at that location.

I received the phone number of 489-6644, and dialed that number for JOHNSON. He was able to make contact with Mary FAUST, and explain the situation.

I then briefly spoke with Mary FAUST, at which time JOHNSON stated that I should tell her the entire truth. I explained what had occurred during the day. Mary stated that she had been at her residence most of the day, but that at approximately 1515 hours, she left the residence with JOHNSON still there, and that she returned home at approximately 1615 hours. She stated that at approximately 1700 hours, both she and JOHNSON left the residence with the understanding that JOHNSON was going to take his own vehicle to get food, and then return home. FAUST stated that she was going to her friend's house and that she did not see if JOHNSON actually made it to his vehicle, but she believed he was going to his vehicle to go and get food for that evening.

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FAUST stated that she knows JOHNSON was gone for a short time earlier in the day, and when he responded home, he immediately stated that he wanted to sleep, and she did not have a long conversation with him at that time. FAUST stated that she was unaware that JOHNSON had been drinking, as he immediately went to sleep and was still sleeping when she ran her errand prior to leaving for her friend's house at 1700 hours.

FAUST stated she believes JOHNSON has a drinking problems, and that she would be willing to take custody of him for the evening.

After I disconnected with FAUST, JOHNSON immediately broke down and started crying heavily, and he admitted that he was an alcoholic, but had been sober for 20 years. Over the past year approximately, he had started drinking again. He was still very apologetic, and he continued to state, "Oh God," that he could not believe what had occurred throughout the day.

JOHNSON was released to FAUST at 2300 hours, with citation 5-343576, and a Notice and Order of Revocation, 791814.

On 08-27-95, prior to 1100 hours, JOHNSON and FAUST responded to the Burnsville Police Department to pick up JOHNSON's vehicle. Sergeant VERTNIK assisted JOHNSON, and stated that JOHNSON would have to respond back to the police department at 1100 hours when I arrived, so I could assist him. Sergeant VERTNIK explained that he believed he smelled the odor of an alcoholic beverage on JOHNSON's breath when he spoke with him that morning, but at that point, he was not driving.

At approximately 1120 hours, JOHNSON and FAUST arrived at the Burnsville Police Department and asked to speak with me. I responded to the lobby area, and when I made contact with JOHNSON, I could immediately smell the strong odor of an alcoholic beverage on his breath. They were the only two there to pick up the vehicle, and he stated he would be driving it home.

I asked JOHNSON if he had been drinking on today's date and he stated that, no, he had had nothing to drink since his arrest last evening at 1900 hours. I asked JOHNSON if he would provide a breath sample into an Alco-Sensor to determine if he was okay to drive. He agreed with that.

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JOHNSON registered a .099 percent, which is at the limit for drinking and driving. JOHNSON continued to insist, in front of FAUST, that he had not consumed any alcohol since last evening's arrest, and he stated he felt he was capable to drive. I explained that due to his level of intoxication being at that point, he would be unable to have the vehicle unless another driver arrived to take control of the vehicle.

Approximately 20 minutes later, they arrived back at the police department with a second male. The vehicle was released to JOHNSON.

I then responded to East Burnsville Parkway to check for any other damaged mailboxes in the area. I located mailboxes at 3409 E. Burnsville Parkway, and 3424 E. Burnsville Parkway. Both appeared to have fresh damage, although the mailboxes only had scrapes on the posts of the mailboxes.

I also located a mailbox at 12648 Tiffany Court which had a large dent in the box, and it appeared to have fresh damage.

STATUS:

Cleared by Arrest.

Reported by: Officer CARPENTER, Badge 63

Transcribed by: P. Wermus, 08-30-95

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OC TITLE H&R / .DUI	REPORTING OFFICER CA Carpenter	BADGE NO. 63	Case File # 95016834
FORM USED TO REPORT FOLLOWUP INVESTIGATION OR SUPPLEMENTAL INFORMATION	TICKET NUMBER 5-343576	DATE AND TIME REPORT MADE 8-29-95	

NARRATIVE:

ON 8-29-95 I received information from officer Adrian regarding a damaged mailbox. ON 8-28-95 officer Adrian spoke with:

Anne Marie Cook, DOB/12-28-61
 3305 E. Burnsville Pkwy.
 PH# 894-4202

who stated that her mailbox was run over on 8-26-95, valued at \$40.00. It is believed that her mailbox was damaged during the H&R in which I arrested Johnson. (See CF# 95016964 / ICR only)

STATUS: Cleared by Arrest

TRANSFERRED TO	BADGE	DATE	SHIFT COMMANDER APPROVAL EJS	FORMAL COMPLAINT NEEDED <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> GROSS MISDEMEANOR <input type="checkbox"/> FELONY	TAPED NARRATIVE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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1 STATE OF MINNESOTA
2 COUNTY OF BELTRAMI

IN DISTRICT COURT
NINTH JUDICIAL DISTRICT

3 -----

4 STATE OF MINNESOTA,

FILE NO. K4-95-1198

5 Plaintiff,

6 vs

SENTENCING

7 ROBERT ALAN JOHNSON,

8 Defendant.

9 -----

10 The above-entitled matter came on for hearing before
11 the Honorable James E. Preece, one of the Judges of the above-
12 named Court, on Monday, the 4th day of December, 1995, in the
13 Courthouse of the Beltrami County Courthouse, in the City of
14 Bemidji, in the County of Beltrami and State of Minnesota.

15 APPEARANCES:

16 Randall R. Burg, Esq., Assistant County
17 Attorney for Beltrami County, 204 Fourth Street, P. O. Box
18 1653, Bemidji, Minnesota 56601, appeared for and on behalf of
19 the State of Minnesota.

20 Robert M. Wallner, Esq., Attorney at Law, 514
21 America Avenue, P. O. Box 880, Bemidji, Minnesota 56601,
22 appeared for and on behalf of the defendant, who was also
23 personally present in court.

24

25

1 WHEREUPON, the following proceedings took place
2 in open Court:

3 THE COURT: State versus Robert Johnson.

4 Mr. Johnson, you are before the Court for the
5 purpose of imposing sentence. Is there anything you may
6 wish to say?

7 THE DEFENDANT: No.

8 MR. WALLNER: Your Honor, we have reviewed the
9 PSI and concur with the recommendations. One of the
10 conditions, as you recall when we appeared previous, was
11 that Mr. Johnson go into treatment and follow up. And
12 therefore, I have submitted to the Court what I have
13 already provided to the County Attorney, which is
14 verification of completion of the 28 days, successfully,
15 and then verification that he is enrolled in the
16 outpatient aftercare that was recommended by the primary
17 treater. This is to let the Court know he has
18 completed one and is doing the other.

19 MR. BURG: Your Honor, the State received and
20 reviewed a copy of the presentence investigation report.
21 And would only note the following: The presentence
22 investigation report recommendation the imposition of
23 separate sentences on the two charges to which Mr.
24 Johnson has pled guilty. This recommendation is
25 inconsistent with the decision of the Minnesota Supreme

1 Court in the case of State versus Simon. That decision,
2 as the Court will recall, indicates that the offenses of
3 gross misdemeanor DWI and gross misdemeanor Refusal to
4 Submit to Testing arise out of a single behavior
5 incident, and therefore Minnesota Statute 609.035
6 prohibits the imposition of multiple sentences on
7 convictions on those matters.

8 As the Court is aware, Minnesota Statute 609.035 has
9 been subsequently amended and those amendments
10 legislatively overruled the Simon decision, but only in
11 relation to individuals having two or more prior impaired
12 driving convictions at the time of sentencing, and Mr.
13 Johnson has but one prior DWI at this time, he is
14 entitled to the benefit of the Simon decision.

15 Therefore, the State would - I should say the State
16 would note that the Simon decision only prohibits
17 multiple punishments and does not prohibit multiple
18 convictions. So we would request that the Court accept
19 the guilty pleas that Mr. Johnson has entered and convict
20 him of both of these offenses, but that he only receive a
21 single sentence on the gross misdemeanor DWI conviction.
22 And that that sentence imposed, conform to the
23 recommendations in the presentence investigation.

24 Again as Minnesota Statutes 169.121 Subdivision 3
25 (e) requires that consecutive sentences be imposed on

1 separate DWI's incidences, and we would ask that the
2 Court require that the sentence it imposes here today, be
3 consecutive to that imposed on Mr. Johnson in relation to
4 his Dakota County conviction, should it be necessary for
5 this sentence to be executed.

6 MR. WALLNER: There are a couple of other
7 matters, Your Honor, that Mr. Burg and I didn't bring
8 before you.

9 One is that the PSI doesn't directly say and I know
10 you indicated on the record, that Mr. Johnson would get
11 credit for the 28 days. I am sure that is what it meant
12 and you are aware of that. And we wanted to bring that
13 to your attention.

14 Second thing was, the defense of double jeopardy be
15 reserved in this case and I have talked to Mr. Burg about
16 that.

17 MR. BURG: No objection to either of the
18 requests, Your Honor.

19 THE COURT: All right. They are granted.

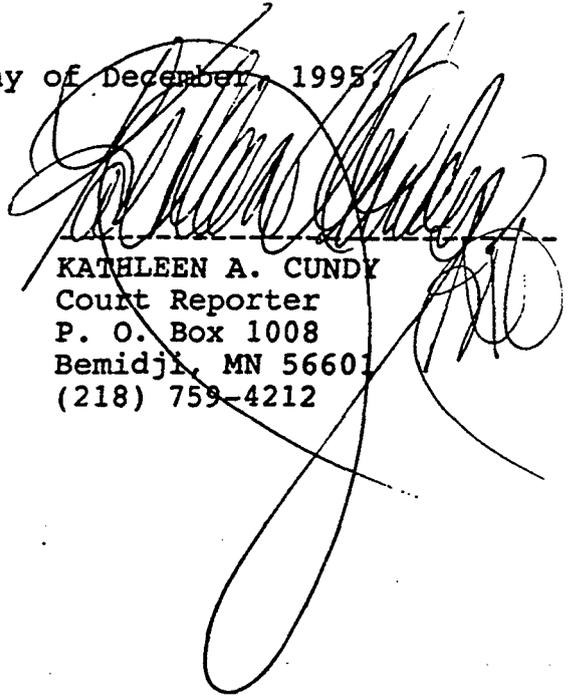
20 Well, Robert Alan Johnson, the Court will accept the
21 pleas you heretofore entered on the 27th day of November,
22 1995, to the charge of Habitual Offender DWI and gross
23 misdemeanor Refusal to Submit to Testing, and it is
24 determined and adjudged that you are guilty of these
25 offenses.

REPORTER'S CERTIFICATE

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I, Kathleen A. Cundy, hereby certify that the foregoing proceedings, is a full, true, and correct transcript of the notes taken by me on the hearing of the above-entitled matter.

Dated this 4th day of December, 1995



KATHLEEN A. CUNDY
Court Reporter
P. O. Box 1008
Bemidji, MN 56601
(218) 759-4212

UNIVERSITY OF MINNESOTA*Twin Cities Campus**Division of General and Preventive Medicine
Department of Medicine
Medical School**Box 741
420 Delaware Street S.E.
Minneapolis, MN 55455
612-626-1477
Fax: 612-624-3189*

January 3, 1996

*PWR*RE: Robert Alan Johnson
UH#: 1058236-1**TO WHOM IT MAY CONCERN:**

This letter is a response to a request from representative Robert Johnson for a statement regarding medical illness.

Mr. Johnson has been followed at the University of Minnesota since at least 1989. He was hospitalized in December 1990 for a right L4-5 herniated nucleus pulposus (herniated disk) at which time he underwent a surgical correction by hemilaminectomy at right L4, as well as an L4-5 discectomy.

Records from that hospitalization note that he has been hospitalized as far back as 1971 with low back pain with intermittent outbreaks that responded to conservative therapy. Recurrent pain after the operation resulted in an MRI study in 1992 which demonstrated recurrent disk herniation at the L4-5 level without nerve compression. Follow up nerve conduction studies were within normal limits.

Impression from Dr. Ensor E. Transfeldt, Associated Professor and Director of the University of Minnesota Spine Service was that given significant disk degeneration at the L4-5 level, that this instability may be responsible for back pain. However, without significant motor or sensory deficit recurrent to surgery, it would not be indicated.

Mr. Johnson was then referred to me in October 1993, and I have been his physician since that time. In my first visit, Mr. Johnson noted that he had been having four days of significant back pain after raking leaves and that was refractory to cold packs, heat to his back, as well as low back exercises and high-dose nonsteroidal anti-inflammatory agents. At that time, he denied consuming significant amounts of alcohol.

My impression at our first visit on October 22, 1993, was that this was chronic low back pain with acute injury. He was treated with muscle relaxants, as well as low dose codeine medication. He was also seen in Orthopedic Clinic as well. I should also note that in 1993 he was being followed by Dr. David Wilcox in Bemidji, Minnesota.

I saw Mr. Johnson in December 1993 for a rotator cuff tear which required both pain medications and physical therapy. Additional visits in 1994 were on a semi-urgent basis for exacerbations of low back pain, gastroesophageal reflux/heartburn, bronchitis and vasomotor rhinitis. Additionally, we discussed in extensive detail the points of smoking cessation, as well as in 1994 and 1995. At no point did alcohol use enter the picture.

PwR

In 1995, representative Johnson was seen again on several occasions for acute illnesses, including sinusitis, bronchitis/pneumonia and exacerbation of low back pain.

Representative Johnson was seen in the Bemidji Emergency Room on September 22, 1995. A chest x-ray was clear. On September 25, 1995, I was contacted by phone by representative Johnson from Bemidji regarding what sounded like an exacerbation of bronchitis. I noted that "he sounded distressed, markedly hoarse and desperate". He noted a good friend had died and also that he himself had hit a deer. I prescribed oral antibiotics over the phone without physical examination. He was seen in the St. Cloud ER on September 28, 1995. He was seen on September 29, 1995 by my nurse practitioner Monica Overkamp with a chief concern of sweating, decreased energy, diarrhea, cough, sore throat and sinus congestion for two weeks. He noted that he also had a bloody nasal discharge and chest pain with coughing. He noted that he had been in bed for the past nine days. He had diarrhea before and during antibiotic treatment. Physical examination was remarkable for blood pressure being markedly elevated and being afebrile. Impression at that time was that he was on appropriate antibiotic therapy, Robitussin with codeine was prescribed for cough. He was urged to call if no improvement by Monday October 3, 1995.

On October 3, 1995 we received numerous phone calls from representative Johnson. He noted the persistence of hacking, bloody nasal discharge, hurting teeth, diarrhea for 13 days, burning of his upper chest and lower throat, weakness, cold sweats, poor sleep, restless feeling and difficulty breathing. Arrangements were made for him to be seen on October 4, 1995.

University records demonstrate that his last visit was September 29, 1995. Our last phone contact was on October 10, 1995, where his chief concern was "still sick, I coughed so hard I threw out my back", sweating, no fever or cough, continuing productive phlegm and body aches. He was requesting narcotic pain medication and codeine-based cough syrup as well as antibiotics.

My recollection is that at our last visit, we discussed the issue of narcotic pain medications for recurrent low back pain and need to minimize this. Of note, Valium and strong narcotic pain medications, such as Tylox, had been used in the past prior to his coming to the University of Minnesota. Of note and of surprise to me was concurrent visits to a psychiatrist in the Twin Cities area and the use of appropriate antidepressant medications since July 1995. Representative Johnson denied significant alcohol use. At our last visit we discussed this in detail. He mentioned that others had expressed concern about this and that he had spoken with a good friend who is an alcohol counselor in the Red Lake, Minnesota region and that he had been cleared. He promised to monitor his use.

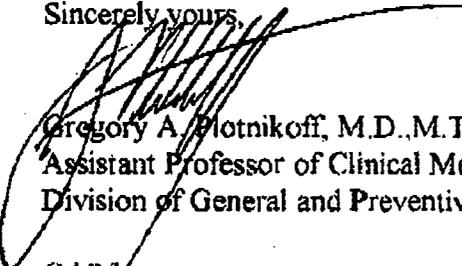
This letter should confirm the following facts:

1. Chronic low back pain with demonstrable pathology. He has required intermittent narcotic pain medication for continued functioning.
2. No documentation of alcoholism, although issue had been addressed in the past.

3. Concurrent significant illness in late September and early October 1995 with phone calls reporting medical distress on September 25, September 28, October 3 and October 10.
4. No reporting by representative Johnson of difficulties with alcohol or legal complications of alcohol use.
5. Concurrent psychiatric evaluation and therapy by a physician unknown to me as his primary care physician.
6. Emergency room visit on September 22, 1995 at Bemidji Hospital.
7. Emergency room visit on September 28, 1995 at St. Cloud Hospital.
8. Clinic visit at UMIC on September 29, 1995.

If you have any questions or concerns, please do not hesitate to contact me here at the University of Minnesota Hospital and Clinics.

Sincerely yours,


Gregory A. Plotnikoff, M.D., M.T.S.
Assistant Professor of Clinical Medicine and Pediatrics
Division of General and Preventive Medicine

GAP/jam

PWR



**Range Mental Health Center, Inc.
at MESABI REGIONAL MEDICAL CENTER**

Offices in Virginia, Hibbing & Ely, MN
750 East 34th Street, Hibbing, Minnesota 55746
MENTAL HEALTH SERVICES - (218) 262-6970 MN Wats 1-800-450-7646
CHEMICAL DEPENDENCY SERVICES - (218) 262-6963 MN Wats 1-800-450-7826

Chief Executive Officer
Miller A. Friesen

November 28, 1995

Robert A. Johnson
1075 Washington Ave, Apt. 15
Bemidji, MN 56601

Re: Robert A. Johnson
Age: 49

To Whom It May Concern:

This letter is being written to verify that Robert A. Johnson, age 49, did successfully complete a 28 day chemical dependency treatment program at Range Treatment Center/University Medical Center-Mesabi, Hibbing, Minnesota. Mr. Johnson was admitted to our facility on 10/12/95 and was discharged With Staff Approval on 11/8/95.

Mr. Johnson did make positive growth in addressing his alcoholism and meeting other change objectives to his identified problem areas. Mr. Johnson did address the first five steps of Alcoholics Anonymous and completed an excellent fifth step, according to clergy.

Recommendations are that Mr. Johnson abstain from alcohol and all other mood-altering chemicals, attend a minimum of two weekly A.A. meetings, have consistent contact with his A.A. sponsor, complete an aftercare program at Fairview Hospital in Burnsville, Minnesota, receive individual ongoing counseling, and medication management follow up for depression. It is felt that based on Mr. Johnson's treatment and aftercare plan that he has a good prognosis for maintaining a quality sobriety.

If I can be of any further assistance, please feel free to contact me at Range Treatment Center (218) 262-6963.

Sincerely,


Ted Thordarson, CCDCR
Primary Therapist
Range Treatment Center

TT:jb

PWF

DAVID L. STAGNER, M.D.

Adult And Child Psychiatry

Psychoanalysis

Suite 312

1600 University Avenue

Saint Paul, Minnesota 55104-3825

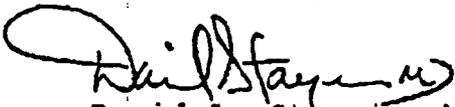
Telephone: (612) 647-9654

27 November 1995

To Whom it May Concern:

This letter is written at the request of Mr. Robert Johnson and is submitted to him for further distribution. He is under my care and has met with me on two occasions, 14 and 24 November 1995, since being discharged from inpatient treatment for alcohol abuse. His diagnosis is major depression and alcohol abuse. He is being treated with an antidepressant. He is also attending AA meetings with regularity and an after treatment group meeting in the Twin Cities area. He has an AA sponsor in the Bemidji area and plans on having one in the Twin Cities area after serving his time in the county jail. It appears to me that he recognizes the extreme seriousness of his alcohol problem and is motivated to address the recovery process in a sincere and committed manner. His prognosis to remain alcohol free is directly related to his continuing work with AA and at this point appears good.

Respectfully submitted,



David L. Stagner, M.D.

pwr

Fairview
Ridges Hospital

A Division of Fairview

201 Nicollet Boulevard
Burnsville, MN 55337-5799
612-892-2000
Fax: 612-892-2107



Re: Robert A. Johnson
DOB 12/1/45

To whom it may concern:

This is to verify that the above named is currently enrolled in the Phase II or Aftercare program at Fairview Ridges Behavioral Services. Bob began the program on the fourteenth of November and has been honest and forthright with his group about his journey in getting here. He has expressed his opinion that he would likely be serving jail time, but that his plan was to get involved with us and continue after his legal obligations had been satisfied. This plan was confirmed by Bob on November twenty-seventh when he called to report that he would be serving his time, but hoped to be out around the twentieth of December.

Bob is involved with a weekly program that meets for an hour and a half each Tuesday night. Typical of our expectations for a member of this group is to spend three to six months in this group before graduating from the program entirely. However, most of the members of this group are made up of men who have done their primary treatment here as well. Therefore, it would not be unreasonable to anticipate that Bob might be here a bit longer since everyone is new to him and the program is different from his own primary program. This is subject to negotiation, and given Bob's motivation for recovery (as he has presented himself to us), he would seem well on his way to putting a satisfactory recovery program together for himself. In this part of the program, people pretty much know when it is their time to move on; their group usually knows it, too. What we tend to look for is a stable base of support from a consistent relationship with AA and a sponsor and a lifestyle using the 12 step model. Stability in relationships and at work are important and we use this period of time for men to pick up the pieces of their lives. Group discussions and topics and assignments focus on preparing the client for dealing with the world as a sober person. Presenting high risk situations to group and the escape plan would be typical of assignments given. Time is spent looking at spirituality as well since most men have repair work to do in this area.

Bob's treatment plan has not been completed as of yet and while Bob has only been here two times, he certainly seems sincere and eager to become part of the group. We look forward to his return. Once Bob has returned to active involvement with our group, releases can be signed and any further information can be forwarded to you. I will be available at (612) 892-2114.

Sincerely,

Steve Helgesen, MA CCDP
Lead Counselor, Adult Outpatient Program

PWR

STATE OF MINNESOTA
Department of Corrections

NO DUPLICATION
Without
COURT APPROVAL

PRE-SENTENCE
INVESTIGATION REPORT

County Beltrami	Judge James E. Preece	District Court File No. K4-95-1198
Report By (Name) John C. Countryman	Supervisor Richard W. Crawford	Date of Report 11/30/95
Name (as given in court record) Johnson, Robert Alan	Address 1075 Washington Ave, Apt 15 101 McAndrews Ave. #204	City, State, Zip Bemidji, MN 56601 Burnsville, MN 55337
True Name Same	Telephone No. (Include Area Code) (218) 759-9748 (612) 898-5968	Aliases-Nicknames None

PERSONAL DATA

Birth Date 12/1/45	M (X) F ()	Birthplace Minneapolis, MN	Citizen (X)Yes ()No	Social Security No. [REDACTED]		
Religious Preference Lutheran	Race/Ethnic Group (X)White ()Black ()Indian ()Hispanic ()Asian/Pac. Islander ()Other					
Complexion Medium	Height 5'10"	Weight 200 lbs	Build Medium	Eyes Blue	Hair Brown	Marks and Scars-Description Scar on right thigh
Last School Attended Roosevelt High School	Date Left 1963	Grade Completed 12th	Subsequent Training Bemidji State and U of Minn. 1971 graduate, Soc. & Psych.			
Military Service Record:		- NA				

OFFICIAL DATA

Convicted Offense & Statute No. Ct 1: Habitual Offender DWI; MSA 169.121, Subd. 1(a); Subd. 3(c)(1). Ct 2: GM Refusal to Submit to Testing; MSA 169.121, Subd. 1(a), Subd. 3(c)(2).	Where Committed Beltrami County	Date Committed 10/11/95	
()Verdict (X)Plea	Date 11/27/95	Place of Arrest Bemidji, MN	Arrest Date 10/11/95
County Attorney Randy Burg	Jail (Days) 10/11/95-10/12/95 & 11/27/95-Present	Arresting Agency & Officer's Name(s) Beltrami Co. Sheriff's Dept. Deputies Kovacic, Atwater, & Winger	
Defense Attorney Bob Wallner	Bond/Bail NA		
Accomplices: NA			

Disposition:

Post-It™ brand fax transmittal memo 7671 # of pages > 5

To PAUL Rogo	From Bill KAIN
Co.	Co.
Dept.	Phone # 612/252-0380
Fax # 612/451-4454	Fax #

put 12

DATE	OFFENSE	PLACE	DISPOSITION
09/01/95	DWI	Dakota County	0-1 yr. stay of imp. \$241.50 fine. CD eval. \$125 CD eval charge. no alc or related offenses.
09/95 01/14/95	Agg. DWI Speeding	Sherburne County	Pending.

CHEMICAL DEPENDENCY TREATMENT () NO (X) YES IF YES, WHERE LAST TREATED
 Range Mental Health Center, Discharged November 1995.

EMPLOYMENT: Name & Address	Type of Business	From	To	Occupation	Salary
State Representative Bemidji Public Schools	Politics Education	1986 1995	Present Present	Government Social Worker	\$30,000/yr \$33,000/yr

COMMENTS/RECOMMENDATIONS

The defendant was cooperative during the preparation of this report.

It is this agent's recommendation that the defendant be sentenced on each count as follows.

Count I: Habitual Offender DWI

1 year in the county jail, execution of sentence stayed 2 years, with the following conditions.

1. Serve 60 days in the county jail with credit for time served.
2. Abstain from the use of alcohol.
3. Refrain from entering establishments where alcohol is served.
4. Participate in and successfully complete the Bemidji area Community Response to Crime Program.
5. Continue with chemical dependency treatment aftercare programming and mental health counseling.
6. Pay a fine in the amount of \$1,000 with the standard court costs.

Count II: Refusal to Submit to Testing

1 year in the county jail, execution of sentence stayed 2 years, with the following conditions.

1. Cooperate with all conditions as outlined above.
2. Commit no same or similar offenses.

There is no confidential section with this report.

Respectfully submitted,


 John C. Countryman
 State Parole and Probation Agent

prk

PKR

MID-STATE PROBATION DEPARTMENT

ALCOHOL PROBLEM ASSESSMENT

Court File # 89-95-1722

Name Robert Alan Johnson Address 1675 Washington Blvd #15
City Bermuda State MD Zip 21601 Phone: H-318-759-9788
DOB 12/11/45 Ser 77 Marital Status Single of Dependents 0
DL # T-5225-745-046-917 SS # [redacted] Education GED

Military Occupation Legislator Family Income 30000 Health Ins. Y
Offense(s) DWI BAC .30 #Prior Alcohol Related Offenses 2

Date of Offense 9/28/95 Date of Assessment 12/15/95

Diagnosis Chem Depend Drugs used: X alcohol barbiturates

Previous Drug Education or Treatment 11/8/95 Disph
cocaine marijuana hallucinogens cocaine narcotics stimulants Other

RECOMMENDATION
Amount of Fine 2000 Suspended 1500 Jail 365d Suspended 335d
Count 2 Suspended Jail Suspended

CONDITIONS Considered after care, abstain from alcohol, attend
AA & continue mental health counseling. Take
medication as prescribed. Attend MADD panel.

COMMENTS
Def indicates he is aware he is physically dependent
and serious issues relating to depression.
Def states he quit drinking 15 yrs ago but that he started to drink
in past this is closely associated with
depression issues. Def completed primary
CD TF in Baltimore, is presently
under psychiatric care and taking pre-
scribed med's for depression. Def appears
to be addressing CD and mental health issues.
and willing to take full responsibility
for his actions.



State of Minnesota
Department of Public Safety
Chemical Use Assessment Report
Send with notice of conviction

pub

Name Robert Alan Johnson DOB 12/1/45 DL# J-525-745-CHK-917
 Date of Offense 9/28/95 Date of Assessment 12/15/95
 Court Case No. 49-95-1722 County of Assessment Dubuque

Instructions:

- For treatment or education referrals and recommendations, circle the assessed problem level and letter to indicate referrals required by the court and the assessor's recommendations. The assessor's recommendations will be considered for DPS relicensing requirements. (Letters are for data entry only.)
- The arrest, prior history, collaterals, and no action sections must be completed.

.30 Alcohol concentration at arrest _____ Refused test
1 Number of prior alcohol related license revocations within the last 5 years
1 Number of prior licensed CD treatments within the last 5 years
NO Illicit drug use within the last year (Yes/No)
1 Number of collateral contacts reached for assessment

Level 0		No apparent problem			
Court	Assessor		Court	Assessor	
R	R	DWI clinic Family or ind. counseling	Q	Q	Alcohol problems lectures Further assessment
U	U		T	T	

Level 1		Risk Status			
Court	Assessor		Court	Assessor	
Q	Q	Alcohol problems lectures Support group Alcohol abuse programs	U	U	Family or ind. counseling Further assessment
O	O		T	T	
P	P				

Level 2		Chemical Abuse			
Court	Assessor		Court	Assessor	
M	M	Outpatient treatment Aftercare Support group	P	P	Alcohol abuse programs Family or ind. counseling Further assessment
N	N		U	U	
O	O		T	T	

Level 3		Chemical Dependency			
Court	Assessor		Court	Assessor	
L	L	Inpatient treatment Outpatient treatment Combination in/out tx Aftercare	Y	Y	Extended care Relapse prevention program Support group Family or ind. counseling Further assessment
M	M		Z	Z	
X	X		O	O	
N	<u>N</u>		U	U	
			T	T	

MADD Paul

EXPLAIN WHY NO ACTION IS RECOMMENDED:

- 1) No apparent problem
- 2) No Health insurance or public treatment funding available
- 3) No appropriate programs available
- 4) Not amenable to rehabilitation

Chemical use assessments must be done according to MS 169.126 and Minn. Rules, Chap. 7408 and 9503.

MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION: STATE PATROL
FIELD REPORT

DISCOVERY

1. Station Number: 2630 2. County: Sherburne 3. Case #: 95,604,624
4. Type of Report: Arrest# KL 4228 Supplemental
Incident Report Juvenile Report
5. Nature of Incident: GROSS MISDEMEANOR D.W.I. LAWS - 169.129; 169.121
sd 3 (c) (1); Violate Limited D/L - 171.30; Drive
After Revocation - 171.24.
6. Date: 09-28-95 7. Time: 1400 hrs
8. Location: USTH-10 e/b east of MNTR-301 vicinity of CSAH-3
9. Subject/Victim: Robert Alan Johnson (def) 10. DOB: 12-01-45
11. Address: 1075 Washington Ave # 15 Bemidji, MN 56601
12. D/L#: J-525-745-040-917 (MN) 13. Telephone:
14. License Veh #1: 408-MBP (MN) Make: Ford Year: 1990
Model: 4 dr Taurus Color: blue VIN: 1FACP52U6LG185288
15. Owner: Robert Alan Johnson (def)
Address: as listed above
16. Witness #1: Curt Ostman Telephone:
Address: 8038 - 242nd Ave NE Stacy, MN 55079
17. Witness #2: Norm Blachard Telephone:
Address: 1480 Today Hastings, MN 55033

Writer of this report is: Cpl Marvin E. Felderman, Jr. #101

23. Narrative: At 1400 hrs I was in the down town area of St. Cloud when the MSP RCO put out a call of a possible drunk driver east bound on Hwy-10 in the St. Cloud area. I got back in my squad and expedited to Hwy-10 and went east. At 1408 hrs as I was clearing town I was notified that the alleged drunk driver had been stopped by a truck driver and was on the side of the road east of St. Cloud. At 1412 hrs I arrived at the scene and observed three vehicles stopped on the east bound right shoulder. There was a car and then a semi stopped immediately in front of the car and another semi which was stopped further east of them. There were two males at the car and they were attending to a person who was sitting in the front driver's seat of the car. I went to the car.

One of the Good Samaritans told me that the driver of the car was unconscious, but that when he had gone to the car to assist, the driver of the car was alert and conscious and told this Good Samaritan that he was a diabetic. I was told that the driver of the car had told this good Samaritan that he knew he was in the St. Cloud area and that he was on Hwy-10. I tried to awaken the driver but he did not stir. I began first aid,

TROOPER SIGNATURE: Marvin E. Felderman, Jr.

DATE: 10-12-95

ICR NUMBER: 95,604,624

noting his respirations were very shallow, finding a pulse, and making sure the air way was open. I called the MSP RCO and told him to get the ambulance to the scene as quickly as possible that I thought the driver might be in diabetic coma.

Both of the Good Samaritans and I tried to find some glucose which many diabetics often carry with them, but none of us were successful. We checked in the glove box, in a brief case and in some of the clothes that were in the vehicle. We could not find keys for the trunk. I noted several cans of soda pop in the vehicle, one of which was a closed can of regular 7-Up, (This was the only can that had any contents in it that I saw, and all the rest of the cans were sugared pop and the contents were gone. This surprised me!) In fact I did not notice any diabetic materials such as insulin or a hypodermic or medications and one of the Good Samaritans (I do not recall which one) made a comment about being surprised there was nothing to indicate the subject was a diabetic. I continued to monitor the subject and when the ambulance arrived I advised the paramedics of the situation. After I assisted putting the subject on the gurney I went back to the squad to make a custody sheet for a tow truck. One of the Good Samaritans gave me an envelope with the name Robert A. Johnson on it. This person told me that the driver had responded to the name when he initially had been addressed. He thought I might be able to use this when I got to the hospital. At no time did I see a driver's license or any other ID.

I wrote the names of the Good Samaritans on the back of the envelope, got their addresses and thanked them for their assistance. While waiting for the tow truck to arrive one of the paramedics came back to the squad and told me that the subject had a blood sugar of 197, which this paramedic told me was not unusual, that they were not going to administer any medications for that. He told me the reading might indicate that the subject was not in diabetic distress. Although I had my face less than six inches from the subject's face when he was still in the car and behind the steering wheel I was unable to detect an odor of an alcoholic beverage. However, my suspicions were being enhanced that this might indeed be a DWI violation based on my observations of the subject, the comment about the blood sugar results, the lack of any apparent diabetic material, the number of cans of pop that were empty, past experience with violators and friends, etc.

As I was waiting for the tow truck to arrive I was told by the MSP RCO that the registered owner of the vehicle, a Robert Alan Johnson DOB/12-01-45, had a D/L status that was LIMITED, but that he appeared to be REVOKED. (On 10-06-95 I requested a certified copy from driver's license division.) I inquired as to why the D/L was REVOKED and I was told that it appeared to have been from a DWI conviction on 08-26-95. The tow truck driver took the vehicle and at 1432 hrs I was enroute to the St. Cloud Hospital.

While enroute to the hospital I called my Lt., Roger A. Anhorn #810 to ensure I knew the proper procedure, relative to the Implied Consent Advisory, for drawing blood from a person who was unconscious. I did. I arrived at the hospital at 1447 hrs.

I went into the Emergency Room and learned the subject was in a room and was being evaluated by medical personnel. I was told that the subject was still unconscious and I was asked what I knew about the subject's problems

TROOPER SIGNATURE: *M. P. M.*

at the scene. I gave my observation to this person who then went back into the subject's room. Shortly thereafter this person returned to me and told me that while he was doing his evaluation he had pressed on the subject's abdomen to check for internal injuries and that the subject had belched and that when he belched there was a "strong" odor of an alcoholic beverage.

I requested that a Medical Technician be summoned for the purposes of drawing blood from the subject. I had BCA blood kit #205259, and noted that it was sealed properly. I opened the kit and observed that all the contents were in it, and that the white powder was in each of the vials. I filled out the necessary forms which are a part of the kit and awaited the arrival of the Med Tech. While waiting for the Med Tech the person who had told me that he had smelled an alcoholic beverage about the subject came to me and told me that he had located a check book that apparently belonged to the subject and that the name on it was Robert Johnson, State Representative. I did not see this check book at any time.

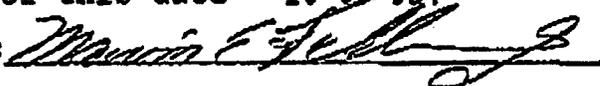
The Med Tech arrived and I explained the situation to her telling her that I was going to have her draw blood from the subject, that I believed him to be under the influence of alcohol and that he was unconscious. We went into the room and the subject was still unconscious. I now could smell an odor of an alcoholic beverage about the subject. I noted his breathing to be continuous, yet appearing to me to be shallow. Every few breaths the subject would exhale in a blubbery fashion (similar to a reverse snore or a/oral flatulence). I said "Robert Johnson" and the subject did not reply or move. I gave the kit to the Med Tech and she took the needle, the two vials and the betadine swab from the kit. At 1510 hrs I watched the Med Tech swab the subject's right arm with the betadine solution and then draw blood from the subject. The Med Tech had problems with the vein and had to move the needle around before blood began to enter the vial, yet the subject never stirred, moved or made any audible sound of pain or discomfort (from my own personal experience I know this to be quite uncomfortable, and downright painful at times). The Med Tech was able to get blood into the two vials, although I believe one of them was not completely filled. She gave the vials to me. After several requests to the attending nurse for a cotton swab, the Med Tech took the bio-hazard barrier which is in the blood kit and used it to bandage the puncture site on the subject's right arm. I had told her not to do this, but she said she misunderstood. I asked for a sterile 4X4 pad and received it. I took it from a closed sealed wrapper and used it as the bio-hazard barrier. I attached the various sealers on the vials and on the kit, making note inside and outside of the kit of the substitute barrier. I made sure all the forms had been properly filled out and initialed and I made sure the kit was properly sealed and left the hospital at 1526 hrs.

I went directly to the post office in down town St. Cloud and placed the sealed kit in the mail box.

I made a request to the St. Paul District investigator (Dist 2400) to interview the two Good Samaritans and to take a formal statement from each of them, especially relative to the driving conduct of the subject before he was over on the shoulder. Those statements were taken by Cpl Donald Schmalzbauer, #98 and will be mailed to me once they are transcribed by the Dist 2400 transcriber.

I requested a certified copy of the subject's LIMITED D/L but have not received it as of this date - 10-09-95.

TROOPER SIGNATURE:



DATE: 10-12-95

ICR NUMBER: 95,604,624

On 10-10-95 I learned that the limitations were for work only and the employer was listed as Bemidji School district. Contact will be made with them to find out if the subject was in a work related endeavor when he was on USTH-10 on 09-28-95.

On 10-10-95 I received the results of the blood test and they are 0.30 a/c. Although I had requested a drug screen, that has not been done at this time and will not be done due to high a/c. The analysis was done by LaRae McPartlin, Forensic Scientist on 10-04-95. A traffic citation will be sent to Mr. Johnson, advising him that a court date will be set by the court administrator's office. The envelope with the defendant name and address will also be returned but photocopies of it are enclosed.

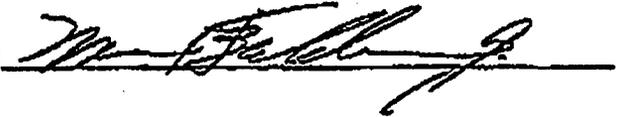
On 10-11-95 I made a phone call to the Bemidji School District and spoke Mr. Rollie Morerud. I inquired if the defendant had been on school business on the 28th of September. Mr. Morerud told me that the defendant is employed by the district on a day to day basis due to his legislative duties but that he was not really sure if the defendant had been on work related activities. He told me to contact a Mr. Jerry Abbott, who is the personnel director for the district, that Mr. Abbott was not available at that time but might be around 1600 hrs or early on the October 12th.

On 10-12-95 Lt. Anhorn spoke with Mr. Abbott and Lt. Anhorn's report is enclosed along with a photo copy of a request for leave that was approved and gave the defendant time off for five (5) days (09-25, 26, 27, 28, 29-95. Also enclosed is a copy of the defendant's LIMITED LICENSE and it is quite clear that the defendant was in violation of that LIMITED LICENSE - there is no condition for driving to and from the defendant's legislative duties. Accordingly, not only would the defendant be in violation of the LIMITED D/L but he would then revert back to a REVOKED status.

Also enclosed are statements from the two Good Samaritans who stopped to offer assistance at the scene and who also made observations of the defendant's condition (driving as well as physical). The one statement would appear to indicate quite erratic driving conduct by the defendant.

I have also received copies of the Burnsville Police Report/s involving the defendant's DWI of 08-26-95 and the Hit & Run Accident his vehicle was involved in on the same date. I believe these reports may be pertinent because they show a history of defendant blaming his condition on diabetes and on chest pain, appearing to try to shift focus from alcohol use to a medical problem. If these reports are needed I can supply copies also.

On 10-11-95 the defendant was once again arrested for DWI, this time in Beltrami County. On 10-12-95 I was advised that someone from the Beltrami County Attorney's office wanted the conditions of the this arrest and the disposition, if any, conditions of release etc. Apparently he was referred to the Sherburne County Attorney's Office by our office secretary, MEF/101.

TROOPER SIGNATURE: 

DATE: 10-12-95

IMPLIED CONSENT LAW PEACE OFFICER'S CERTIFICATE

▶ (PLEASE TYPE OR PRINT LEGIBLY, CROSS OUT REFERENCES TO INAPPLICABLE ITEMS.)

Name of Peace Officer Cpl Marvin E. Felderman, Jr. #101	Name of Police Agency Minnesota State Patrol
---	--

I certify to the Commissioner of Public Safety, State of Minnesota, that I am a member of the above police agency and:

1. I am a "peace officer" within the meaning of Minnesota Statutes, Section 169.123, Subdivision 1.

2. On (Date) 09-28-95, I had probable cause to believe that the person named below had been driving, operating or physically controlling a motor vehicle within the State of Minnesota on USH-10 676 in the City or Township of Haven in Sherburne County, while under the influence of alcohol or a controlled substance, or a commercial motor vehicle with the presence of alcohol, contrary to law.

Full Name Robert Alan Johnson	Date of Birth 12-01-45
Address 1075 Washington Ave #15	City, State, Zip Bemidji, MN 56601
Driver License Number J-525-745-040-917	State of Issue MN

3. Reason for initial contact:

- Vehicle stopped by officer because: _____
 Accident Vehicle already stopped (describe): erratic driving, stopped by truckers
 Other (describe): _____

4. Probable cause that person was driving, operating or in physical control of:
 Saw person Person admitted Other: subject behind wheel, steering.

5. Probable cause that person was under influence (in addition to other information):
 Odor of alcohol bloodshot, watery eyes; slurred speech poor balance
 Other (describe): odor of eton at hospital; subj unconscious @ scene & hospital

6. Check at least one of the following:
 DWI arrest accident refused PBT (preliminary screening breath test)
 failed PBT with alcohol concentration of .10 or more

7. Other pertinent information: subject has limited D/I from prior DWI

8. The person was requested to submit to a test to determine (alcohol concentration) (or) (presence of a controlled substance), pursuant to the provisions of Minnesota Statutes, Section 169.123, and was read the Implied Consent and Advisory on the other side of this form by: (Name and Agency) Cpl Marvin E. Felderman, Jr. #101 M.S.P.

9. The person: (X APPLICABLE BOX)

- Refused to provide a test sample to determine the presence of (alcohol) (or) (controlled substance).
 Provided a sample (blood) (breath) (urine) for analysis, which indicated an alcohol concentration of 0.30.

The sample was submitted for analysis to:

Name of Agency, Analyst or Breath Test Operator Larae McPartlin, Forensic Scientist
Address of Agency or Analyst PCA
City, State, Zip St. Paul, MN 55155
Sample Identification Number (Blood or Urine Tests Only) 205259

MEDICAL PERSONNEL CERTIFICATE

Pursuant to Minn. Stat. § 63A.15, I certify as follows: at the request of the undersigned peace officer, I withdrew a sample of blood from:

NAME: Robert Alan Johnson
 AT: St. Cloud Hospital, Emergency Room
 (Location)

I am authorized and qualified to draw blood samples pursuant to Minn. Stat. § 169.123, Subd. 3.

I withdrew the sample of blood at 1510 AM/P.M., after preparing the site of withdrawal with a non-alcohol substance.

I used a sterile needle and container in withdrawing and receiving the blood sample.

I gave the blood sample to the undersigned peace officer.

DATE: 09-28-95 Patricia Keffeler Grunke
 Signature

Patricia Keffeler Grunke
 Printed Name

Laboratory Assistant / Phlebotomist
 Occupation (M.D., R.N., M.T., L.T., etc.)

Marvin E. Felderman, Jr.
 Signature of Peace Officer

SEND WITH COPY OF ALCOHOL INFLUENCE REPORT, ARREST OR ACCIDENT REPORT, BREATHALYZER OR INTOXILYZER RECORDS, LABORATORY REPORT TO:

Department of Public Safety
 Driver and Vehicle Services Division
 Implied Consent Section
 188 Transportation Building
 St. Paul, MN 56155

Attach Notice of Revocation (Form PS-31123) if issued.

ICR #
95,604,624

PS-01802-99 (1/93)

Signature of Peace Officer <u>Marvin E. Felderman, Jr.</u>
Printed Name of Peace Officer Cpl Marvin E. Felderman, Jr.
Badge Number 101
Business Telephone Number 612-255-2918
Date 09-28-95

JAN-28-1995 12:50

FUEL, FURN & ROOFSHEDS

DIE

500678 DF2368 OCT 09 1995 16:22:33 OCT 09 1995 16:26:02
MN.MNBCA0000.MNMHP0600.

TXT

TO: MSP2600

ATTN: CPL FELDERMAN 101

ICR/TICKET NO: 95 604 624

*** CERTIFICATE OF ANALYSIS*** PURSUANT TO MINN.STAT.634.15(1980)***

AT THE MINNESOTA BUREAU OF CRIMINAL APPREHENSION LABORATORY,

I HAVE ANALYZED, USING AN APPROVED GAS CHROMATOGRAPHIC PROCEDURE, A SAMPLE

OF BLOOD IDENTIFIED TO ME AS HAVING BEEN OBTAINED FROM THE FOLLOWING

INDIVIDUAL: JOHNSON, ROBERT ALAN

DATE/TIME DRAWN: 092895/15:10

DATE OF BIRTH: 120145

LAB CASE NO: B205259

D.L.NO: J 525 745 040 917

DATE SAMPLE RECD: 092995

STATE OF ISSUE: MN

ANALYZED AND INTERPRETED ON: 100495

*
ANALYSIS REVEALED AN ETHYL ALCOHOL CONCENTRATION OF 0.30 GRAMS
PER 100 MILLILITERS OF BLOOD.

0.10 AND OVER, NO FURTHER DRUG ANALYSIS

I AM TRAINED IN THE INTERPRETATION OF BLOOD TESTS FOR ALCOHOL PURSUANT
TO THE STANDARDS OF THE COMMISSIONER OF PUBLIC SAFETY.

** I HEREBY CERTIFY THAT THE ABOVE REPORT IS TRUE AND ACCURATE. **

/S/ LARAE MCPARTLIN

FORENSIC SCIENTIST

*

=====

101

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART A

DECLARANT: Norman Charles Blanchard

ADDRESS: 1480 Todd Way, Hastings, MN 55033

DATE OF BIRTH: 03-28-47

I make this statement to Cpl. Schmalzbauer, of the Minnesota State Patrol,
Badge No. 98, freely and voluntarily without the presence of threat or promise
of any form on October 3, 1995.

Time Commenced: 1909 hours

Time Completed: 1922 hours

Miranda warning read and acknowledged

Yes Time: _____

No

I, the declarant, have read the entire statement consisting of 5 pages and confirm it
to be true and accurate to the best of my knowledge.

Signed _____ Date _____

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART B

STATEMENT

This will be a statement in reference to an incident involving a possible diabetic coma on September 28, 1995, at about 1400 hours. The statement is being taken by Investigation Schmalzbauer. Today's date is October 3, 1995. The time will be 1909 hours.

- Q. Okay, sir, can you state your full name and spell it please?
- A. Norman Charles Blanchard. Do you just want to spell the last name?

- Q. Last name would be fine.
- A. B-L-A-N-C-H-A-R-D.

- Q. What's your date of birth?
- A. 03-28-47.

- Q. And what's your current home address?
- A. 1480 Todd Way, Hastings, Minnesota 55033.

- Q. And what's your home telephone number?
- A. Area code 612-437-2523.

- Q. And do you work full-time?
- A. Yes I do.

- Q. And what's your occupation?
- A. I'm a truck driveway for Trailwood Transportation.

- Q. Recalling you to September 28, 1995, at approximately 2:00 p.m. in the afternoon, do you recall witnessing or observing a vehicle traveling on Highway 10 in the vicinity of St. Cloud?
- A. Yes I do.

- Q. And at that time were you in a vehicle also?
- A. Yes I was.

- Q. What kind of vehicle were you in?
- A. A tractor trailer, semi with a 48 foot trailer.

- Q. And were you loaded at the time?
- A. No, no I wasn't, I was empty.

- Q. And you were traveling on Highway 10?
- A. Yes I was traveling eastbound on Highway 10.

Signed _____ Date _____

PS1809-05 (8/83)

ICR 9560461

- Q. And as you remember is Highway 10 a divided roadway in that area?
A. In that area yes it is, it's a, it's a divided highway, yes.
- Q. And this vehicle that you observed driving, was this on Highway 10 just south of the St. Cloud area?
A. The vehicle was, the exact location, I can place it about four miles from the intersection of State Highway 24.
- Q. And Highway 10?
A. And Highway 10 about, it was west, west of where State Highway 24 intersects with it, with 10.
- Q. And that's when you first noticed the vehicle?
A. When I first noticed the vehicle was about five miles, four or five miles further west.
- Q. On Highway 10?
A. On Highway 10, yes.
- Q. And at that time which direction was the vehicle traveling?
A. The vehicle was traveling eastbound on Highway 10.
- Q. And do you recall what type of vehicle it was or color?
A. Yes it was a black, I, I'll tell ya, it was a black Ford, I don't know what model though, I believe it was a Ford. I was so excited with it I guess I really didn't pay much attention to the vehicle. I'm sure it was black though.
- Q. What drew your attention to the vehicle?
A. Well at first when I first got up close enough behind to realize why these cars were going, kind of staying behind this guy, he was all over his lane, back and forth between the white line.
- Q. What lane was he in?
A. He was in the, the right hand lane and there were vehicles that wanted to pass but they seen swerve and I guess they were afraid to get along side him and then he did that for maybe four miles and then he started going over into the left hand lane maybe halfway and it kind of was like the cycles got bigger and bigger until he was going to the far left of the road to the far right off the shoulder and cars slowed down, you know, quite gradually and then he'd correct again and he tried to keep it within his lane. One guy tried to pass him and he cut right, he swerved over in front of him so they cut back and they slowed down, I proceeded slow and I says well, I thought the guy was drunk and so when he got, he made a swing way over onto the birm of the road, on the right hand side of the road, I shot up and got my cab right about even with his car although I was in the left hand lane and I looked down and I seen, you know, his face looked really funny and he did look up at me and I motioned, I motioned for him to pull over. After that he made another swerve out and I was afraid he was going to hit me so I got off as best I could onto the left hand side of the road and I really, I gunned the truck and got up there and I didn't know whether he had come in contact with my tires on the trailer but I looked in the rear view mirror and he did pull off to the side of the road, although, he was close to the line and he did come to a stop. I swung over and I was going to pull off on the birm of the road but one of the cars that had been behind him shot by, shot by him and got you

Signed _____ Date _____

PS1809-05 (8/83)

ICR 9560462

know, right behind me and I was afraid that there would be an accident there so I went up about oh, maybe, oh, let's see, maybe 2/10ths or 3/10ths of a mile up the road and I finally pulled off. I looked back, the head lights and that were on on the car and he was stopped on the shoulder of the road, I looked, that I seen out of the rear vision mirror after I had pulled off the road, I then jumped out of the truck and ran around the back to see if I had made contact with him with the trailer wheels because there would be some sort of mark on them, but there wasn't. Just at that time I turned around and another truck, a Sysco truck pulled off back toward the car, apparently the driver did see that he, that the man was slumped over, over the wheel, well he got out and went back there and I ran, I started running back toward the Sysco truck and you know, of course I ran around the back of it and the driver of the Sysco truck thought he had a heart attack and there was a cellular phone in the man's car and he was on the cellular phone calling and I said to him, the driver, I says is he conscious and he said I don't think so, so he says I think he had a heart attack so I went around and tilted the man's head back and he did make a sound and I, I says to him sir, you know, what's wrong and I couldn't understand what he had said, the first thing he had said so I took his pulse and his pulse seemed normal, I mean it seemed within a normal range it was, it was about 68 beats of minute, his breathing rate was about 15 inhalations a minute and I kept trying to find out what was wrong with him and finally he said one word really slurred, diabetic, okay and that's when the other truck driver he had just hung the phone up in talking to the police, I says, you know, get them back and tell them he's a diabetic that he, whatever they need for diabetics because I knew he didn't have a heart attack, his pulse was fairly strong and his breathing rate was fine and I kept trying to call, you know, talk to him to keep him awake, I knew that diabetics went into comas and I wanted to keep him conscious but I couldn't, he just slipped off and by the time that the State Trooper got there, you know, I mean he was out cold, myself, the other truck driver and the State Policeman we tried, we looked through the glove compartment, he had a brief case in there, we looked in the brief case and a kind of an open clothing bag, like an overnight bag, we looked in all these things for possibly some insulin or something to identify him with or medication or what, there was nothing, the only thing we were able to find was a letter, we don't even know whether, I mean it was an unopened letter and it was address to I believe Robert Johnson, this was in his bag.

- Q. Okay when you were with him the party was semi-conscious?
- A. At first yes, he, his eyes wouldn't open but he heard me talk and he tried to, tried to say something to me and the only word after badgering him for a while that we were able to understand was diabetic or you know, it was very slurred and that's the only thing that we could come up with.
- Q. Did you notice if he was sweating at all?
- A. No he was, he was cold, he was cool not cold like dead but cool like there was no perspiration on him but he, you know, I've seen shock before and it was kind of like he was going into shock.
- Q. Did you notice or could you tell if there was any distinct odor in the vehicle?
- A. There was none, that was my first thought, you know I thought initially I was going before that truck pulled over I was going to go back there and chew this guy's ass out because I thought he was drunker then hell but when I got back there there was nothing on his breath, there was no smell in the car of any alcoholic beverages of any sort and in fact the officer and I tried to give him a sip of soft drink that the man had next to him in the seat, hoping maybe you know

Signed _____ Date _____

PS1809-05 (8/83)

ICR 95604624

to give him something to revive him a little bit, I mean I had to hold his mouth open and everything so I was pretty close to it and I, there was no alcohol officer, none at all.

Q. Did you talk to the other driver after the incident?

A. Just, well he gave me a ride back up to my truck and yeah we talked for that quarter of a mile while he drove me up to my truck.

Q. And it appeared fairly clear to you that the party was having some diabetic problem?

A. Yes it did.

Q. Is there anything that you can think of that you'd like to add to this statement?

A. Not really, I think that about covers everything. You know like I say the other things that the man said we really couldn't understand and he even, even when he said diabetic it was very slurred and stuff but you know, it sounded distinct in that, I mean that's what, because we didn't know what the heck was wrong with him. There was nothing hurt on the man, I asked him if, you know, he mumbled, tried to mumble something, I asked him if he was in pain and you know you could kind of tell a drolled no, you know, but that's about all I can say. I know, you know, nothing beyond that.

That will conclude the statement. The time will be 1922 hours.

Signed _____ Date _____

PS1809-05 (8/83)

ICR 95604624

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART A

DECLARANT: Curt Ivle Ostman

ADDRESS: 8018 242nd Avenue N.E., Stacy, MN 55079

DATE OF BIRTH: 12-02-64

I make this statement to Cpl. Schmalzbauer, of the Minnesota State Patrol,
Badge No. 98, freely and voluntarily without the presence of threat or promise
of any form on October 3, 1995.

Time Commenced: 1852 hours

Time Completed: 1900 hours

Miranda warning read and acknowledged

Yes Time: _____

No

I, the declarant, have read the entire statement consisting of 5 pages and confirm it
to be true and accurate to the best of my knowledge.

Signed _____ Date _____

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART B

STATEMENT

This will be a statement in reference to an incident that occurred on September 28, 1995, at about 1400 hours on Highway 10 just south of St. Cloud. The statement will be taken by Investigator Schmalzbauer. Today's date is October 3, 1995. The time will be 1852 hours.

Q. Okay, sir, can you state your full name and spell it please?

A. Curt Lyle Ostman, C-U-R-T, L-Y-L-E, O-S-T-M-A-N.

Q. And what's your date of birth?

A. 12-02-64.

Q. And what's your current home address?

A. 8038 242nd Avenue Northeast, Stacy, Minnesota 55079.

Q. And what's your home telephone number?

A. Area code 612-462-4638.

Q. And you're aware this is a statement in reference to an incident you witnessed on Highway 10 in the vicinity of St. Cloud on September 28, 1995?

A. Yes I do.

Q. And you're aware it's being tape recorded?

A. Yes I do.

Q. Recalling you back to September 28, 1995, about 2:00 p.m. in the afternoon, do you recall coming across a vehicle on Highway 10 in the vicinity of St. Cloud?

A. Yes.

Q. And at that time were you in a vehicle also?

A. Yes I was.

Q. What kind of vehicle were you in?

A. I was in a tractor trailer.

Q. And were you pulling a trailer at that time?

A. Yes I was.

Q. What kind of load were you carrying?

A. Perishable goods.

Q. And do you recall what highway you were on?

A. Highway 10 eastbound.

Signed _____

Date _____

1809-05 (8/83)

ICR 95604624

Q. Okay you were traveling eastbound?
A. Yes.

Q. And do you recall is that a divided highway in that area?
A. Yes it is.

Q. Do you recall what the traffic and weather conditions were like at the time?
A. It was sunny, mid 60s, windy though.

Q. At the time that you were traveling on Highway 10, did you observe a vehicle that was stopped on the shoulder area of Highway 10?
A. Yes I did.

Q. And at that time what lane were you traveling in?
A. The right hand lane.

Q. And was there any other vehicles next to you in the left hand lane?
A. Yes there was.

Q. What kind of vehicle was next to you?
A. That was another semi tractor trailer.

Q. And was he passing your vehicle?
A. Yes he was.

Q. At the time that you noticed a vehicle on the shoulder did it seem unusual to you?
A. Yes it did.

Q. Why did it seem unusual?
A. Because he had his steering wheel pointed out into traffic with his brake lights on.

Q. Was the vehicle on the shoulder or partially in the traffic lane?
A. It was coming out partially into the traffic lane, he had his driver's side front tire on the white line.

Q. Did you slow your tractor trailer rig down?
A. Yes I did.

Q. Can you describe then what you observed as you got closer to the vehicle?
A. As I got closer to the vehicle I noticed a male slumped over at the wheel so I immediately pulled my rig over and went back to give him some type of assistance to see what was wrong.

Q. And do you recall what type of vehicle that was?
A. I think it was a blue Ford Tempo.

Q. And as you passed the vehicle, you stated there was a party lying in the vehicle?
A. Well he was slumped over the wheel, yes, he was slumped towards the driver's door with his head facing down.

Q. And it appeared that something was wrong?
A. Yes it did.

Signed _____ Date _____

- Q. Did you stop your vehicle?
A. Yes I did.
- Q. What did you do then?
A. I ran back and knocked on the passenger door window and asked the gentleman if he was alright.
- Q. Did he respond to you?
A. Yes he did, he looked up at me.
- Q. Did he seem normal or did he appear confused and dazed?
A. He seemed very confused, very dazed.
- Q. Did he respond to any of your questions or open the door?
A. Yes he responded to my, I asked him if he would open the door for me and he did lean over and open the door for me.
- Q. And what did he, did you ask him anything at that point?
A. I asked him if he knew where he was. I asked him if he was alright, he responded with a question of no, looked at me and said he was a diabetic and leaned his head back and that was the last I heard him say anything to me.
- Q. What happened at that time?
A. I, after I opened the door I, like I say I opened, he got the door open for me, I basically pushed him back up into the driver's seat, reached over, grabbed the wheel, turned the wheel sharply to the right and told him to take his foot off the brake so we could get over onto the shoulder, he did do that and I asked him to put the brake back on and he didn't respond so I reached down with my left hand and put the brake on, threw the car in park and shut it off and took the keys out of the ignition.
- Q. At that point was the driver passed out?
A. Yes he was.
- Q. And there was no response from him?
A. None.
- Q. Could you smell any alcohol or anything inside the vehicle?
A. No I couldn't.
- Q. Do you recall if he was drinking anything?
A. Yes he was, he was drinking a orange soda.
- Q. And that appeared to be a regular orange soda and not a diet?
A. Yes.
- Q. Did you at any point use the driver's cellular phone?
A. Yes I did.

Signed _____ Date _____

1809-05 (8/83)

ICR 95604624

- Q. Could you describe what you did?
- A. I noticed that we needed some help and I knew that this man was in trouble, we needed help, I looked down and he happened to have a cellular phone in his car, I picked it up to try and use it because I do have one myself, but it wasn't with me and it wasn't working and I realized that I had to have the ignition on or some type of power to the phone for it to work. I put the key back in the ignition, turned it backwards to accessory and the phone lit up and I dialed 911.
- Q. And did you talk to an emergency dispatcher at that point?
- A. Yes I talked to somebody from State Patrol.
- Q. Did anybody else stop at the scene?
- A. Yes one other driver did, one other semi driver.
- Q. And did he talk to the driver at all or try to revive him?
- A. Yes he was talking to him and while I was talking on the phone outside of the door, I had, like I said I had my, my arms up on the roof of the car, I was able to extend the phone out that far, it was windy so I had a hard time hearing, I couldn't hear what he was saying to him.
- Q. And did the driver state anything about insulin or going into a diabetic coma?
- A. Well he stated to the other driver that he needed insulin and the only reason I know that is because the other, the other truck driver who pulled over popped his head up and told me over the roof of the car that he needed insulin.
- Q. Is there anything else that you can remember that you'd like to add to this statement?
- A. He had, I noticed when the State Trooper showed up he opened a can of Sprite which was also in the car and we tried giving that to him but he wasn't able to drink it and then we started, all three of us started looking around the car in his personal bag and in his clothing and stuff for some type of insulin pack. We could not find one.
- Q. Did the party remain unconscious at that time?
- A. Yes he was.
- Q. And did the ambulance eventually arrive on the scene?
- A. Yes they did.
- Q. Is there anything else that you can think of that you'd like to add?
- A. He wasn't wearing any shoes, he had just his socks on. I noticed that when we were looking through the car, I noticed an envelope that said I believe Roger Johnson from Bemidji, Minnesota and when we were looking around the car for some insulin with the State Trooper he could not find a key for the trunk, the only, the only key this man had was for the ignition, one key, no ring.

That will conclude the statement. The time will be 1900 hours.

Signed _____ Date _____

CURT OSTMAN
 8038-242 Ave NE
 STOLX 55079
 (works
 SYSCO)

NORM BLANCHARD
 1480 TUDWAY
 HASTINGS MAN
 55033
 (Trailwoods
 mensura)

TRAVIS
 A Division of KODAK Service, Inc.

Good
 Samaritans
 who helped
 you.





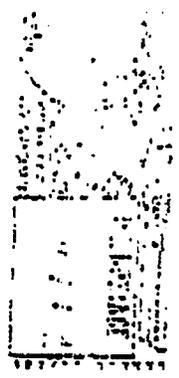
Private Service

P.O. Box 5040
Sandy, UT 84091-5040

by DISCOVER

ROBERT A JOHNSON
1075 WASHINGTON AVE SE
#15
BEMIDJI MN 56601-3474

WLDGCA



5C6741 SCH007 OCT 12 1995 20:43:20 OCT 12 1995 20:43:22
NO HIT. STOLEN VEHICLE FILE
QMR LIC/408MBP

5C6742 SCH007 OCT 12 1995 20:43:20 OCT 12 1995 20:43:20

TXT
LIC/408MBP. LIY/96. LIT/PC.
JOHNSON ROBERT ALAN
075 WASHINGTON AVE #15 BEMIDJI 56601
VIN/1FACP52U6L6185289. VYR/90. VHA/FORD. VCD/BLU/BLU.
VMO/TAURUS 6L,4DR SEDAN
EXM/APR. DOB/120145. STICKER:T3665751.

5C6743 SCH008 OCT 12 1995 20:43:52 OCT 12 1995 20:43:55

*
*
*
*

TXT
ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
QLN/JS25745040917. QLT/1. CLS/C. EXP 120199
STATUS:VALID GLASSES
PHOTO #:5752124023. ISU/052095.
02/26/95 RETAKE LETTER MAILED ON 02/26/95
SIMILAR NAME-DOB EXISTS:
10/02/95 REINSTATE DRIVING PRIVILEGES - RECEIPT
09/17/95 * LIMITED UNTIL *
09/15/95 FEE REQUIREMENT MET
09/15/95 DRIVER TEST WAIVED
09/15/95 PASSED WRITTEN TEST
09/02/95 * REV - REFUSE TO TEST *
08/26/95 7-DAY TEMP
08/26/95 SURRENDERED DL
08/26/95 DRIVING WHILE UNDER THE INFLUENCE
01/14/95 SPEED
02/01/89 SPEED

10/02/95
260/750
09/15/95
10/02/95 10/02/95 08/26/95
E5
IC-1 E19 090195XX
274 512936A
923241A

MINNESOTA
Department of Public Safety
Division: State Patrol
INITIAL COMPLAINT REPORT



Msg Key EC 1/8	Control Number (OCA) 95604684	NCIC Identifier (CAG)	Arrest Date (DOA)	License Number
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Nr 2	Date Reported (RPD) 092895	Time Rptd 1400	Location Grid (LGN) 263010	MPM	County Sherburne
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NR 0	HRD P	SBN 101	Time Assg (TAS) 1400	Time Arr (TAR) 1412	Time Clr (TCL)	DOB	PSN 001	S	R
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Nr 4	ISN 01	MOC 9524	UCS S	GOC	STA	CCG	Sta., Ord. or Title Nbr. (STU)	Arr. Disp.	PCG
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Nr 5	ISN 02	MOC 9555	UCS S	GOC	STA	CCG	Sta., Ord. or Title Nbr. (STU)	Arr. Disp.	PCG
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Nr 6	ISN	MOC	UCS	GOC	STA	CCG	Sta., Ord. or Title Nbr. (STU)	Arr. Disp.	PCG
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Place Committed
Aug 10 SB

Reported By
911 Cellular

Incident Description
 Poss DWI - All over Road - Semi driver pulled over with driver - took keys - Poss diabetic - SPI01 Arrives - DIABETIC Shock. Andy's Under INVESTIGATION unconscious

Msg Key	DOT	DOR	Date of Impound
---------	-----	-----	-----------------

Gold Cross Rolling.

No Further Report

RCO
2614

Nr	ISN	Type Seq	Type	Stolen Value	Recovered Value	Code
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NAME:	DOB:	RAC:	SEX:	JAIL:
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ADDRESS:	=====				DERATE
LIC:	5C0430	SCP302	SEP 28 1995 14:01:03	SEP 28 1995 14:01:12	TOTAL

*
*
*
*

NAME:	TXT				DERATE
ADDRESS:	ROBERT ALAN JOHNSON				TOTAL
LIC:	1075 WASHINGTON AVE #15 BEMIDJI MN 56601				
	SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.				
	OLN/J525745040917. OLT/1. CLS/C. EXP 120199				
	STATUS:LIMITED GLASSES				
	PHOTO #:5752124023. ISU/052095.				

NAME:	TXT				DERATE
ADDRESS:	LIC/408MEP. LIY/96. LIT/PC.				TOTAL
LIC:	JOHNSON ROBERT ALAN				
	1075 WASHINGTON AVE #15 BEMIDJI 56601				
	VIN/1FACP5EU6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.				
	VMO/TAURUS GL,4DR SEDAN				
	EXM/APR. DOB/120145. STICKER:T3669751.				

CR#: _____	TROOPER #: _____	DATE: _____	TIME: _____	LOCATION: _____	ACCIDENT TYPE: _____
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JH-100-100-100

JH-100-100-100

NAME:	DOB:	RAC:	SEX:	JAIL:
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ADDRESS:	-----] DERATE			
UC:	5C0430	SCP302	SEP 28 1995 14:01:03	SEP 28 1995 14:01:12
	*	*	*	*

NAME:	TXT			
ADDRESS:	ROBERT ALAN JOHNSON			
UC:	1075 WASHINGTON AVE #15 BEMIDJI MN 56601			
	SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.			
	DLN/J525745040917. OLT/1. CLS/C. EXP 120199			
	STATUS:LIMITED GLASSES			
	PHOTO #:5752124023. ISU/052095.			

NAME:	TXT			
ADDRESS:	LIC/408MBP. LIY/96. LIT/PC.			
UC:	JOHNSON ROBERT ALAN			
	1075 WASHINGTON AVE #15 BEMIDJI 56601			
	VIN/1FACP52U6LG185288. VYR/90. VMA/FORD. VCO/BLU/BLU.			
	VMO/TAURUS GL.4DR SEDAN			
	EXM/APR. DOB/120145. STICKER:T3669751.			

ICRM:	TROOPER N:	DATE:	TIME:	LOCATION:	ACCIDENT TYPE:
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JHN 05-21-95 12.00
 IJUE11, FUJIT & KUBOJESKJE
 012 401 3300 P.43

BERNARD AREA SCHOOLS
LICENSED STAFF REQUEST FOR LEAVE

NAME (print) Robert A. Johnson EMPLOYEES 404

DATE 10-2-95 SUBJECT/GRADE/DEPARTMENT School social worker

EMPLOYEE SIGNATURE Robert A. Johnson BUILDING State services bldg.

1. REASON FOR REQUEST: Legislative duties

2. DATE(S) OF ABSENCE: FROM September 25 TOTAL DAYS/HOUR(S) 5.0
(month) (day) (circle one)
THRU September 29 5.0
(month) (day)

Note: If days of absence are not inclusive and/or not in the same month, complete a separate form for each incidence.

3. TYPE OF LEAVE "X" APPROPRIATE LEAVE (Only one type of leave per form.)

- (S1) Personal Illness/Child Illness
- (S2) Family Illness
- (S3) Doctor/Dentist Appt
 ILLNESS RELATED
- (S4) Bereavement-Sick Leave.....Relationship to Deceased: _____
- (S5) Maternity/Medical Leave
- (S6) On-the-Job Injury.....Must be reported to Bldg/Dept Office immediately
- (D1) Special Leave
- (V1) Vacation Leave
- (V2) Non-duty Leave
- (P) Personal Leave
- (D) Discretionary/Personal Leave
- (X1) Association Leave BEA
- (X2) Association Leave BEA Superintendent Discretion
- (X3) Bereavement Leave.....Relationship to Deceased: _____
- (X4) Extra Curricular
Approximate time of Departure _____ AM/PM Expected time of Return _____ AM/PM
Reimbursement for Travel Expenses: Will be Requested _____ Will not be Requested _____
- (X5) Jury Duty.....All jury duty checks must be turned over to district or salary will be deducted.
- (X6) Military Leave (Attach a copy of the orders)
- (X7) Other: _____
- (X8) Professional/Job Related
Destination: _____
Approximate time of Departure _____ AM/PM Expected time of Return _____ AM/PM
Reimbursement for Travel Expenses: Will be Requested _____ Will not be Requested _____
- (X9) Salary Deduct

4. IS A SUBSTITUTE NEEDED? YES NO X
If a substitute is needed for less than a full day, indicate the exact time: _____

RECOMMENDATIONS:		DISTRICT OFFICE		APPROVE		DISAPPROVE	
IMMEDIATE SUPERVISOR	APPROVE _____ (initials)						
	DISAPPROVE _____ (date)						
If approval of this request is not recommended, state the reason(s) below.							

Proc 10-3-95
89



MINNESOTA DEPARTMENT OF PUBLIC SAFETY
 DRIVER AND VEHICLE SERVICES DIVISION
 108 TRANSPORTATION BUILDING
 395 JOHN IRELAND BLVD.
 ST. PAUL, MINNESOTA 55155
 PHONE 612/296-2025 • FAX 612/282-2463

RECORD NUMBER J-525-745-040-91

PERMANENT RECORD
 DPS 31010-06

DRIVER'S NAME <i>Robert Alan Johnson</i>		BIRTH DATE <i>12-1-45</i>	
HOME ADDRESS <i>1075 Washington Ave #15 Bemidji</i>		EYE COLOR <i>BLU</i>	HEIGHT <i>5-11</i>
199 <i>5752258076</i>		PASSED EXAM <i>RTW</i> <i>WT 9-15-95 0987867</i>	FEE DATE <i>9-15-95</i>
INT. BY <i>D Hecht</i>	ST. PAUL <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	FEE AMT. <i>26</i>
		TIME <i>3:25</i>	INT. DATE <i>9-15-95</i>

THIS DRIVER IS ONLY LICENSED TO DRIVE WITHIN THE FOLLOWING LIMITATIONS			EFF. DATE <i>9-17-95</i>
EMPLOYER <i>Bemidji Schools</i>	ADDRESS <i>Bemidji</i>	OCCUPATION <i>Social Worker EEBA</i>	EXP. DATE <i>10-2-95</i>
			CLASS <input checked="" type="checkbox"/> C <input type="checkbox"/> CDL <input type="checkbox"/> AMC
<i>May drive from home to work and work to home, and as required during work time for about employer, Monday through Saturday 7:30AM to 5:30PM</i>			CDLIS VERIFICATION NO. CDL
			RESTRICTION(S) SEE BACK <i>CL</i>
			ENDORSEMENT(S) SEE BACK <i>—</i>
			PENDING VIOLATIONS <i>0</i>

LIMITATION VIOLATION IS PUNISHABLE BY LAW AND LOSS OF DRIVING PRIVILEGE. DRIVER'S SIGNATURE *Robert Johnson* NO OTHER DRIVING PERMITTED
 LICENSE IS VALID IF RECORD SO INDICATES AND IN POSSESSION WHEN DRIVING.

State of Minnesota County of Beltrami District Court

CCT	LIST CHARGE STATUTE ONLY	M.O.C.	GOC	CTY ATTY. FILE NO.	CONTROLLING AGENCY	CONTROL NO.
I	169.121, subd. 1(a); subd. 3(c)(1).	J2501	N	95-17037	0040000	95-17866
II	169.121, subd. 1a; subd. 3(c)(2).	J2R01	N	COURT CASE NO.		DATE FILED

Amended Tab Charge Previously Filed

✓ If more than 6 counts (see attached) ✓ If domestic assault

State of Minnesota

PLAINTIFF.

SERIOUS FELONY
FELONY
X GROSS MISDM DWI X ORDER OF DETENTION
GROSS MISDM

NAME: first, middle, last ROBERT ALAN JOHNSON
1075 Washington #15
Bemidji, MN 56601

Date of Birth
12/01/45

SJIS COMPLAINT NUMBER
04-11-6-006679
BELTRAMI CTY

DEFENDANT.

COMPLAINT

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense (s). The complainant states that the following facts establish PROBABLE CAUSE:

Your complainant is an official with the Beltrami County Sheriff's Department and bases this complaint upon the official files and records of said department, which, upon information and belief, provide a basis for believing the following facts to be true and correct:

On Wednesday, October 11, 1995, personal friends of Robert Johnson came to the Beltrami County Law Enforcement Center and spoke to officers of the Bemidji Police Department. They indicated that each had been contacted by Robert Johnson that day by telephone. Johnson had indicated that he was calling on his cellular phone from his car, and was contemplating suicide. Johnson had said he was upset over recent media coverage relating to his past DWI arrests.

At approximately 1:22 p.m., a Twin Cities physician contacted Beltrami County Law Enforcement Center, and advised officers (*) See page 2 of 3

The above facts constitute his basis for believing that the above-named defendant, on the 11th day of October, 1995 at Bemidji Township

in the above-named County committed the following described offense (s):
Charge: HABITUAL OFFENDER DWI in violation of

Section: 169.121, subd. 1(a); subd. 3(c)(1).
Maximum Sentence: 0-1 year, \$0.00-\$3,000. fine, or both.

OFFENSE DESCRIPTION: That the defendant, Robert Alan Johnson, did drive, operate or physically control a motor vehicle while under the influence of alcohol at a time within 5 years of a prior impaired driving conviction as defined in Minn. Stat. § 169.121, subd. 3(a)(1). (**) See Page 2 of 3

THEREFORE, Complainant requests that said Defendant, subject to bail or conditions of release be:

- (1) arrested or that other lawful steps be taken to obtain defendant's appearance in court; or
- (2) detained, if already in custody, pending further proceedings;

and that said Defendant otherwise be dealt with according to law.

COMPLAINANT'S NAME:

COMPLAINANT'S SIGNATURE:

DATE:

October 12, 1995

Being duly authorized to prosecute the offense (s) charged, I hereby approve this Complaint.

PROSECUTING ATTORNEY'S SIGNATURE:

PROSECUTING ATTORNEY:

NAME/TITLE: Randall R. Burg (13067)
Asst. Beltrami County Attorney

ADDRESS/TELEPHONE: (218) 759-4219
207 Fourth Street, Bemidji, MN 56601

FORM A

Rev 3/95

(*)

that Robert Johnson had called him, and that it was his professional opinion that Johnson was in a suicidal state of mind.

The license number and description of the vehicle Johnson was likely to be operating was obtained by a check of Minnesota motor vehicle registration records. Beltrami County Law Enforcement Officers were advised to be on the lookout for a blue 1994 Ford Taurus (MN Lic. 408 MBP).

Between 3:15 and 3:30 p.m., Deputy Steven Kovacic of the Beltrami County Sheriff's Department observed a vehicle matching the description provided traveling westbound on Hwy #2. The vehicle turned onto Beltrami County Road #50 heading into the City of Bemidji. As Deputy Kovacic followed the blue Taurus, he observed it swerve over the center line of the road on two occasions. Deputies William Atwater and Scott Winger of the Beltrami County Sheriff's Department set up a "block" on Cty. Rd. #50 in the vicinity of Great Lakes Gas Company. As the Ford Taurus approached the block, Dpt. Kovacic activated the red lights on his squad car and the other deputies activated the red lights on their blocking vehicles, thereby signaling the Taurus to stop.

After the Taurus was stopped, deputies approached the car. The deputies visually identified the driver as Robert Johnson. Johnson was speaking on a cellular telephone. Deputies had Johnson get out of the car. Deputy Kovacic then observed a strong odor of an alcoholic beverage about Johnson's breath and person. Johnson admitted that he had been drinking. Johnson submitted to a number of field sobriety tests on which he performed poorly. Johnson also submitted to a preliminary breath test which he failed. At this point, Johnson was taken into custody and transported to the Beltrami County Jail.

At the Jail, Johnson was read the Minnesota Implied Consent Advisory. He declined the opportunity to consult with an attorney prior to making an election whether to submit voluntarily to chemical testing of his blood or urine. Johnson refused to submit to the offered blood or urine tests.

A subsequent check of Johnson's Minnesota driving record revealed that he had been convicted of driving while under the influence in Dakota County on September 1, 1995, for an offense occurring on August 26, 1995. (See: Dakota County District Court File T6-95-70843) Johnson's Minnesota driver's license had been revoked on September 2, 1995 pursuant to the provisions of the Minnesota Statutes § 169.123.

(**)

II GROSS MISDEMEANOR REFUSAL TO SUBMIT TO TESTING
169.121, subd. 1a; subd. 3(c)(2).
0-1 year, \$0-\$3,000. or both.

That the defendant, Robert Alan Johnson, refused to submit to a chemical test of his blood or urine under Minn. Stat. 169.123, within five years of a prior license revocation as defined in Minn. Stat. 169.121, subd. 3(a)(2).

This COMPLAINT was subscribed and sworn to before the undersigned this day of

NAME: SIGNATURE:
TITLE: Notary Public

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant (s) arrest or other lawful steps be taken to obtain Defendant (s) appearance in Court, or his detention, if already in custody, pending further proceedings. The Defendant (s) is/are thereof charged with the above-stated offense.

SUMMONS

THEREFORE YOU, THE ABOVE NAMED DEFENDANT(S), ARE HEREBY SUMMONED to appear on the

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

EXECUTE IN MINNESOTA ONLY

to the effect of the above named county, or other person authorized to execute this WARRANT. I hereby order, in the name of the State of Minnesota, that the Defendant (s) be arrested and brought without delay and brought promptly before the above named Court, or before a Judge or Judicial Officer of such Court without unnecessary delay, and in any event not later than 6 o'clock in the evening or as soon thereafter as such Judge or Judicial Officer is available, to be dealt with according to law.

ORDER OF DETENTION

Defendant (s) shall be held in

Defendant (s)

Bail:

Conditions of Release:

COMPLAINT SUMMONS WARRANT ORDER OF DETENTION

NAME: SIGNATURE:
TITLE: Judge of District Court

STATE OF MINNESOTA COUNTY of

Beltrami

State of Minnesota

Plaintiff,

vs.

Robert Alan Johnson

Defendant (s)

SUMMONS WARRANT
ORDER OF DETENTION Defendant (s)

DISCLOSED

Print Key Output

5738891 V2R3MO 931217

61041532

10/11/95

Page 13:52:30

Display Device : DIS01T
User : JEANNE

Rcvd: 10/11/95 1322 By: JEANNE

Agency: P

Apt:

Source: P Priority: 3 Dispt: RP

P Phone: (612)223-5234

Apt:

Grid: 0003 Beat: 8109 Nwc: 0400 Rpt: N

Event #: 95-0017966

1. CALL TYPE: 7 ATL

2. Location: CO 50

3. City: BEMIDJI

4. Comments: ROBERT JOHNSON - SUICIDAL 408MBP

5. Comments: DWI IAR

6. Caller: STAGNER, DR

7. Location:

8. City: MINNEAPOLIS

9501786v

OCT 12 1995

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Beltrami - Bemidji

95017866
Date of Follow-up 10/11/95

Type of Offense AB DWI Case Name Robert Alan Johnson

SYNOPSIS:

On 10/11/95, I Deputy Steve Kovacic stopped the vehicle driven by ROBERT JOHNSON on Co. 50 in Beltrami County. It was known prior to the stop that ROBERT JOHNSON was driving with out a drivers license and after following him I also witnessed that he was exhibiting behavior of an intoxicated person. After the vehicle was stopped the field sobriety tests which were conducted on, he failed as well as failing the PBT. He was arrested for DWI, brought to the Beltrami County jail, read the implied consent advisory and refused blood or urine testing. It was found that this was an aggravated DWI.

PEOPLE MENTIONED IN REPORT:

- 1. JOHNSON, ROBERT ALAN. dob 12/1/45. 1075 Washington #15. Bemidji.

DETAILS:

I, Deputy Steve Kovacic of the Beltrami Sheriff Dept. responded to a call for service on 10/11/95 at approximately 1515 hours. Information had been received that a ROBERT ALAN JOHNSON was driving a 1990 blue Taurus, with lic. 408M8P. He was some where between Cass Lake and Bemidji heading towards the Bemidji area. This individual also had a handgun in the car and was driving on a drivers license which had been taken by the state. We had also been told that he had been drinking and had driven through Walker with the gun to his head.

I proceeded to the Hwy 2 bypass on the east end of Bemidji at which point in time I did see the vehicle in question. Following closely behind a blue p/u with a white toper. The individual in the drivers seat of the blue Taurus was slightly hunched over, leaning forward, staring straight ahead and I believe did not see me behind him. I notified the other officers aware of this situation. Deputy Scott Winger of the Beltrami County Sheriff Dept., that I had spotted the vehicle and we were heading towards town. Then the Taurus turned west onto Co. 50 to enter the east

ACTION TAKEN	REFERRED	FINAL DISPOSITION
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other	<input type="checkbox"/> Summons Issued
		<input type="checkbox"/> Warrant Issued
		<input type="checkbox"/> Other (Explain)

OFFICER KOVACIC 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

pg. 2

950175866

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Beltrami • Bemidji

Date of Follow-up _____

Type of Offense _____ Case Name _____

end of Bemidji, I notified Deputy Atwater and Deputy Winger of this situation and we were going to set up a stop on the vehicle before it entered town. I saw the vehicle swerve over the center line 2 times once he was on Co. 50.

Upon passing the Great Lakes Gas Company, I activated my red lights and the 2 squads in front of me coming towards us from the west on Co. 50 activated their red lights. The 2 squads then pulled in front of the vehicle in an attempt to block it from getting into town, at which point the driver being ROBERT JOHNSON drove around the lead vehicle going part way onto the shoulder and back onto the highway. This was done at a very slow speed. The vehicle was stopped a short distance further when all the squads boxed it in so that it could not go forward. I pulled my squad up against the back bumper area of this car so that it would not be able to back out of the box. Upon going up to the vehicle ROBERT JOHNSON was seen talking on a cellular phone and immediately moved his right hand over to the passenger side front seat and moved a pillow in an attempt to cover a portion of the seat. The drivers door was locked at that point and Deputy Winger was on the passenger side of the vehicle and found that to be open. After opening it he unlocked the drivers door using the electronic lock and I asked MR. JOHNSON to hang up the phone. I reached in and turned the car off and put the keys on the floor. MR. JOHNSON appeared to be confused at this point and his hair was tousled and his pants were unzipped to the full length of the zipper. Deputy Winger picked up a black Crossman BB pistol from the floor of the car on the front passenger side which was cocked. This pistol was a .45 simulation of a Colt .45. As Mr. Johnson got out of the car I could detect a strong odor of an alcoholic beverage emitting from his person. I then asked him if he had in fact been drinking and he stated yes but he could not state how many he had. I then requested him to do some field sobriety tests which he did consent to do. The first test I did was the gaze nystagmus. This test he could not do at first because he kept moving his while following my finger. I finally

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

pg 3

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Beltrami - Bemis

Case # _____
Date of Follow-up _____

Type of Offense _____ Case Name _____

had him hold his head still with his hands, however he still moved his either direction while I attempted to do the maximum deviation portion of the test. I finally held his hands with one hand while I did the test and he still moved his head to either side so it was very difficult to do the test, however I did determine that portion was a failure. The next test I attempted to do was the fast pursuit which he again failed. It was impossible to determine the onset, however, because he kept looking down and other directions than where he was supposed to. The next test was to walk the line and after telling MR. JOHNSON how I wished to have the test done and showing him how to place heel to toe, I asked him to walk the nine steps which he walked with his hands apart in a wide long, stumbling gate not touching heel to toe, taking his hands away from his body and counting out loud every second sometimes third step as being one. He did not turn around correctly and just walked back to the location he started. The next test I asked him to do was to stand on one leg. I asked MR. JOHNSON if he had any bad legs and he stated that his right one was. I then asked if he could stand on his left and he stated yes. I then asked him to raise it up and count to 30 while maintaining his balance. MR. JOHNSON repeatedly tried to walk over to the car to try to hold on to it to do this test. After 4 attempts I then asked him to stand unassisted to do this test at which point he attempted to hold on to my shoulder. After 2 times I stated to him that this is a balance test and he would have to do it without touching anything. He then attempted to do and would count one then set his foot down, then pick it up and count two, set his foot down, pick it up and went to five when I told him he had to keep it up the whole time. He then stated that he could not do this test. At this point Deputy Bill Atwater gave MR. JOHNSON the PBT test of which he again failed. MR. JOHNSON was placed under arrest and transported to the Beltrami County jail. Upon arrival at the jail he was read the implied consent advisory. A video tape was made of the reading and the refusal. When I first attempted to get information from Mr. Johnson he could not spell his last name for me. When he was asked how old he was after I learned he was born in 1945, he said 41. MR. JOHNSON, upon the initial reading of the implied consent, first paragraph, he repeatedly stated that he did not understand it. I

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Batrami - Bemidji

Date of Follow-up _____

Type of Offense _____ Case Name _____

continued to break it down to the point where he was finally told that he had been driving a car, did he understand that? He said yes. I then told him that I believed he had been drinking, did he understand that. He stated yes. I also told him that he had been placed under arrest, did he understand that, and he stated yes. I also told him that Minnesota law tells me that I have to take a test to determine if he had been drinking, did he understand that? He finally stated yes sir. He stated yes sir to all of the other questions until the point when I asked if he wanted to talk to an attorney which he stated no. I then asked whether he would give his blood or urine he stated no. The reason was that he simply did not want to. He also stated at this time that he was diabetic.

DESCRIPTION OF EVIDENCE IN CUSTODY:

One implied consent advisory, tape no. 68 which is a video made in the booking room, note

End of report. 8114.
Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**
Beltrami - Bemidji

Date of Follow-up 10/11/95

Type of Offense AG DWI

Case Name _____

Robert Johnson

SYNOPSIS:

At approximately 1556 on 10/11/95, Deputy Atwater assisted Deputy Steve Kovacic and Deputy Scott Winger in attempting to stop a vehicle that was coming in to Bemidji on Co. Rd 50. The vehicle plate no. is 408MBP, a blue Ford Taurus. Deputy Kovacic informed Deputy Atwater and Deputy Winger by radio that he was behind a vehicle coming off the bypass onto Co. Rd 50 headed towards town. Deputy Winger intercepted the vehicle near the intersection of Co 404 and Co 50. Deputy Atwater observed Deputy Winger's squad car overhead red lights come on, that's when we attempted to stop the vehicle. Atwater observed the vehicle pull over towards the shoulder of the road and go around Deputy Winger's car and continue towards town and towards Deputy Atwater who was approximately 1/4 mile behind Deputy Winger. As the car approached Deputy Atwater activated the red lights on the squad car, also the siren and flashing head lights and pulled approximately halfway across into the west bound lane of Co. 50 and motioned with his hand for the driver to pull over to the side of the road. The driver did pull over to the side of the road and come to almost a complete stop and then continued and started to go around Deputy Atwater. By this time Deputy Winger had gotten turned around and blocked the path of the vehicle from going around Deputy Atwater's squad car and Deputy Kovacic came up behind the vehicle making it impossible for the vehicle to move. Deputy Atwater did recognize the party driving as BOB JOHNSON. He was speaking on a cell phone in his vehicle as he sat in the drivers seat.

End of report. 8105.
Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Atwater 8105 DATE 10/11/95 SUPERVISOR _____ DATE _____

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Bemidji - Bemidji

Date of Follow-up 10/11/95

Type of Offense Follow up Case Name Robert Johnson

SYNOPSIS:

I was speaking Sgt. Dick Keckler of the Bemidji PD who advised me that BOB JOHNSON was coming to Bemidji from the cities and he was suicidal. Was also advised that he had a handgun with him and that he was making threats of using it upon himself. We were also given the description of the vehicle and license number. We were advised that JOHNSON was between the cities of Bemidji and Cass Lake.

Deputy Kovacic and myself left the LEC and headed south east out of Bemidji to intercept the vehicle prior to entering the city. I spoke with Deputy Atwater on a tactical plan and advised him we had a possible situation in which may require more assistance and we met at the Honda Yamaha Center where I explained the situation to him. I had also been advised that BOB JOHNSON was extremely intoxicated at this time. After appraising Deputy Atwater of the situation we received word from Deputy Kovacic that the vehicle had just come to the Hwy 2 bypass on the south edge of Bemidji. At that time Deputy Atwater and myself headed south bound on Co. 50. I met the suspect vehicle which was being followed at this time by Deputy Kovacic near Great Lakes Gas. Deputy Kovacic was attempting to stop the vehicle. I activated my red lights and siren and turned my squad sideways in the road to stop the further progress of that vehicle. The driver applied the brakes, slowed his vehicle and then went around the front of my car and continued. Deputy Kovacic continued the pursuit at that time. I followed. Deputy Atwater also turned his squad sideways approximately 1/4 mile from that area across the road attempting to stop this vehicle. The vehicle once again started to stop and then tried to proceed around the front of Atwater's vehicle. I at that time pulled my squad to the passenger side front of the vehicle driven by JOHNSON and we contained it at that point. Deputy Kovacic did stop the vehicle from moving backwards by parking his unit behind it.

At that time we approached the vehicle. I came to the passenger side and observed who I knew to be BOB JOHNSON reaching for the passenger seat with one hand and holding the cell phone in the

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER _____ DATE _____ SUPERVISOR _____ DATE _____

pg. 2

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**

Betrami - Bemiap

95017866
Case # 95017866
Date of Follow-up _____

Type of Offense _____ Case Name _____

other. He made 2 sweeping motions in that area of the passenger seat towards him and then looked towards me as I opened the door feeling that he was attempting to find the gun which he allegedly had. JOHNSON at that point grabbed a coat and a pillow and slid over the seat towards him and I did observe a hand gun lying on the floor. I did immediately recover the hand gun advise both Deputy Atwater and Kovacic that I did have a handgun and placed it on top of the vehicle. At that time I also went back into the passenger door and did move the other items to see if there were any further weapons which may be used against himself or us at that time. I was unable to locate anything but an open bag of M&M's and did not find anything which appeared threatening.

I did turn the gun over to Kovacic as well as the b b's which were extracted from the gun. The gun was a Marksman BB gun which was in a cocked and ready position at the time of the stop.

End of report. 8109.
Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	_____
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail	_____	_____
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other	_____	_____

OFFICER Winger 8109 DATE 10/11/95 SUPERVISOR _____ DATE _____

95017866

OJ2952 BJI314 OCT 11 1995 15:13:59 OCT 11 1995 15:14:02

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TXT

ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
DLN/J525745040917. DLT/1. CLS/C. EXP 120199
STATUS: VALID GLASSES
PHOTO #: 5752124023. ISU/052095.

02/26/95 RETAKE LETTER MAILED ON 02/26/95

SIMILAR NAME-DOB EXISTS:

10/02/95	REINSTATE DRIVING PRIVILEGES - RECEIPT		
07/17/95	* LIMITED UNTIL	10/02/95	
07/15/95	FEE REQUIREMENT MET		260/750
07/15/95	DRIVER TEST WAIVED		
09/15/95	PASSED WRITTEN TEST		09/15/95
*09/02/95	* REV - REFUSE TO TEST	00030 10/02/95	08/26/95
08/26/95	7-DAY TEMP		
08/26/95	SURRENDERED DL		E5
08/26/95	DRIVING WHILE UNDER THE INFLUENCE	10-1 E19 090195XX	
01/14/95	SPEED	274 512836A	
08/01/89	SPEED	923341A	

=====

OJ2952 BJI314 OCT 11 1995 15:13:59 OCT 11 1995 15:14:02

IMMEDIATELY CONFIRM RECORD WITH ORI

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MALE GM/FELONY

BELTRAMI COUNTY JAIL BOOKING FORM 95017866

ICR # 95-17866 Jail File # 0965 Booking # 09

NAME ROBERT ALAN JOHNSON DOB 120145

ADDRESS 1075 Washington Ave Bemidji, MN 56601

Age 49 Sex M Race W Height 511 Weight 208 Hair Blu Eyes Bro

BOOKING DATE 101195 TIME 1350 BY RR

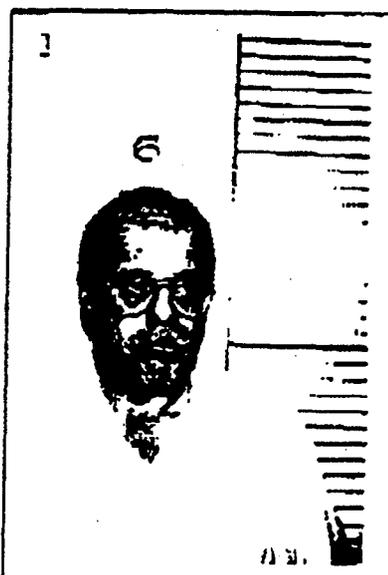
RELEASE DATE _____ TIME _____ BY _____

HOW _____

OFFENSE (3025PC) AGG DWI

BOND _____ SENTENCE _____

COMMENTS Placed in observation/15 min watch.



PROBABLE CAUSE FOR ARREST Saw van SEVERE
open center line 2x6 - Fair
F.S.T. & PBT

- REASON FOR DETENTION
- To prevent bodily harm to the accused or another.
 - To prevent further criminal conduct.
 - There is a substantial likelihood that the prisoner will fail to respond to a citation.
 - Prisoner does not possess, or have ready access to, adequate resources to post bail or pay a fine.

ARRESTING OFFICER'S NAME STEVE KOVACH BADGE NUMBER 8114
 ARRESTING OFFICER'S SIGNATURE [Signature] DATE 10-11-95

OCT 12 1995

Steve Kovacic's copy

BEMIDJI POLICE DEPARTMENT
FOLLOWUP
DETECTIVE CLARENCE ERICKSON

CASE NO: 95-17866

SYNOPSIS: Michael Meuers and Pat Welle came to the Law Enforcement Center to report that Robert Johnson, State Representative was in the Brainerd area they believed on his cell phone and stated that he had a gun and was going to commit suicide.

PEOPLE MENTIONED IN REPORT:

Complainant: Michael Douglas Meuers, DOB: 10-24-44 Box 44 Bemidji Mn 56601

Complainant: Pat Welle, 2315 Birchmont Drive, Bemidji Mn 56601

Suspect: Robert Allen Johnson, DOB: 12-01-45

Dave Walch, Cellular 2000, assisted the Police, #766-0555

DETAILS: Michael Meuers and Pat Welle came to the Police Department and talked to Detective Erickson and told Detective Erickson that they had a real crisis they believed on their hands. They stated that a friend of theirs was stating that he was in the Brainerd area on his cell phone and was contemplating suicide. Pat Welle and Michael Meuers stated that the person was Robert Johnson and that due to the new releases that came out in the news that he was very upset, that life was not worth living anymore that he did have a gun.

Detective Erickson contacted Shep Wilimek at the Evergreen House and let him talk to Pat Welle on how to get some ideas on how to intervene. It was decided at this point that he would get ahold of Don Lussier who was the alcohol counselor at Red Lake and who Robert Johnson trusted and was a friend of. It was found that Don Lussier was on his way to Wilmer. Eventually Don Lussier was contacted. Don Lussier also called Bob Johnson and received from Bob Johnson a statement that he would come to Bemidji and go to his apartment and wait there until Lussier could come over and talk to him. At this point it was decided that we would attempt to track him through Cellular 2000.

Detective Erickson contacted Cellular 2000 and was eventually turned over to Dave Walch, who was able to track Johnson's cell phone by using different towers and the strength of the signal that was being received by that tower. Dave Walch stated that he would assist the Police Department after talking to some Supervisors. It was found that Bob Johnson had stated that he was near Brainerd, however Dave Walch was able to pin point him and found that he was in the Walker area. He continued tracking him. Bob Johnson told people that he had talked to that he was in the Laporte area. It was found that he was not, he was in the Walker area. He stated that he would be coming to Laporte over to 71 and up 71 to his apartment at Century Apartments. However,

COPY

CFS#95-17866

PG.2

Dave Walch was able to track him. He continued up 371 at times parking. When it was found that he was in the Cass Lake area he called his Psychiatrist and told his Psychiatrist that he was North of Cass Lake, had a gun to his head and that he was intoxicated. This was the first time that Detective Erickson was aware that alcohol was involved. At this point it was unknown whether he was on Hwy# 2 or County Road 9. Dave Walch believed that he was on Hwy#2. Michael Meuers and Pat Welle had agreed after talking to him on the cell phone to meet him at Luepke's Store, South on 71. However Cell 2000, Dave Walch stated that he did not believe he was anywhere near Luepke's Store. Sgt. Keckler was notified of this situation and then a Lic# by running an Alpha was found for the vehicle that Robert Johnson was driving. This information was given to the Beltrami County Sheriff's Department, that it was believed that he would be coming in on Highway 2 where they took up their positions. They eventually stopped Bob Johnson. The track through Cellular 2000 was discontinued and the case was turned over to the Beltrami County Sheriff's Department.

3 Michael Meuers and Pat Welle both came in and thanked the Police Department for their assistance and will discuss this case further with Sheriff Rogstad. That will be the end of this report.

Detective Clarence Erickson, #8563

Transcribed by:SK. 10-11-95. 1632 hours

8



IMPLIED CONSENT ADVISORY

(Effective January 1, 1993)

Time Started 1332 Location read: Bethany Casino

COMMERCIAL VEHICLE-BEGIN WITH BOXED AREA

Robert Alan Johnson, I believe you have been driving, (person arrested) operating or controlling a motor vehicle while under the influence of alcohol or ~~a controlled substance~~ "and you have been placed under arrest for this offense," "or you have been involved in a motor vehicle accident resulting in property damage, personal injury, or death."

yes 1. Minnesota law requires you to take a test to determine if you are under the influence of alcohol or ~~a controlled substance~~. (check)

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)
_____, I believe you have been driving, (operator's name) operating, or controlling a commercial motor vehicle with the presence of alcohol.
yes 1. Minnesota law requires you to take a test to determine the presence of alcohol. (check)

- yes 2. Refusal to take a test is a crime.
- ✓ 3. **(READ ONLY IF PROBABLE CAUSE TO BELIEVE VIOLATION OF CRIMINAL VEHICULAR HOMICIDE AND INJURY LAWS)** Because I also have probable cause to believe you have violated the criminal vehicular homicide or injury laws, a test will be taken with or without your consent. (check)
- 4. Before making your decision about testing, you have the right to consult with an attorney. If you wish to do so, a telephone will be made available to you. If you are unable to contact an attorney, you must make the decision on your own. You must make your decision within a reasonable period of time.

If the test is unreasonably delayed or if you refuse to make a decision, you will be considered to have refused the test. Do you understand what I have just explained? yes

Do you wish to consult with an attorney? no

Time telephone made available: Start: _____ Stopped: _____

Will you take the (Breath) (Blood) or (Urine) test? no

(If person refuses:)

What is your reason for refusing I don't have ... I don't want for (Blood)
On urine - simply because I don't want to

Time Completed 1337 Steve Kerson

Date: 10-11-95 (Printed name of officer requesting test)

IMPLIED CONSENT LAW PEACE OFFICER'S CERTIFICATE

▶ (PLEASE TYPE OR PRINT LEGIBLY, CROSS OUT REFERENCES TO INAPPLICABLE ITEMS.)

Name of Peace Officer: STEVE KOVACS Name of Police Agency: BEETHEM CO SHERIFFS DEPT

I certify to the Commissioners of Public Safety, State of Minnesota, that I am a member of the above police agency and:
 1. I am a "peace officer" within the meaning of Minnesota Statutes, Section 169.123, Subdivision 1.
 2. On (Date) 10-11-75, that probable cause to believe that the person named below had been driving, operating or physically controlling a motor vehicle within the State of Minnesota on _____ in _____ County, while under the influence of alcohol or a controlled substance, or a commercial motor vehicle with the presence of alcohol, contrary to law.

Full Name: Robert Alan Johnson Date of Birth: 12-1-45
 Address: 1075 Washington Ave S City, State, Zip: Beetle MN 56601
 Driver License Number: 525-745-040-917 State of Issue: MN

3. Reason for this certificate:
 Vehicle stopped by officer because: suspect on center line
 Accident Vehicle already stopped (describe): Other (describe): _____

4. Probable cause that person was driving, operating or in physical control:
 Saw person Person admitted Other: _____

5. Probable cause that person was under influence (in addition to other information):
 Odor of alcohol Bloodshot, watery eyes Slurred speech Poor balance
 Other (describe): soil had been drinking

6. Check all that apply of the following:
 DWI arrest accident refused PBT (preliminary screening breath test)
 failed PBT with alcohol concentration of .10 or more other
 7. Other pertinent information: car was not

8. The person was requested to submit to a test to determine (alcohol concentration) (or) presence of a controlled substance, pursuant to the provisions of Minnesota Statutes, Section 169.123, and was read the Implied Consent Act and the other side of this form by: (Name and Agency) STEVE KOVACS, BEETHEM CO SHERIFFS DEPT

9. The person: (X APPLICABLE BOX)
 Refused to provide a test sample to determine the presence of (alcohol) (or) (controlled substance);
 Provided a sample (blood) (breath) (urine) for analysis, which indicated an alcohol concentration of _____

The sample was submitted for analysis to:
 Name of Agency, Analyt or Breath Test Operator: _____
 Address of Agency or Analyt: _____
 City, State, Zip: _____
 Sample Identification Number (Blood or Urine Test Only): _____

MEDICAL PERSONNEL CERTIFICATE

Pursuant to Minn. Stat. § 69A.16, I certify as follows at the request of the undersigned peace officer, I withdrew a sample of blood from:

NAME: _____
 AT: _____ (Location)

I am authorized and qualified to draw blood samples pursuant to Minn. Stat. § 69A.122, Subd. 3.

I withdrew the sample of blood at _____ A.M.P.M., after preparing the site of withdrawal with a non-vascular substance.

I used a sterile needle and container in withdrawing and receiving the blood sample.

I gave the blood sample to the state registered peace officer.

DATE: _____ Signature: _____

Printed Name: _____

Occupation (M.D., R.N., M.T., L.T., etc.): _____

Signature of Peace Officer: _____

SEND WITH COPY OF ALCOHOL INFLUENCE REPORT, ARREST OR ACCIDENT REPORT, BREATHANALYZER OR INTOXLYZER RECORDS, LABORATORY REPORT TO:

Department of Public Safety
 Other and Vehicle Services Division
 Implied Consent Section
 108 Transportation Building
 St. Paul, MN 55155

Signature of Peace Officer: [Signature]
 Printed Name of Peace Officer: Steve Kovacs
 Badge Number: 8114
 Business Telephone Number: 218 759-7611
 Date: 10-11-75

Attach Notice of Revocation (Form PS-31123) if issued.

774033

PS31123-12

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
SAINT PAUL 55155

Name Robert Alan Johnson
 First Middle Last
 Address 108 WASHINGTON AVE APT 15
 City BEMLING State MN Zip 56601
 *Date issued 10-11-95
 Enf. Agency Beltrami Co. SO.
 Ticket or Case # 95-178166
 DOB 12-1-45
 Court Criminal
 DL # 5525-745-040-917
 Signature of Driver to Acknowledge receipt: [Signature]

NOTICE AND ORDER OF REVOCATION

On the date shown above (*date issued) you were asked to submit to a test to determine your alcohol concentration pursuant to Minnesota Statutes, section 169.123, the Implied Consent Law.

- Because you refused to submit to testing, the Commissioner of Public Safety will revoke your Driver License and/or driving privileges for one year.
- Because you submitted to a breath test which disclosed an alcohol concentration of 0.10 or more the Commissioner of Public Safety will revoke your driver license and/or driving privileges for : (1) a period of 90 days; or (2) if you are under the age of 21 years, the period of revocation will be 6 months; or (3) for a period of 180 days if your license has been revoked within the past 5 years under section 169.121 or 169.123.
- Your Driver License and/or privilege to drive in this state is hereby **REVOKED. THIS IS YOUR OFFICIAL NOTICE OF REVOCATION.** This revocation will take effect 7 days after the date shown above.

SURRENDER OF DRIVER LICENSE

By law, the officer is required to take all Minnesota driver license certificates in your possession and, if you have a valid license, to issue a temporary license effective for 7 days, or invalidate the license.

Yes No Driver license card surrendered and forwarded with this report.

No temporary license issued because: _____

TEMPORARY LICENSE

This entire notice is valid as a temporary license from the date shown above for 7 days. NOT VALID IF DETACHED. Temporary license valid only if record so indicates.

Licensee Height: 510 Weight: 200 Class: C
 Restriction: Glasses

AFFIDAVIT OF LOST DRIVER LICENSE

I have lost or destroyed my license. I promise that if it is found I will immediately forward it to the Driver License Office, 108 Transportation Building, St. Paul, MN 55155. I fully realize that in making this affidavit, the license certificate is rendered null and void and may not be used for operating a motor vehicle.

Date Signature of Licensee

Signed: [Signature]
 Signature of Peace Officer
STEVE KOVACIC
 Printed Name
719 751 9111
 Telephone Number

YELLOW COPY TO COUNTY ATTY. OR CLERK

OVER

FILED

DEC 21 1995

LORAYNE M. NORGRÉN
COURT ADMINISTRATOR

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STATE OF MINNESOTA DISTRICT COURT
COUNTY OF SHERBURNE Deputy TENTH JUDICIAL DISTRICT

State of Minnesota, PLEA OF GUILTY ENTERED
TO COUNT TWO
Plaintiff, PRE-PLEA PSI COMPLETED
vs. SENTENCING
Robert Alan Johnson, Defendant. FILE NO. K9-95-1722

The above-entitled matter came duly on for hearing before the Honorable David R. Leslie, Retired Judge acting as District Court Judge, on the 15th day of December, 1995, at the hour of approximately 11:50 a.m., at the Courthouse, City of Elk River, County of Sherburne, State of Minnesota.

- - -
A P P E A R A N C E S

Dean Emanuel, Assistant Sherburne County Attorney, appeared for and on behalf of the State of Minnesota.

William P. Kain, Attorney at Law, appeared for and on behalf of the Defendant.

- - -
The Defendant, Robert Alan Johnson, was also present in the Courtroom.

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Gloria Dunleavy, Department of Court Services, was also present in the Courtroom.

- - -

(Thereupon, the following proceedings were had in open Court:)

THE CLERK: Number 50, State versus Robert Alan Johnson.

(Thereupon, at this time, the Defendant and counsel came forward and stood before the bench.)

MR. KAIN: Good morning, Your Honor.

THE COURT: Good morning. May we have your appearance please.

MR. KAIN: Your Honor, Mr. Johnson is here. My name is William Kain. I'm representing Mr. Johnson.

THE COURT: And I understand that you have, there's a plea negotiation here.

MR. EMANUEL: That's correct, Your Honor. It's my understanding that the defendant will be entering a plea of guilty to count two, which is the gross misdemeanor DWI, .10 or more. The other counts will be dismissed. There would be a 30 day cap on any executed jail. That jail would be, well, the jail could be served in another county as long as there's no expense to Sherburne County and as I

1 understand it he'll be asking the Court to start that jail
2 time on Monday.

3 MR. KAIN: That's a correct statement, Your
4 Honor. Prior to entering a plea, though, I would like to
5 file a motion with the Court for the purposes of preserving
6 the record on appeal. It's a double jeopardy motion.

7 THE COURT: I understand that.

8 MR. KAIN: I have served a copy on Mr.
9 Emanuel prior to court beginning today.

10 MR. EMANUEL: I acknowledge receipt of that,
11 Your Honor.

12 THE COURT: That's customary. I understand
13 that.

14 MR. KAIN: And then, Your Honor, I also would
15 like to make a brief record with my client. We are here for
16 a Rule 5 appearance. So we are moving quicker than normal
17 or typical in a case like this. So I would like to have him
18 waive the Omnibus Hearing for any other issues other than
19 the double jeopardy issue.

20 THE COURT: Were you here when I read the
21 rights?

22 MR. KAIN: I believe Mr. Johnson was in for a
23 pre-plea, Your Honor. I would be willing to waive the
24 rights on the record. I have explained them to him and
25 we've gone through a petition also prior to coming into

1 court.

2 THE COURT: Would you swear him in please.

3 ROBERT ALAN JOHNSON,

4 having been first duly sworn,

5 was examined and testified as follows:

6 THE COURT: How do you plead then to the
7 charge of driving under the influence of intoxicating
8 beverage with a blood alcohol content of .10 or more on
9 September 28th of this year in this county?

10 THE DEFENDANT: Guilty.

11 THE COURT: And are you pleading guilty
12 because you are, in fact, guilty?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you have a petition, counsel?

15 MR. KAIN: I do, Your Honor.

16 EXAMINATION

17 BY MR. KAIN:

18 Q Mr. Johnson, I'm going to show you a document that's
19 marked petition to enter a guilty plea in a felony or gross
20 misdemeanor case pursuant to Rule 15. Did we have a chance
21 to go through this document prior to court starting?

22 A Yes.

23 Q Do you understand the statements contained in the
24 petition?

25 A Yes.

1 Q Are they true and correct to the best of your
2 knowledge?

3 A Yes.

4 Q You were present in the courtroom when Mr. Emanuel
5 recited to the Court the contents of our plea agreement. Is
6 that the agreement as you understand it?

7 A Yes.

8 Q Showing you the line marked defendant. Is that your
9 signature?

10 A Yes, it is.

11 MR. KAIN: I'll offer the petition, Your
12 Honor.

13 THE COURT: Any objection?

14 MR. EMANUEL: No, Your Honor.

15 THE COURT: I have before me a petition to
16 enter a plea of guilty to the charge. It bears your
17 signature on the fifth page or fourth page. Is that
18 correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Before signing it did you go over
21 it carefully?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Did you understand it?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you have any questions about

1 the contents of this document that you'd like to direct to
2 me, to your attorney or the prosecuting attorney?

3 THE DEFENDANT: No, I do not.

4 THE COURT: Are you satisfied that your
5 attorney has properly represented you in this case?

6 THE DEFENDANT: Yes, I am, Your Honor.

7 THE COURT: And again I ask you, are you
8 pleading guilty to this matter because you are, in fact,
9 guilty?

10 THE DEFENDANT: Yes.

11 THE COURT: Would you tell the Court what
12 happened on that date that brought about this charge to
13 which you have now pled guilty?

14 THE DEFENDANT: I guess on that date would be
15 like a lot of other dates. I had become acutely depressed.
16 After almost fifteen years of very happy sobriety, I fell
17 into relapse over the summer of '95 and consequently became
18 a very chronic alcoholic and still suffering from very acute
19 depression. Consequently I ended up in a treatment program
20 that allowed me to capture a life that was pretty much lost.
21 On that date I can't be real specific. It's very cloudy. I
22 was not only intoxicated but I was physically ill as well,
23 Your Honor.

24 MR. KAIN: I can inquire further.

25 THE COURT: If you will.

1 MR. KAIN: To assist the Court.

2 EXAMINATION

3 BY MR. KAIN:

4 Q You do agree that you were driving a motor vehicle on
5 that date?

6 A Yes.

7 Q And you were in Sherburne County, Minnesota?

8 A Yes.

9 Q The police officer stopped because you had pulled over
10 to the side of the road, is that correct?

11 A Yes.

12 Q As a result of medical attention that was administered
13 to you that date, blood was drawn from you. You understand
14 that's what happened?

15 A Yes.

16 Q And that the blood alcohol concentration was revealed
17 to be .30, is that correct?

18 A Yes.

19 THE COURT: Point what?

20 MR. KAIN: 30.

21 BY MR. KAIN:

22 Q And that it was at least, you don't have any question
23 you were at least .10 or greater at that time?

24 A Yes.

25 MR. EMANUEL: Your Honor, could I ask a just

1 a couple of questions?

2 BY MR. EMANUEL:

3 Q The date that we're talking about is September 28,
4 1995, correct?

5 A I believe so.

6 Q And that occurred in Sherburne County, correct?

7 A Yes.

8 THE COURT: Oh, I said September -- I was
9 looking at another date. I'm sorry about that. That was
10 September 28th.

11 MR. KAIN: Also if I can inquire.

12 BY MR. KAIN:

13 Q You've have a prior conviction for DWI, is that
14 correct?

15 A That is correct.

16 Q From Dakota County?

17 A Yes.

18 Q And you were represented by an attorney at that time,
19 is that correct?

20 A Yes.

21 Q And that took place earlier in September, is that
22 right?

23 A August 27th.

24 Q All right. So the conviction was from sometime in
25 September of 1995?

1 A Yes.

2 Q In any case, after -- that took place before this
3 driving incident?

4 A Yes.

5 THE COURT: Now I understand there is
6 subsequent one afterwards.

7 MR. KAIN: That's correct, in Beltrami
8 County, Your Honor.

9 THE COURT: Now, this was the second one
10 then.

11 MR. KAIN: Chronologically the second one,
12 that's correct.

13 THE COURT: Now, the plea negotiation calls
14 for a sentence of 365 days staying 335 days?

15 MR. KAIN: That's correct.

16 THE COURT: Is that consistent with the
17 policy in this jurisdiction?

18 MR. EMANUEL: Your Honor, it is for someone
19 with a second DWI which, well, someone who has one prior DWI
20 which the defendant in this case had at the time of this
21 incident. So that it is consistent with the Sherburne
22 County policy.

23 THE COURT: Now as I understand it the
24 Beltrami Court sentenced you to 60 days, is that correct?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Which would be consistent with
2 the policy here if this had been the third one?

3 MR. EMANUEL: It would have. However, they
4 also gave him credit day for day for 30 days or thereabouts,
5 28 or 30 days in treatment which is not something that we
6 probably would have done here. But that is what Beltrami
7 did. They did give him a 60 day sentence but they gave him
8 credit off of that sentence for the time he spent in
9 inpatient treatment.

10 THE COURT: Well, that was -- that was up to
11 the Court then in Beltrami County?

12 MR. EMANUEL: That's correct, Your Honor.
13 You were asking me if that, if the sentence they gave in
14 Beltrami would have been --

15 THE COURT: He would have gotten 60 days
16 here.

17 MR. EMANUEL: He probably would have gotten
18 60 days in jail.

19 THE COURT: And he would have had to serve it
20 and then it would have been up to the Court whether or not
21 to give him any credit.

22 MR. EMANUEL: Correct.

23 THE COURT: For treatment program which he
24 entered into and completed as I understand it.

25 MR. KAIN: That's correct, Your Honor.

1 THE COURT: Have you had an opportunity to
2 review the pre-sentence investigation?

3 MR. KAIN: No, Your Honor. I would like to
4 take that opportunity at this time.

5 MR. EMANUEL: I have not either, Your Honor.

6 (Off the record.)

7 (On the record.)

8 MR. KAIN: We are ready to proceed, Your
9 Honor.

10 THE COURT: Now then I take it you have had
11 that opportunity to review the pre-sentence investigation as
12 completed by corrections?

13 MR. KAIN: We have, Your Honor.

14 MR. EMANUEL: I have, Your Honor.

15 THE COURT: Do you wish to make any comments
16 with respect to that?

17 MR. EMANUEL: Your Honor, yes. Shall I go
18 first?

19 THE COURT: Sure.

20 MR. EMANUEL: Thank you. Your Honor, the
21 recommendation as I understand it is for 30 days, well,
22 actually, for 365 days, suspend 335 days which is a 30 day
23 executed sentence and a \$1,500 fine. I think that that is
24 within the parameters of a second DWI which as I indicated
25 earlier to the Court I believe this one is. I think it

1 should be treated since at the time of this incident on
2 September 28th, Mr. Johnson had one prior DWI conviction. I
3 think it's consistent with our policy to impose or execute
4 30 days. And I would ask that the Court do that.

5 With regard to the fine, I'll just leave that
6 up to the Court. I would also recommend to the Court that
7 the Court order the other conditions that are recommended in
8 the alcohol assessment with regard to treatment. It's my
9 understanding that the defendant completed inpatient
10 treatment up in Beltrami County and he's in aftercare and I
11 would guess that these conditions are basically the same
12 ones that were imposed on him in connection with the
13 Beltrami DWI and I think that they're fair and the Court
14 should also make those a part of his probation in Sherburne.
15 I think that the length of probation should be three years.

16 And finally, Your Honor, with regard to the
17 jail time, I think that 30 days should be served. I think
18 that the statute requires that it be consecutive to any time
19 and that he's done in Beltrami County. Now I understand
20 that he only has a day or so left on his sentence up in
21 Beltrami County. So as a practical matter, I don't know
22 that the Court could make that concurrent with that time any
23 way. If the Court were to do that he basically would suffer
24 no additional penalty for this DWI and I don't think that's
25 proper.

1 Finally, Your Honor, there's, there has been
2 a tremendous amount of publicity about this case and I know
3 the Court is aware of it. Most of it has been negative
4 publicity at the expense of the Sherburne County Attorney's
5 office and I would just simply like to say that I'm
6 extremely disappointed in a number of people and the way
7 that this case has been handled. I'm the one who charged
8 this case out and it came to me because I handle gross
9 misdemeanors and I've been handling it from the beginning
10 and I'm completing it today and not once has anyone who has
11 made comments about this case ever called me or talked to me
12 about this case and there has been extensive discussion in
13 the press and on TV and throughout all of the media with
14 regard to concurrent time versus consecutive time and
15 basically implying that the Sherburne County Attorney's
16 Office either a, doesn't know what they're doing or b, is
17 being too soft on drunk drivers. I received numerous phone
18 calls from private citizens and in my five years here, I've
19 never received any other calls on any cases that I've
20 handled from private citizens including cases which are much
21 more serious than this case. And I think it's very
22 unfortunate that because of the politics of this case there
23 was a misunderstanding and there was no attempt to contact
24 me to find out if any of the stories or allegations that are
25 floating out there with true which, of course, they were

1 not. And I don't think that Mr. Johnson should be treated
2 any less severe than anyone else in his same situation, but
3 on the same hand, I don't believe he should be treated any
4 more harshly than anyone else because of his political
5 position and I believe that the plea agreement and the
6 recommendation in the APA is consistent with what any
7 citizen would get if they found themselves in this situation
8 and I'm comfortable with that and I think that that is
9 justice and I think that's more important than trying to
10 have a perception that you're tough or that sort of thing
11 which I believe that certain legislators and certain county
12 attorneys in other counties have been making implications
13 about how tough they are and so forth and I just think that
14 that's, has no place here. I think we should all be after
15 what's right and what's just and I believe that this
16 settlement is that and I would encourage the Court to adopt
17 it. Thank you.

18 THE COURT: Anything you'd like to say?

19 MR. KAIN: Just a few comments, Your Honor,
20 although I'll pick up where Mr. Emanuel left off. Just so
21 that the record is clear on this, I agree with Mr. Emanuel
22 that there's been quite a bit of publicity about this
23 matter. There's been a glare that has probably produced a
24 little more heat than light. But for the record I want the
25 record to conclude despite the confusion that has at times

1 surrounded this matter, my dealings with Mr. Emanuel were
2 never anything but clear and Mr. Emanuel has handled himself
3 with utmost professionalism and I want the record to reflect
4 that. He and I were the ones who were handling this matter
5 and I think we understood each other even if other people
6 did not. And to also reflect what Mr. Emanuel said, in
7 representing Mr. Johnson we're not asking you for any more
8 leniency than what in your sound judgment is deserved and
9 we're not asking you to treat, we're asking you not to treat
10 Mr. Johnson any more harshly than anyone else similarly
11 situated. That's been Mr. Johnson's instructions to me.
12 That's the way we've handled this case.

13 Mr. Johnson has a significant sense of
14 remorse for what he's done. That's part of the reason why
15 we're before Your Honor today at our first appearance,
16 entering a guilty plea and asking he be sentenced.

17 I think the 30 day agreement is appropriate
18 and it's typical. Whatever the issues are regarding
19 concurrent or consecutive sentence, my position regarding
20 that matter is that I want you to make that decision, judge,
21 based on your sound judgment not based on what outside
22 parties believe or do not believe is appropriate.

23 Mr. Johnson, as Mr. Emanuel referenced, is in
24 jail. He is serving jail sentence right now in Beltrami
25 County and was furloughed out today. He will be released

1 from custody I believe tomorrow. I think that's what it is
2 from Beltrami County.

3 THE DEFENDANT: Actually it's completed
4 today.

5 MR. KAIN: Okay. He's done today, Mr.
6 Johnson tells me. We are asking the Court if there is any
7 additional jail time imposed by Your Honor, we are asking
8 the Court to authorize Huber release if Mr. Johnson
9 qualifies under the program, to allow Mr. Johnson to, if he
10 qualifies to do so, to serve his sentence at the Anoka
11 County Jail for the reason that public transportation is
12 available to him in Anoka County. I have contacted the
13 Anoka County Sheriff's Department and have been told they do
14 have beds available for out-of-county prisoners. There's a
15 fee for that. We understand that that will be Mr. Johnson's
16 cost, that Sherburne County will not be paying for that. He
17 would ask to start whatever jail is required on Monday,
18 December 18th. He'd ask to begin that service at 3:00 p.m.
19 in the afternoon. Mr. Johnson has a previously scheduled
20 medical appointment in St. Paul in the late morning. So we
21 think if we say 3:00 in the afternoon, we'd be there without
22 a whole lot of problem.

23 As is referenced in the pre-sentence
24 investigation, Mr. Johnson does have an aftercare program
25 that is available to him. It takes place from 7:00 to 9:00

1 p.m. on Tuesdays. I'm going to ask the Court to allow Mr.
2 Johnson a furlough to attend that program provided that he
3 verifies attendance. I will tell the Court that because of
4 the location of the program which is in Burnsville because
5 of a lack of public transportation after a certain time in
6 the evening, it's possible that he will not be able to do
7 that, but if we can make arrangements to obtain
8 transportation, we'd like to have the opportunity to attend
9 that aftercare program. We submit that that's important to
10 maintaining Mr. Johnson's sobriety which obviously is the
11 goal of what we want to accomplish today.

12 Lastly I'm told by the County Attorney's
13 office that individual judges make decisions regarding
14 holiday furloughs. Mr. Johnson is asking for a Christmas
15 furlough. He has an elderly father who lives in St. Paul
16 who is apparently in declining health. It's important to
17 Mr. Johnson to have an opportunity to see him since in all
18 likelihood he's going to be in Anoka at that time. I would
19 ask the Court to consider that request favorably.

20 And that's what I have, Your Honor. Thank
21 you.

22 THE COURT: I have had an opportunity to
23 review the pre-sentence report with the probation officer
24 who is sitting in court here today. I'm satisfied that she
25 has done a very thorough job and come up with

1 recommendations that makes sense to the Court and which I'm
2 going to adopt.

3 The Court's presented with a kind of unique
4 opportunity because of all of the publicity to make some
5 comments about sentencing and about the job of being a
6 judge. I'm a little freer to do that maybe than other
7 judges because I'm retired. I don't have to worry about
8 standing for election. I can call things the way I see them
9 without fear of comment or retribution by people who are on
10 their own agenda. My only concern is meting out justice.
11 And that's what I intend to do here today.

12 With respect to sentencing and the job of
13 being a judge, I think in my own mind over the 32 years that
14 I've sat on various courts, that it is probably the most
15 difficult job that the Court and a judge has. The important
16 thing is to be fair to all the parties which includes the
17 public, defendant and the victims of crime. There are some
18 principles which I have adopted over the years. They may
19 sound rather cerebral as someone said to me once. I don't
20 -- I think if you think about them they're not necessarily
21 cerebral. They're just good common sense. It is that
22 nothing is more unequal than to treat unequal things
23 equally. In addition to that I think it was Justice Page in
24 a concurring dissent that said in effect, not precisely
25 these words but if I may interpret his thinking, that also

1 nothing is more unequal than to treat equal things
2 unequally.

3 And that's precisely the principles that I
4 follow in reviewing this case. I think that this must be
5 looked at as a second DWI and not the third even though
6 sentencing took place in Beltrami. That's the way the
7 system is sometimes when you have different counties because
8 of their calendar dealing with different offenses. Some by
9 necessity come before the others. And I'm treating this
10 after speaking with the probation officer and with others in
11 this Court system that this is consistent with what other
12 judges would do.

13 It happens as a retired judge that I drew
14 this case, not by design just simply by accident. And I
15 don't shy away. I suppose I could have recused myself for
16 fear of being bombarded by the press or the media. I don't,
17 I'm not intimidated by them. I call them the way I see them
18 and in 32 years I think I have that reputation and I'm proud
19 of my reputation. I think it's a good reputation.

20 During my stay as a judge in Hennepin County
21 I suppose over the years I sentenced more felons than any
22 other judge and I had a good record. But I had a policy of
23 calling it as I see it often times placing people on
24 probation, but if necessity arose, I pulled the plug. I can
25 tell you an occasion that describes quite clearly my

1 attitude. I had a young man that I had placed on probation
2 and he failed and he came back and I sent him to Stillwater.
3 I pulled the plug. He was awaiting delivery to Stillwater
4 in the back of the courtroom when I placed another person on
5 probation. And I told that person if you screw up, I will
6 pull the plug. And the young man in the back of the room
7 that I had just sent to Stillwater and who took his
8 revocation properly yelled out and you better God damn well
9 believe him because I didn't. Those were his words not
10 mine. And I've used that quite often since that time just
11 in those words in telling that story when I place somebody
12 on probation and if you screw up I'll pull the plug and you
13 better God damn well believe me. And I don't use that
14 language, but I am quoting the young gentleman who went to
15 prison and who took his medicine. I say to people that I'm
16 willing when the occasion arises to place a person on
17 probation, to mix a little mercy with harsh sentences but if
18 you go to jail eventually because you screw up, it's
19 yourself that's sending you there, not me.

20 And that's going to be true with you, Mr.
21 Johnson. I feel for you. I have a report that tells me
22 about your problems, your depression and it's a moving
23 report. And I feel for you. But in the system we can only
24 go so far and if you screw up again I'm sure Judge Preece up
25 in Beltrami will pull the plug and I'll pull the plug or if

1 it comes before another judge in this jurisdiction because
2 I'm not here, then I'm sure that judge will pull the plug.

3 So I'm going to adopt, with all of that
4 comment, the recommendation of the probation officer who I
5 have a lot of confidence in and who I indicate that I had an
6 opportunity to converse with about this situation.

7 I'm going to sentence you to 365 days in the
8 county jail. I'm going to stay 335 days, place you on
9 probation for a period of three years. As a condition of
10 probation I'm going to require that you follow the
11 recommendations of the probation officer with respect to
12 completing any mental health counseling that may be
13 structured for you; that you participate in any aftercare
14 program that is structured for you. She is recommending
15 Fairview, is that right?

16 MS. DUNLEAVY: Yes, Your Honor.

17 MR. KAIN: Yes, Your Honor.

18 THE COURT: Facility. Also that you
19 participate in the AA program on a twice weekly basis which
20 I understand you're prepared to do; that you take any
21 medication which is prescribed for you for your depression;
22 that you continue with your psychiatric evaluation and
23 follow any recommendations of the doctor with respect to
24 medication and counseling. I want you to deal with your
25 depression. I'm satisfied that it's real.

1 Any time you serve will be served consecutive
2 with any time that may be remaining on the sentence in
3 Beltrami County and would also be consecutive with any time
4 that may be imposed on any revocation that may come out of
5 Dakota County. I don't know what that situation is there
6 and I don't presume to try to tell Dakota County what to do
7 in that matter, but if for any reason they should revoke,
8 this time would be consecutive with any of that time. In
9 addition I will, -- have I missed anything with respect to
10 the conditions of probation? I'm asking the probation
11 officer now who is sitting in court here.

12 MS. DUNLEAVY: Your Honor, I further
13 recommended the Madd panel.

14 THE COURT: Oh, yes. You did indicate the
15 Madd panel. I want you to participate in that.

16 I can say with respect to Madd, I'm a Madd
17 advocate. I'm going to finish my sentence first and then
18 I'm going to tell you about that. In addition there's going
19 to be a fine. I'm going to impose a fine of \$1,500 which is
20 the recommendation of the probation officer. I'll waive any
21 alcohol assessment fee because you've already gone through
22 an alcohol assessment but I will add the surcharge and the
23 library fee and give you 15 months to pay that. You have 12
24 months to pay the -- will 15 months be enough? I know that
25 you're loaded down with other fines in the other court but

1 if 15 months will do it, I'll set it for 15 months to do
2 that.

3 I want to tell you about the other
4 experience. As I say I have a unique opportunity here and
5 nobody can shut me up. In 1971 I went with Judge Burris
6 and Judge O'Riley out of Hennepin County. We were in
7 Municipal Court then where we handled a lot of DWIs. At a
8 time incidentally when the blood alcohol content could be
9 .15 before anything was imposed. And as a matter of fact if
10 you read .17, it was usually reduced to careless driving.
11 Well, I went to Sweden and Norway and Denmark with these
12 other judges and we, a part of the purpose of our trip was
13 to review the procedures particularly in Sweden and Norway
14 with respect to dealing with those people who were brought
15 in for driving under the influence of intoxicating beverage.
16 And, of course, the, those Scandinavian countries were much
17 more severe than we were. As a matter of fact in Norway it
18 was .05 and in Sweden it was .10. And I came back from that
19 and I recommended to our bench at that time that we do the
20 same thing here, that we reduce the level from .15 to .10
21 and my colleagues for the most part ridiculed me and,
22 however, two months later to their good fortune maybe, I got
23 an appointment to the District Court, so I didn't have the
24 opportunity to follow through except on a couple of
25 occasions with imposing a sentence that was more severe than

1 was the practice. Well subsequently Madd came into the
2 picture, thank God, and have through their efforts caused
3 people to rethink the whole problem and we have reduced, so
4 many changes have occurred in the law with respect to
5 driving under the influence that, and they must be given a
6 great deal of credit for the changes in the law which I
7 think in large measure are very positive.

8 Well, okay, folks. With all of that, good
9 luck to you, Mr. Johnson. I hope that the legislature when
10 it convenes will take into consideration in your case
11 particularly the depression that you've suffered, all the
12 circumstances of your case and not conclude that just
13 because it's a gross misdemeanor that somehow or other they
14 should pull the plug on you. I think your case, in my own
15 mind, may be quite different from other cases and other
16 situations that the senate and the house may be reviewing.
17 There are circumstances here that have to be considered by
18 the legislative body and, of course, I can't tell them what
19 to do. I can hope that they look at it fairly.

20 MR. EMANUEL: Your Honor, when should he
21 start his jail?

22 THE COURT: Yes. Oh, yes. There are a
23 couple of other things as you requested. I have no
24 objection to a Christmas furlough. I'm a Christmas person.
25 I guess we all are or most of us are. So I think that

1 that's fair. I also understand that you have a father that
2 you want to spend Christmas with. That's fine. And so you
3 may have that furlough. You may start serving your time at
4 3:00 p.m. on Monday, December 18th. You're entitled to, or
5 if you qualify for Huber, you may serve it under the Huber
6 law and if a bed is available at Anoka you may serve it in
7 Anoka.

8 Now have we covered everything?

9 MR. KAIN: The aftercare issue, Your Honor.
10 We would ask for a furlough during the sentence for
11 aftercare. I don't know whether you covered that.

12 THE COURT: Oh, no, we didn't cover that.

13 MR. KAIN: We don't know if we can do it but
14 we'd like to have the opportunity to do it.

15 THE COURT: Any objection to that, counsel?

16 MR. EMANUEL: No, Your Honor.

17 THE COURT: Then it's granted.

18 MR. EMANUEL: My only concern, however,
19 though is if he does serve it in another county, I don't
20 know, I think he'd have to go under whatever rules that
21 county, for instance, Anoka County may have certain rules
22 about furloughs and I think he has to abide by those.

23 THE COURT: That makes sense.

24 MR. KAIN: That's fine.

25 THE COURT: You have no problem with that?

1 MR. KAIN: That's right, Your Honor.

2 THE COURT: Okay. Good luck to you, sir.

3 THE DEFENDANT: Thank you.

4 MR. KAIN: Thank you, Your Honor.

5 MR. EMANUEL: One other thing, Your Honor,
6 I'm sorry. I just want to make sure that the record is
7 clear that if he does serve it in another county, it's at no
8 expense to Sherburne County.

9 THE COURT: Well, of course.

10 MR. KAIN: Also the other counts are
11 dismissed?

12 MR. EMANUEL: Yes, they are.

13 THE COURT: And their charges may be in
14 excess of the charges here. I don't know.

15 MR. KAIN: We understand what the charges
16 are.

17 THE COURT: Okay.

18 (Thereupon, at the hour of 11:55 a.m.,
19 this matter was concluded.)

20 - - -

21 REPORTER'S CERTIFICATE

22 I, Sandra J. Shoutz, Official Court Reporter,
23 do hereby certify that this and the foregoing twenty-five
24 (25) pages of typewritten material constitute a full, true,
25 and complete transcript of my original stenograph notes

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taken at the time and the place as above so indicated in the matter of the State of Minnesota versus Robert Alan Johnson; and that I have delivered the original and two copies of said transcript to the Court Administrator's in and for the County of Sherburne.

Dated this 21st day of December, 1995.



Sandra J. Shoutz, Court Reporter

TRANSFER TO: 01/05/1996
 DV04 ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST ** 13:39:41
 COMMERCIAL STATUS: N / A PAGE: 01
 J-525-745-040-917 STATUS: CANC-IPS
 CLASS: C TYPE: 1 SENIOR: MEDICAL: LIM-MOB: ENDORS:
 DONOR: LIVING WILL: CORRECTIVE LENS: Y B-CARD:
 PHOTO BATCH: 1995752124023 DUPL BATCH: 1994662213004

NAME: ROBERT ALAN JOHNSON BIRTH DATE: 12/01/1945 VOTER REG:
 ADDR: 1075 WASHINGTON AVE #15 CITY: BEMIDJI COUNTY: 04
 ZIP: 56601 MAILING ADDR: EYES: BLU HEIGHT: 5-10 WEIGHT: 200 GENDER: M
 SUSPENSE: TICKLERS:
 DL ISSUE DATE: 05/20/1995 (E5) DL EXPIRE DATE: 12/01/1999 OPER-ID:

> 11/28/95 ANY USE OF ALCOHOL OR DRUGS
 > 11/28/95 INVALIDATES LICENSE
 01/14/95 SPEED 274 N 512836A
 08/26/95 DRIVING WHILE UNDER THE INFLUENCE IC-1 E19 N 090195XX
 NEXT REQUEST:

TRANSFER TO: 01/05/1996
 DV04 ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST ** 13:39:49
 COMMERCIAL STATUS: N / A PAGE: 02
 J-525-745-040-917 ROBERT ALAN JOHNSON DOB: 12/01/1945 STAT: CANC-IPS
 08/26/95 SURRENDERED DL N E5
 08/26/95 7-DAY TEMP N
 * 09/02/95 * REV - REFUSE TO TEST 0030 10/02/95 N 08/26/95
 09/15/95 PASSED WRITTEN TEST N 09/15/95
 09/15/95 DRIVER TEST WAIVED N
 09/15/95 FEE REQUIREMENT MET N 260/750
 * 09/17/95 * LIMITED UNTIL 10/02/95 N
 09/18/95 AAI
 09/28/95 IMPLIED CONSENT - TEST 71 N 531904M
 09/28/95 DRIVING WHILE UNDER INFLUENCE - PLED 71 N 12 15 95
 10/02/95 REINSTATE DRIVING PRIVILEGES - RECEIPT
 10/11/95 IMPLIED CONSENT - REFUSAL 04 N 529104M
 10/11/95 DRIVING WHILE UNDER INFLUENCE - PLED 04 N 12 04 95
 10/11/95 IMPLIED CONSENT - TEST REFUSAL CONVICTION 04 N 12 04 95
 10/11/95 7-DAY TEMP N
 * 10/18/95 REV - REFUSE TO TEST 0365 10/17/96 N 10/11/95
 * 10/18/95 CANC & DENY - INIMICAL TO PUB SFTY N
 NEXT REQUEST:

TRANSFER TO: 01/05/1996
 DV04 ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST ** 13:39:57
 COMMERCIAL STATUS: N / A PAGE: 03
 J-525-745-040-917 ROBERT ALAN JOHNSON DOB: 12/01/1945 STAT: CANC-IPS
 10/18/95 SPECIAL REVIEW REQUIRED N
 10/18/95 REHABILITATION REQUIRED N 1 YEAR
 * 11/26/95 REV - ALCOHOL CONTENT .10 OR MORE 0180 05/24/96 N 09/28/95
 * 11/26/95 CANC & DENY - INIMICAL TO PUB SFTY N
 * 11/26/95 REV - 3 UNDER THE INFLUENCE IN 5 YR 0365 11/25/96 N 09/28/95
 * 11/26/95 CANC & DENY - INIMICAL TO PUB SFTY N
 11/26/95 REHABILITATION REQUIRED N 1 YEAR
 11/26/95 REHABILITATION REQUIRED N 1 YEAR
 11/26/95 MICROFILM N 12/21/95
 01/03/96 AAI

Rep. Johnson apologizes

An unfortunate situation recently occurred between Michael Jordan, the commissioner of the Department of Public Safety, and myself.

As news accounts have reported, I inappropriately made several comments to Commissioner Jordan regarding his department and his decision not to allow transportation, at full reimbursement, for me to travel to former Gov. Rudy Perpich's funeral in St. Paul.

Let me state that I have apologized to Commissioner Jordan in person as well as in writing. Illness, being worn out from the Headwaters Mini-Session and my grief over Gov. Per-

pich's death should not serve as an excuse. I must accept the responsibilities for my actions regardless of the circumstances.

As I have indicated to Commissioner Jordan, I will continue to be a strong supporter of public safety, as I have been in the past, regardless of our discussion Sept. 22.

In closing, let me extend my sincere apology to the citizens of Minnesota and to those I represent in District 4A for a regrettable act.

BOB JOHNSON
DFL-Bemidji
Minnesota House

COPY

1

1 STATE OF MINNESOTA

IN DISTRICT COURT

2 COUNTY OF BELTRAMI

NINTH JUDICIAL DISTRICT

3 -----

4 STATE OF MINNESOTA,

FILE NO. K4-95-1198

5

Plaintiff,

6

vs

PLEA OF GUILTY

7

ROBERT ALAN JOHNSON,

8

Defendant.

9 -----

10 The above-entitled matter came on for hearing before
11 the Honorable James E. Preece, one of the Judges of the above-
12 named Court, on Monday, the 27th day of November, 1995, in the
13 Courthouse of the Beltrami County Courthouse, in the City of
14 Bemidji, in the County of Beltrami and State of Minnesota.

15

APPEARANCES:

16

Randall R. Burg, Esq., Assistant County

17

Attorney for Beltrami County, 204 Fourth Street, P. O. Box

18

1653, Bemidji, Minnesota 56601, appeared for and on behalf of

19

the State of Minnesota.

20

Robert M. Wallner, Esq., Attorney at Law, 514

21

America Avenue, P. O. Box 880, Bemidji, Minnesota 56601,

22

appeared for and on behalf of the defendant, who was also

23

personally present in court.

24

25

1 WHEREUPON, the following proceedings took place
2 in open Court:

3 THE COURT: State versus Robert Alan Johnson.

4 MR. BURG: Your Honor, this is the time set for
5 Omnibus on Mr. Johnson. There have been discussions
6 between Mr. Wallner, myself and also Dean Emanuel (?), an
7 Assistant Sherburne County Attorney responsible for the
8 prosecution of Mr. Johnson presently pending in that
9 county, looking to resolutions of these matters.

10 I will outline for the record what I understand the
11 agreement that has been reached between Mr. Wallner and
12 myself to be and then I will defer to Mr. Wallner for the
13 correction of any misstatements or define any omissions.

14 Under the terms of the agreement Mr. Johnson will
15 today enter guilty pleas to the two pending charges here
16 in Beltrami County, those being Habitual Offender .10
17 or - I am sorry - Habitual Offender DWI and gross
18 misdemeanor Refusal to Submit to Testing.

19 He will submit himself to the custody of the
20 Beltrami County Sheriff later today to begin serving an
21 anticipated jail sentence of 60 days. It will be the
22 State's recommendation, at the time of sentencing here in
23 Beltrami County, that Mr. Johnson receive day for day
24 credit for the time he has spent in inpatient chemical
25 dependency treatment.

1 In addition Your Honor, during the pendency of his
2 jail term here in Beltrami County, it would be, I
3 believe, mutual request of the State and the defense that
4 Mr. Johnson be furloughed for one day for an anticipated
5 appearance in Sherburne County, where it is expected that
6 he will be entering a plea to a charge pending in that
7 county.

8 Mr. Johnson will be providing his own transportation
9 to and from that appearance, on a furlough basis.

10 It is expected that the sentence on the Sherburne
11 County convictions will be - any jail portion of that
12 sentence will run concurrently with the 60 day jail
13 sentence which has be stipulated in relation to the
14 Beltrami County convictions on the matters before the
15 Court today.

16 The agreement does not involved Mr. Johnson's
17 probationary status in Dakota County.

18 MR. WALLNER: That's correct, Your Honor, with
19 the addition that Mr. Johnson receives credit for any
20 time served, as any one would. That he would be allow
21 Huber privileges while he is incarcerated here in
22 Beltrami County Jail. And that will take care of it all.

23 MR. BURG: That is correct, Your Honor.

24 THE COURT: All right. Mr. Johnson, what are
25 your pleas to the charges of Habitual Offender DWI and

1 Refusal to Submit to Testing?

2 THE DEFENDANT: Guilty, Your Honor.

3 THE COURT: Are you moving for immediate
4 sentencing?

5 MR. WALLNER: If the Court would impose
6 immediate sentencing, we certainly would move for it Your
7 Honor. If you feel it is necessary to have a PSI, then
8 we would ask for immediate sentencing as to the portion
9 that refers to the jail time.

10 MR. BURG: I don't have objection to immediate
11 sentencing on that portion as relates to the jail
12 sentence. We would expect a presentence investigation.

13 THE COURT: All right. I will order a
14 presentence investigation. The matter is referred to the
15 Department of Corrections for that purpose, however, I
16 will allow you to start serving the time which will be
17 anticipated as 60 days and that is what I would be
18 thinking of imposing.

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20 for all the time you have spent in treatment.

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22 County to take care of the matter that is pending there.
23 You must provide your own transportation.

24 I will further allow Huber privileges, even though
25 it is prior to formal sentencing.

1 MR. WALLNER: And Mr. Johnson will also receive
2 credit Your Honor, for time served?

3 THE COURT: He would.

4 MR. BURG: Thank you.

5 MR. WALLNER: Could he report at 5:00 o'clock
6 tonight to the jail?

7 THE COURT: That is all right.

8 MR. WALLNER: Thank you.

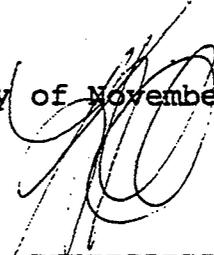
9 * * *

10 REPORTER'S CERTIFICATE

11 I, Kathleen A. Cundy, hereby certify that
12 the foregoing proceedings, is a full, true, and correct
13 transcript of the notes taken by me on the hearing of the
14 above-entitled matter.

15 Dated this 28th day of November, 1995.

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KATHLEEN A. CUNDY
Court Reporter
P. O. Box 1008
Bemidji, MN 56601
(218) 759-4212

COPY

1 STATE OF MINNESOTA

IN DISTRICT COURT

2 COUNTY OF BELTRAMI

NINTH JUDICIAL DISTRICT

3 -----

4 STATE OF MINNESOTA,

FILE NO. K4-95-1198

5

Plaintiff,

6

vs

PLEA OF GUILTY

7

ROBERT ALAN JOHNSON,

8

Defendant.

9 -----

10 The above-entitled matter came on for hearing before
11 the Honorable James E. Preece, one of the Judges of the above-
12 named Court, on Monday, the 27th day of November, 1995, in the
13 Courthouse of the Beltrami County Courthouse, in the City of
14 Bemidji, in the County of Beltrami and State of Minnesota.

15

APPEARANCES:

16

Randall R. Burg, Esq., Assistant County

17

Attorney for Beltrami County, 204 Fourth Street, P. O. Box

18

1653, Bemidji, Minnesota 56601, appeared for and on behalf of

19

the State of Minnesota.

20

Robert M. Wallner, Esq., Attorney at Law, 514

21

America Avenue, P. O. Box 880, Bemidji, Minnesota 56601,

22

appeared for and on behalf of the defendant, who was also

23

personally present in court.

24

25

1 WHEREUPON, the following proceedings took place
2 in open Court:

3 THE COURT: State versus Robert Alan Johnson.

4 MR. BURG: Your Honor, this is the time set for
5 Omnibus on Mr. Johnson. There have been discussions
6 between Mr. Wallner, myself and also Dean Emanuel (?), an
7 Assistant Sherburne County Attorney responsible for the
8 prosecution of Mr. Johnson presently pending in that
9 county, looking to resolutions of these matters.

10 I will outline for the record what I understand the
11 agreement that has been reached between Mr. Wallner and
12 myself to be and then I will defer to Mr. Wallner for the
13 correction of any misstatements or define any omissions.

14 Under the terms of the agreement Mr. Johnson will
15 today enter guilty pleas to the two pending charges here
16 in Beltrami County, those being Habitual Offender .10
17 or - I am sorry - Habitual Offender DWI and gross
18 misdemeanor Refusal to Submit to Testing.

19 He will submit himself to the custody of the
20 Beltrami County Sheriff later today to begin serving an
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7 Honor. If you feel it is necessary to have a PSI, then
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3 THE COURT: He would.

4 MR. BURG: Thank you.

5 MR. WALLNER: Could he report at 5:00 o'clock
6 tonight to the jail?

7 THE COURT: That is all right.

8 MR. WALLNER: Thank you.

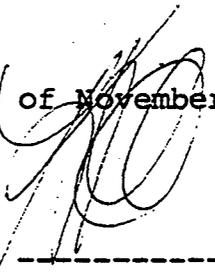
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10 REPORTER'S CERTIFICATE

11 I, Kathleen A. Cundy, hereby certify that
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14 above-entitled matter.

15 Dated this 28th day of November, 1995.

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KATHLEEN A. CUNDY
Court Reporter
P. O. Box 1008
Bemidji, MN 56601
(218) 759-4212

State of Minnesota - County of Sherburne District Court

CCT	SECTION/Subdivision	U.O.C.	GOC	CTY. ATTY. FILE NO.	CONTROLLING AGENCY	CONTROL NO.
1.	169.121, S1(a), S3(c)(1)	J2501	N	95-51245	MNMHP0600	95604624
2.	169.121, S1(d), S3(c)(1)	J2E01	N			
3.	169.121, S1(e), S3(c)(1)	J2F01	N			
4.	171.30	J3901	N			

Complaint

SUMMONS
WARRANT
ORDER OF DETENTION

if more than 6 counts (see attached) PRDS ATTY PH: 512-241-2565

State of Minnesota

PLAINTIFF,

FELONY
GROSS MISDEMEANOR *DwI*

VS.

NAME: first, middle, last
ROBERT ALAN JOHNSON
1075 Washington Avenue, #15
Bemidji, MN 56601

DEFENDANT.

Date of Birth
12-01-45
SJIS COMPLAINT NUMBER
71-11-0-007208
SHERBURNE CITY

COMPLAINT

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense (s). The complainant states that the following facts establish PROBABLE CAUSE:

Your complainant is a trooper for the Minnesota State Highway Patrol and in such capacity makes this complaint based upon the information and reports submitted by Cpl. Marvin E. Felderman, Jr. of the Minnesota State Highway Patrol, whom your complainant personally knows and believes to be truthful and reliable.

That on or about September 28, 1995, at approximately 2:00 p.m. while on routine patrol, Trooper Felderman received a call of a possible intoxicated driver travelling eastbound on Highway 10 in Sherburne County, Minnesota. Trooper Felderman drove to the location and observed two semi trucks parked on the shoulder of the road with a vehicle between also on the shoulder. He went up to the vehicle and observed two individuals standing over a third individual who appeared to be slumped behind the steering wheel of the vehicle between the semis. Trooper Felderman spoke with the two individuals who indicated that they had basically forced the third vehicle off the road because it was driving erratically covering both lanes of traffic and endangering other motorists. They stated that once the vehicle was stopped on the shoulder they ran up to the vehicle and found the driver in a semi-conscious state behind the wheel. Trooper Felderman then attempted to assist the person behind the wheel of the third vehicle but found him at that point in a unconscious state. He noted that the individual's respirations were very shallow, however, he did find a pulse. Ambulance personnel were called to the scene and arrived shortly thereafter. The individual in the vehicle was later identified by some documents in his vehicle as ROBERT ALAN JOHNSON, hereinafter "defendant". The defendant was transported to the hospital emergency room where Trooper Felderman followed him and while the defendant was receiving medical attention at the hospital, Trooper Felderman detected the odor of an alcoholic beverage about him. He instructed the medical personnel to remove a blood sample for analysis. Said analysis subsequently revealed a .30 alcohol concentration. The blood sample taken from the defendant is believed to have been drawn within two hours of the time of the defendant's stop of his motor vehicle.

A subsequent check of the defendant's driving record with the Minnesota Department of Public Safety revealed a prior conviction for Driving While Under the Influence of Alcohol in August, 1995. The record also revealed that the defendant's driving privileges at the time of the arrest were subject to the limitation that he may only drive from home to work and back during regular work hours of 7:30 a.m. to 5:30 p.m. Investigation subsequently completed by Trooper Anhorn revealed that the defendant was not, at the time of his arrest, engaged in his employment with the Bemidji School District. Trooper Anhorn received information that indicated that the defendant was on leave from the Bemidji School District the week of September 25th through the 29th.

FORM CI

State of Minnesota County of Sherburne District Court

CCT	SECTION/Subdivision	U.O.C.	GOC	CTY. ATTY. FILE NO.	CONTROLLING AGENCY	CONTROL NO.
1.	169.121, S1(a), S3(c)(1)	J2501	N	95-51245	MNMHP0600	95604624
2.	169.121, S1(d), S3(c)(1)	J2E01	N			
3.	169.121, S1(e), S3(c)(1)	J2F01	N			
4.	171.30	J3901	N			

Complaint

SUMMONS
 WARRANT
 ORDER OF DETENTION

if more than 6 counts (see attached)

PRUS ATTY PH: 512-241-2565

State of Minnesota

VS.

PLAINTIFF,

FELONY

GROSS MISDEMEANOR *DWI*

NAME: first, middle, last

ROBERT ALAN JOHNSON

1075 Washington Avenue, #15

Bemidji, MN 56601

Date of Birth

12-01-45

SJIS COMPLAINT NUMBER

71-11-0-007208

SHERBURNE

CITY

DEFENDANT.

COMPLAINT

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense (s). The complainant states that the following facts establish PROBABLE CAUSE:

COUNT 1:

Charge: Driving, Operating or Being in Physical Control of a Motor Vehicle While Under the Influence of Alcohol Within Five Years of a Prior Impaired Driving Conviction
in violation of Minnesota Statute 169.121, Subd. 1(a) and Subd. 3(c)(1)

A gross misdemeanor with a maximum penalty of a fine not to exceed \$3,000 or imprisonment not to exceed one year in jail, or both.

That on or about September 28, 1995, Highway 10, Sherburne County, Minnesota, ROBERT ALAN JOHNSON, the defendant, drove, operated, or was in physical control of a motor vehicle within this state when under the influence of alcohol, within five years of a prior impaired driving conviction.

COUNT 2:

Charge: Driving, Operating or Being in Physical Control of a Motor Vehicle While Having an Alcohol Concentration of .10 or More Within Five Years of a Prior Impaired Driving Conviction
in violation of Minnesota Statute 169.121, Subd. 1(d); Subd. 3(c)(1)

A gross misdemeanor with a maximum penalty of a fine not to exceed \$3,000 or imprisonment not to exceed one year in jail, or both.

That on or about September 28, 1995, Highway 10, Sherburne County, Minnesota, ROBERT ALAN JOHNSON, the defendant, drove, operated, or was in physical control of a motor vehicle within this state while having an alcohol concentration of .10 or more, within five years of a prior impaired driving conviction.

COUNT 3:

Charge: Driving, Operating or Being in Physical Control of a Motor Vehicle While Having an Alcohol Concentration of .10 or More as Measured Within Two Hours of the Time of Driving Within Five Years of Prior Impaired Driving Conviction

in violation of Minnesota Statute 169.121, Subd. 1(e); Subd. 3(c)(1)

A gross misdemeanor with a maximum penalty of a fine not to exceed \$3,000 or imprisonment not to exceed one year in jail, or both.

That on or about September 28, 1995, Highway 10, Sherburne County, Minnesota, ROBERT ALAN JOHNSON, the defendant, drove, operated, or was in physical control of a motor vehicle within this state while having an alcohol concentration of .10 or more as measured within two hours of the time of driving, within five years of a prior impaired driving conviction.

COUNT 4:

Charge: Violation of Limited License

in violation of Minnesota Statute 171.30

A misdemeanor with a maximum penalty of a fine not to exceed \$700 or imprisonment not to exceed 90 days in jail, or both

That on or about September 28, 1995, Highway 10, Sherburne County, Minnesota, the defendant, ROBERT ALAN JOHNSON, did drive a motor vehicle in violation of a condition or limitation imposed by the Commissioner of Public Safety.

THEREFORE, Complainant requests that said Defendant, subject to bail or conditions of release be:

- (1) arrested or that other lawful steps be taken to obtain defendant's appearance in court; or
- (2) detained, if already in custody, pending further proceedings;

and that said Defendant otherwise be dealt with according to law.

COMPLAINANT'S NAME:

COMPLAINANT'S SIGNATURE:

Being duly authorized to prosecute the offense (s) charged, I hereby approve this Complaint.

PROSECUTING ATTORNEY'S SIGNATURE:

DATE:

11-7-95

PROSECUTING ATTORNEY:

NAME/TITLE:

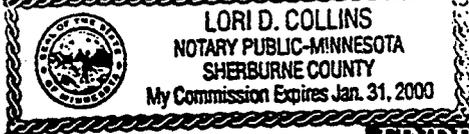
Dean E. Emanuel
Assistant Sherburne County Attorney
Attorney I.D. No. 163983

ADDRESS/TELEPHONE:

13880 Highway 10
Elk River, MN 55330
(612) 241-2565

This COMPLAINT was subscribed and sworn to before the undersigned this 7th day of November, 1995.

NAME:
TITLE:



SIGNATURE:

Lori D. Collins

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant (s) arrest or other lawful steps be taken to obtain Defendant (s) appearance in Court, or his detention, if already in custody, pending further proceedings. The Defendant (s) is/are thereof charged with the above-stated offense.

SUMMONS

XX THEREFORE You, THE ABOVE-NAMED DEFENDANT(S), ARE HEREBY SUMMONED to appear on the 15th day of December, 19 95 at 8:30 AM/PM before the above-named court at Sherburne County Courthouse, Elk River, MN to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

EXECUTE IN MINNESOTA ONLY

To the sheriff of the above-named county; or other person authorized to execute this WARRANT; I hereby order, in the name of the State of Minnesota, that the above-named Defendant (s) be apprehended and arrested without delay and brought promptly before the above-named Court (if in session, and if not, before a Judge or Judicial Officer of such Court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon thereafter as such Judge or Judicial Officer is available) to be dealt with according to law.

ORDER OF DETENTION

Since the above-named Defendant (s) is/are already in custody: I hereby order; subject to bail or conditions of release, that the above-named Defendant (s) continue to be detained pending further proceedings.

Bail:

Conditions of Release:

This COMPLAINT - SUMMONS, WARRANT, ORDER OF DETENTION, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this 7 day of November 1995

NAME: ROBERT B. DANFORTH
TITLE: DISTRICT COURT JUDGE

SIGNATURE:

R. Blagden

Sworn testimony has been given before the Judicial Officer by the following witnesses:

STATE OF MINNESOTA } SS.
COUNTY OF SHERBURNE }

FILED

STATE OF MINNESOTA COUNTY of

SHERBURNE

State of Minnesota

Plaintiff,

vs.

ROBERT ALAN JOHNSON

Defendant (s)

NOV 1 1995
Clerk's Signature or File Stamp:
LORAYNE N. NORGREEN
COURT ADMINISTRATOR

Corene Wipper
By Deputy

RETURN OF SERVICE

I hereby Certify and Return that I have ^{mailed} ~~sent~~ a copy of this COMPLAINT - SUMMONS, WARRANT, ORDER OF DETENTION upon the Defendant (s) herein-named. at the above address..

Signature of Authorized Service Agent:

Corene Wipper - Deputy
11/8/95

STATE OF MINNESOTA
COUNTY OF SHERBURNE

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

STATE OF MINNESOTA }
COUNTY OF SHERBURNE }

Court File No. K9-95-1722

FILED

vs.

DEC 15 1995

MOTION TO DISMISS OR GRANT
APPROPRIATE RELIEF, PURSUANT
TO RULES 10, 11.03, 12.02,
17.06, 32 OR 33

Robert Alan Johnson,
Defendant.

LORENZO J. JOHNSON
COURT CLERK

By *Lorenz Johnson*
Deputy

TO: DEAN EMMANUEL, ASSISTANT COUNTY ATTORNEY, SHERBURNE COUNTY
GOVERNMENT CENTER, 13880 HIGHWAY 10, ELK RIVER, MN 55330-
4601

The undersigned moves:

1. That this case be dismissed.
 2. That the following relief be granted:

Said motion to be granted for the following reasons:

The DWI prosecution in this file, following the defendant's
driver's license revocation violates the double jeopardy
provisions of the 5th and 14th Amendments to the United States
Constitution, Article 1, Section 7 of the Constitution of the
State of Minnesota and Minnesota Statute Section 609.035.

TAKE NOTE: The failure to include any defense, objection,
issue, or request available to the moving party at this time,
constitutes a waiver thereof. (Lack of jurisdiction over the
offense, failure of the indictment or complaint to charge an

offense, and any other defense, which may be so designated in the future by judicial decision, are expected.)

Date: 12. 14. 95

SCHMIDT AND LUND

William P. Kain
William P. Kain
Attorney for Defendant
Daniel Building
11 North Seventh Avenue
St. Cloud, MN 56303
(612) 252-0330

CHARGE:

- Ct. I: GM DWI W/I 5 YRS OF 2 169.121 1a3c1
- Ct. II: DWI W/.10% more W/I 5 Yrs 169.121 1d3c
- Ct. III: DWI W/.10% more W/I 2 Hrs 169.121 1e3
- Ct. IV: Violation of Limited License 171

ROBERT ALAN JOHNSON

DOB: 12-01-45

Defendant.

ORDER

The above entitled case came on for sentencing before the undersigned Judge of District Court on the date indicated below and the defendant having not entered a plea entered a plea of guilty been found guilty of the above charge(s).

IT IS HEREBY ORDERED THAT:

- 1. The matter is continued for dismissal for _____ without judgment of guilt on the conditions below.
- 2. Judgment of guilt is entered and imposition of sentence is stayed on the conditions below.
- 3. Judgment of guilt is entered and the defendant is sentenced to a fine of \$ 1500.00 and 365 days in jail, which sentence is to be executed on the conditions below.

The above sentence is to be executed immediately unless otherwise provided below. Defendant must submit proof to the probation office that each task has been performed as required. All monies are to be paid to the Court Administrator.

TERMS AND CONDITIONS OF STAYED PROCEEDING OR SENTENCE:

- a. Execution of 335 days of jail and \$ _____ of the fine is stayed for one/two/three years and the defendant is placed on probation to the Probation Department and shall remain law abiding and of good behavior.
- b. Defendant shall pay the fine of \$ 1500.00 at the rate of \$ _____ per _____ commencing _____ (by 15 mo), the Court having determined the defendant has the ability to pay.
- c. Defendant shall pay a surcharge of \$ 325.00, chemical dependency assessment of \$ waved and law library assessment of \$ 3.00 by _____.
(Surcharge/chemical dependency assessment is waived as a financial hardship.)

NOTICE OF HEARING:

If not paid as ordered, the defendant must appear in court on Wednesday, 3-12-97 at 9:00 a.m. to explain the failure, or an arrest warrant will issue, and/or your driver's license may be suspended.

TOTAL OWING \$ 1728.00

Defendant shall serve 30 days and shall report to jail on 12/18/95 3PM with Huber credit for time served on this offense. May furlough for aftercare meetings Consecutive to any time left in Belton, IA & any time in Dubuque, IA

- e. Defendant shall pay restitution by _____ of \$ _____; in an amount to be determined by the probation/restitution officer.
- f. Defendant shall reimburse the public defender fund in the amount of \$ _____ by _____.
- g. Defendant shall contribute _____ hours of community service by _____.
- h. Defendant may perform approved community service credited at \$5 per hour STATE OF MINNESOTA COUNTY OF SHERBURNE of fine or _____ days jail.
- i. Defendant may/shall attend an inpatient DWI clinic (Anoka/St. Cloud Program) in _____ days of imposed jail sentence by _____.
- j. Defendant shall complete treatment/counseling for _____ DEC 15 1996 outpatient/inpatient facility approved by Court Services by _____ and follow aftercare recommendations.
- k. Defendant shall attend AA a minimum of once per week for twice _____ verification of attendance to Court Services.
- l. Defendant shall not use or possess alcohol or non-prescription drugs.
- m. Defendant shall not be convicted of any criminal or traffic offenses in which alcohol was a contributing factor.
- n. Defendant shall not be convicted of any of the following offenses: Driving while intoxicated; reckless or careless driving; driving after withdrawal of license; leaving the scene of an accident; no insurance or open bottle.
- o. Defendant shall not be convicted of any same or similar violations.
- p. Defendant shall turn in vehicle license plates and vehicle registration certificate(s) to the Court Administrator by _____.

FILED

DEC 15 1996
LORAYNE A. GREEN
COURT ADMINISTRATOR

By Debra Jensen Deputy

- q. No assaultive or disorderly behavior.
- r. Submit to random urinalysis at the direction of Court Services.
- s. Follow recommendation of PO Complete Mental Health Counseling + Aftercare + Fairview Bridges - Diagnose, remain in court + take meds prescribed for you - Cont Psychiatric Care + follow all rec.

Dated: 12/15/95

(7) Attend MADD Panel

I understand the sentence and conditions checked above and have received a copy.

David A. Jensen
Judge of District Court

Robert Johnson
Defendant

Marty Finkbeiner for Christopher

STATE OF MINNESOTA
COUNTY OF SHERBURNE

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

STATE OF MINNESOTA }
COUNTY OF SHERBURNE }
FILED

SS Court File No. K9-95-1722

vs.

DEC 15 1995

**MOTION TO DISMISS OR GRANT
APPROPRIATE RELIEF, PURSUANT
TO RULES 10, 11.03, 12.02,
17.06, 32 OR 33**

Robert Alan Johnson,
Defendant.

LORENZO L. JOHNSON
COURT CLERK FOR
By *Lorenzo L. Johnson* Deputy

TO: DEAN EMMANUEL, ASSISTANT COUNTY ATTORNEY, SHERBURNE COUNTY
GOVERNMENT CENTER, 13880 HIGHWAY 10, ELK RIVER, MN 55330-
4601

The undersigned moves:

- x 1. That this case be dismissed.
 2. That the following relief be granted:

Said motion to be granted for the following reasons:

The DWI prosecution in this file, following the defendant's driver's license revocation violates the double jeopardy provisions of the 5th and 14th Amendments to the United States Constitution, Article 1, Section 7 of the Constitution of the State of Minnesota and Minnesota Statute Section 609.035.

TAKE NOTE: The failure to include any defense, objection, issue, or request available to the moving party at this time, constitutes a waiver thereof. (Lack of jurisdiction over the offense, failure of the indictment or complaint to charge an

offense, and any other defense, which may be so designated in the future by judicial decision, are expected.)

Date: 12. 14. 95

SCHMIDT AND LUND

William P. Kain

William P. Kain
Attorney for Defendant
Daniel Building
11 North Seventh Avenue
St. Cloud, MN 56303
(612) 252-0330

ROBERT ALAN JOHNSON
DOB: 12-01-45 Defendant.

Ct. I: GM DWI W/I 5 YRS OF 2 169.121 1a3c1
Ct. II: DWI W/.10% more W/I 5 Yrs 169.121 1d3c
Ct. III: DWI W/.10% more W/I 2 Hrs 169.121 1e3
Ct. IV: Violation of Limited License 171

ORDER

The above entitled case came on for sentencing before the undersigned Judge of District Court on the date indicated below and the defendant having not entered a plea entered a plea of guilty been found guilty of the above charge(s).

IT IS HEREBY ORDERED THAT:

- 1. The matter is continued for dismissal for _____ without judgment of guilt on the conditions below.
- 2. Judgment of guilt is entered and imposition of sentence is stayed on the conditions below.
- 3. Judgment of guilt is entered and the defendant is sentenced to a fine of \$ 1500.00 and 365 days in jail, which sentence is to be executed on the conditions below.

The above sentence is to be executed immediately unless otherwise provided below. Defendant must submit proof to the probation office that each task has been performed as required. All monies are to be paid to the Court Administrator.

TERMS AND CONDITIONS OF STAYED PROCEEDING OR SENTENCE:

- a. Execution of 335 days of jail and \$ _____ of the fine is stayed for one two three years and the defendant is placed on probation to the Probation Department and shall remain law abiding and of good behavior.
- b. Defendant shall pay the fine of \$ 1500.00 at the rate of \$ _____ per _____ commencing _____ (by 15 mo.), the Court having determined the defendant has the ability to pay.
- c. Defendant shall pay a surcharge of \$ 225.00, chemical dependency assessment of \$ waved and law library assessment of \$ 3.00 by _____.
(Surcharge/chemical dependency assessment is waived as a financial hardship.)

NOTICE OF HEARING:	If not paid as ordered, the defendant must appear in court on <u>Wednesday, 12-12-95</u> at 9:00 a.m. to explain the failure, or an arrest warrant will issue, and/or your driver's license may be suspended.
TOTAL OWING \$ <u>1728.00</u>	

- d. Defendant shall serve 30 days and shall report to jail on 12/15/95 3PM with Huber credit for time served on this offense. Consented to any time left in Beltone City, any time in Dubate City
- e. Defendant shall pay restitution by _____ of \$ _____; in an amount to be determined by the probation/restitution officer.
- f. Defendant shall reimburse the public defender fund in the amount of \$ _____ by _____.
- g. Defendant shall contribute _____ hours of community service by _____.
- h. Defendant may perform approved community service credited at \$5 per hour to pay of fine or _____ days jail.
- i. Defendant may/shall attend an inpatient DWI clinic (Anoka/St. Cloud Program) in lieu of _____ days of imposed jail sentence by _____.
- j. Defendant shall complete treatment/counseling for _____ and follow aftercare recommendations.
- k. Defendant shall attend AA a minimum of once per week for twice verification of attendance to Court Services.
- l. Defendant shall not use or possess alcohol or non-prescription drugs.
- m. Defendant shall not be convicted of any criminal or traffic offenses in which alcohol was a contributing factor.
- n. Defendant shall not be convicted of any of the following offenses: Driving while intoxicated; reckless or careless driving; driving after withdrawal of license; leaving the scene of an accident; no insurance or open bottle.
- o. Defendant shall not be convicted of any same or similar violations.
- p. Defendant shall turn in vehicle license plates and vehicle registration certificate(s) to the Court Administrator by _____.
- q. No assaultive or disorderly behavior.
- r. Submit to random urinalysis at the direction of Court Services.
- s. Follow recommendation of PO Complete Mental Health Counseling + Aftercare + Fairview Bridges - Dismiss remain Courts + take meds prescribed for you - Cont psychiatric care + follow all rec.

Dated: 12/15/95

David M. Lesell
Judge of District Court

(7) Attend MADD Panel

I understand the sentence and conditions checked above and have received a copy.

Robert Johnson
Defendant

FILED

DEC 15 1995

STATE OF MINNESOTA
COUNTY OF SHERBURNE

By Debra Jensen Deputy
LORAYNE W. NORRIS
COURT ADMINISTRATOR

May find enough for investigation

State of Minnesota

District Court

COUNTY

SHERBURNE

JUDICIAL DISTRICT

10th

CASE NO.

14-95-1722

THE STATE OF MINNESOTA
Plaintiff,

vs.

ROBERT ALAN JOHNSON
Defendant.

PETITION TO ENTER PLEA OF
GUILTY IN FELONY OR GROSS
MISDEMEANOR CASE
PURSUANT TO RULE 15

TO: THE ABOVE-NAMED COURT

I, ROBERT ALAN JOHNSON, Defendant in the above-entitled action, do respectfully represent and state as follows:

1. My full name is ROBERT ALAN JOHNSON. I am 50 years old, my date of birth is 12.1.45. The last grade that I went through in school is DEGREE IN COLLEGE.
2. If filed in my case, I have received, read and discussed a copy of the (~~Indictment~~) (Complaint)
3. I understand the charge(s) made against me in this case.
4. Specifically, I understand that I have been charged with the crime(s) of GROSS MISD. DWE - 3 COUNTS

committed on or about SEPT. 29 1995 in SHERBURNE
(month) (day) (year)

County, Minnesota, (and that the crime I am talking about is GROSS MISD. DWE 7.10

which is a lesser degree or lesser included offense of the crime charged).

5. I am represented by an attorney whose name is WILLIAM KAIN and:
 - a. I feel that I have had sufficient time to discuss my case with my attorney.
 - b. I am satisfied that my attorney is fully informed as to the facts of this case.
 - c. My attorney has discussed possible defenses to the crime that I might have.
 - d. I am satisfied that my attorney has represented my interests and has fully advised me.
6. I have / have never been a patient in a mental hospital.

7. I have / have not talked with or been treated by a psychiatrist or other person for a nervous or mental condition.
8. I have / have not been ill recently.
9. I have / have not recently been taking pills or other medicines.
10. I do / do not make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.
11. I do / do not make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.
12. I do / do not make the claim that the fact I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.
13. I was / was not represented by an attorney when I had a probable cause hearing.
 I have not had a probable cause hearing.
- a. I know that I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.
 - b. I also know that I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.
 - c. For gross misdemeanor driving while intoxicated charges under Minn.Stat. § 169.121 or Minn.Stat. § 169.129 if a complaint has not been filed, I know that I could request that a complaint be filed and that I waive my right to do so. I know that I could move that any complaint filed against me be dismissed for lack of probable cause. I also know that if I plead guilty, I waive all right to object to the absence of a probable cause hearing.
14. My attorney has told me and I understand:
- a. That the prosecutor for the case against me, has:
 - i. physical evidence obtained as a result of searching for and seizing the evidence;
 - ii. evidence in the form of statements, oral or written that I made to police or others regarding this crime;
 - iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search;
 - iv. identification evidence from a line-up or photographic identification;
 - v. evidence the prosecution believes indicates that I committed one or more other crimes.
 - b. That I have a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.
 - c. That if I requested such a pre-trial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial and might be used against me if I was charged with the crime of perjury. (Perjury means testifying falsely).
 - d. That I do / do not now request such a pre-trial hearing and I specifically do / do not now waive my right to have such a pre-trial hearing.
 - e. That whether or not I have had such a hearing I will not be able to object tomorrow or any other time to the evidence that the prosecutor has.
15. I have been told by my attorney and I understand:
- a. That if I wish to plead not guilty I am entitled to a trial by a jury and all jurors would have to agree I was guilty before the jury could find me guilty.
 - b. That if I plead guilty I will not have a trial by either a jury or by a judge without a jury.
 - c. That with knowledge of my right to a trial I now waive my right to a trial.
16. I have been told by my attorney and I understand that if I wish to plead not guilty and have a trial by jury or trial by a judge I would be presumed innocent until my guilt is proved beyond a reasonable doubt.
17. I have been told by my attorney and understand:
- a. That if I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right, through my attorney, to question these witnesses.
 - b. That with knowledge of my right to have the prosecution's witnesses testify in open court in my presence and

18. I have been told by my attorney and I understand:

- a. That if I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.
- b. That with knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.

19. I have been told by my attorney and I understand:

- a. That a person who has prior convictions or a prior conviction can be given a longer prison term because of this.
- b. That the maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for 1 years. That if a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than 1 months for this crime.
- c. That a person who participates in a crime by intentionally aiding, advising, counseling and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.
- d. That my present probation or parole could be revoked because of the plea of guilty to this crime.

20. I have been told by my attorney and understand:

- a. That my attorney discussed this case with one of the prosecuting attorneys and that my attorney and the prosecuting attorney agreed that if I entered a plea of guilty, the prosecutor will do the following:

(Give substance of the agreement)

- 1. RECOMMEND A 30 DAY CAP ON EXECUTED JAIL
- 2. DISMISS REMAINING COUNTS

b. That if the court does not approve this agreement:

- i. I have an absolute right to then withdraw my plea of guilty and have a trial.
- ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.

21. That except for the agreement between my attorney and the prosecuting attorney:

- a. No one - including my attorney, any policeman, prosecutor, judge, or any other person- has made any promises to me, to any member of my family, to any of my friends or other persons, in order to obtain a plea of guilty from me.
- b. No one - including my attorney, any policeman, prosecutor or judge, or any other person- has threatened me, or any member of my family or my friends or other persons, in order to obtain a plea of guilty from me.

22. My attorney has told me and I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea with the court's approval, or if the plea is withdrawn by court order on appeal or other review:

a. I would then stand trial on the original ~~charge~~ (charges) against me, namely CROSS MISD. DWI

(3 COUNTS) VIOLATION OF LIMITED LICENSE

(which would include any charges that were dismissed as a result of the plea agreement entered into by my attorney and the prosecuting attorney).

b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.

23. My attorney has told me and I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the court's.

24. My attorney has told me and I understand that a judge will not accept a plea of guilty for anyone who claims to be innocent.

25. I now make no claim that I am innocent.

26. I have been told by my attorney and I understand that if I wish to plead not guilty and have a jury trial:

a. That I could testify at trial if I wanted to but I could not be forced to testify.

b. That if I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.

c. That with knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive (give up) this right and I will tell the judge about the facts of the crime.

27. That in view of all above facts and considerations I wish to enter a plea of guilty.

Dated: Dec. 15, 1995

Robert Johnson
Defendant

1 STATE OF MINNESOTA
2 COUNTY OF DAKOTA

COPY

FIRST JUDICIAL DISTRICT
IN DISTRICT COURT

3 -----

4 STATE OF MINNESOTA
5 vs.

File No. T6-95-70843
PROBATION VIOLATION

6 Robert Alan Johnson,
7 Defendant.

8 -----

9 The above-entitled matter came on for hearing before
10 the Honorable Michael V. Sovis, Judge of District Court, at the
11 Dakota County Court Facility, Apple Valley, Minnesota, on
12 December 22, 1995.

13 APPEARANCES

14 Michael Mayer, City Attorney, 1260 Yankee Doodle Road,
15 Suite 200, Eagan, MN 55121; appeared on behalf of the State.

16 Paul Rogosheske, Attorney at Law, 833 Southview Blvd.,
17 South St. Paul, MN 55075; appeared on behalf of the defendant.

18 The Defendant appeared personally.

19 - - -

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1 WHEREUPON, the following proceedings were duly had and
2 entered of record, to-wit:

3 THE COURT: At this time we'll consider the matter of
4 the State of Minnesota, City of Burnsville, against Robert
5 Johnson. Mr. Johnson does appear in person before the Court
6 here this morning represented by legal counsel, Paul
7 Rogosheske. Michael Mayer appears here on behalf of the State.

8 The matter is being brought before the Court here this
9 morning on allegations of a probation violation. The record
10 should reflect that on September 1st, 1995, this Court
11 sentenced Mr. Johnson, upon his plea of guilty to driving while
12 under the influence of alcohol, to a stay of imposition.

13 I did place Mr. Johnson on probation for a period not
14 to exceed one year on certain conditions. One of the most
15 important conditions, of course, would be that he have no
16 arrests or convictions for driving after revocation, driving
17 after suspension, driving without a valid license or without
18 insurance on his vehicle and, of course, the one we're back
19 here on now is he have no alcohol related offenses.

20 I believe that we do understand that there have been
21 some subsequent offenses, Mr. Mayer?

22 MR. MAYER: That's correct, Your Honor. It's my
23 understanding that subsequent to the day of your sentence, Mr.
24 Johnson has been convicted of two additional driving while
25 under the influence charges. Those offenses took place within

1 approximately five and a half or six weeks of the date that you
2 sentenced him on the first DWI that arose in the City of
3 Burnsville.

4 Clearly he's violated his probation. I presume, based
5 on some discussions we had in Chambers, there is an admission
6 and procedurally I don't know if you want that first or my
7 pitch or how do you want to handle it?

8 THE COURT: Mr. Rogosheske, what is your client's
9 position?

10 MR. ROGOSHESKE: Your Honor, Judge, my client will
11 admit he violated probation. There's a court record he has
12 violated both in Sherburne and Beltrami Counties so he would
13 admit he violated probation and waive any right he has to a
14 hearing. That would be a fair statement, wouldn't it, Bob?

15 MR. JOHNSON: Right.

16 MR. ROGOSHESKE: You understand you have a right to
17 have a hearing before the Court and the prosecution would have
18 the burden of going forward and proving you have been convicted
19 in these other counties and that the convictions cause a
20 violation of probation, you understand that, is that correct?

21 MR. JOHNSON: Yes.

22 MR. ROGOSHESKE: What you're willing to do is waive
23 your right to have that hearing and admit you violated
24 probation, is that correct?

25 MR. JOHNSON: Yes.

1 MR. ROGOSHESKE: I don't have any further questions.

2 THE COURT: Mr. Mayer?

3 MR. MAYER: Thank you, Your Honor. Judge, I understand
4 based on information counsel has provided me as well as things
5 I have read in the newspapers about this case that the
6 defendant has had some rather significant personal difficulties
7 in his life and that perhaps that is what caused him to act as
8 he did during that four, five, six week period and I am
9 sympathetic to those difficulties that he's experienced.

10 However, in the ten years I have been a prosecuting
11 attorney, I don't think I can recall ever having seen someone
12 who goes out and gets two more offenses within a four or five
13 week period after obtaining that first driving while under the
14 influence.

15 I have gone on the record as indicating that I think
16 that at a certain point in our process, I don't pay a lot of
17 attention to the rehabilitative aspect of our penal system. I
18 think once someone gets three of them inside a five or six week
19 period, that the focus should then be on a punitive and on a
20 deterrent aspect of our system, and the public safety aspect of
21 our system and I can't sit here as a representative of the
22 people of Burnsville and say that this gentleman shouldn't do
23 additional time.

24 I believe that he needs to serve an additional 15 days
25 in our jail facility. There has to be a deterrent aspect and

1 there has to be a public safety aspect on behalf of the people
2 who are also out on the road at the same time.

3 I understand that because of his position that he does
4 not want to be incarcerated at the outset of the legislative
5 session and I guess I see the logic of that position.

6 At the same time, however, when we're sentencing any
7 other offender, we don't give a great deal of deference to what
8 type of an impact we're going to have on their employment and I
9 guess my pitch to the Court is simply to give him 15 extra days
10 in jail and if you're so inclined, some additional community
11 work.

12 THE COURT: Anything further?

13 MR. MAYER: That would be it, Judge.

14 THE COURT: Mr. Rogosheske?

15 MR. ROGOSHESKE: Judge, I don't want to get up too much
16 on a soapbox but I have some strong, personal feelings about
17 this type of case and I'll try to keep my remarks short.

18 The first is that this man, in the State of Minnesota,
19 in every county that he's been in, has been treated probably
20 ten times harsher than a normal person and if his name was Joe
21 Schmedlap, and he wasn't a state representative.

22 It amazes me that we have lawyers who serve in the
23 legislature that pontificate and parlay themselves to the press
24 when they have no clue of the underlying factual basis.

25 I have practiced criminal law for twenty-two years and I have

1 never -- I have had cases much like this and all these cases
2 have a common theme, that of mental illness, and I'm appalled
3 at people who do not want to treat the mental illness and the
4 record is so clear that my client was operating from a major
5 depression.

6 He went through a very bitter divorce. His father was
7 diagnosed with Alzheimers. He had fifteen years of sobriety
8 and he was then diagnosed with diabetes. If one has ever
9 participated with close family members with diabetes, one knows
10 the blood sugar is a very difficult thing to control. This is
11 what he was going through after approximately fifteen years of
12 sobriety. This is a classic case of a major mental illness
13 brought on by severe problems and which were exasperated by
14 alcoholism.

15 So, that is why he got three of them right in a row.
16 The last one, as surprising as Mr. Mayer may find it, is he was
17 calling for help on his car phone. He called the highway } *
18 patrol and told them where he was and they found him.

19 He has completed a rehabilitation program. The record
20 is absolutely clear he's done an outstanding job in treatment.
21 It's unfortunate that we have this type of a situation. It's
22 unfortunate that in Sherburne County they have asked us to
23 place him on electronic home monitoring knowing that we can do
24 that, yet they don't do it up there because of political
25 pressure or other things of that nature, but based on what they

1 have told me and what's been represented to me by the attorney
 2 for Mr. Johnson, up in Sherburne County, I would ask the Court
 3 to consider that the Court give him 30 days on the electronic
 4 home monitoring, giving him credit for time served in Sherburne
 5 County and then that he assess him some community work service.

6 The statute, Minnesota Statute 169.121, subd. e does
 7 not under any circumstances in any construction, indicate that
 8 a probation violation has to be sentenced consecutively to
 9 other sentences. It is totally discretionary and I called the
 10 Court's attention to the actual reading and it's been my
 11 understanding that this is the interpretation that the State of
 12 Minnesota, Attorney General's Office, would give that statute.

13 Now, that might not be the interpretation that Senator
 14 Merriam gives or Representative Phil Carruthers, but that is an
 15 executive branch and this is a judicial branch and the
 16 judiciary is always in charge of interpretation of statutes.

17 The final analysis is this man has been humiliated
 18 throughout the State of Minnesota. Has been humiliated
 19 everywhere he goes and I think that he has served his penance
 20 enough.

21 The only thing he hasn't done is been put out and we
 22 bring back stoning. We could do that and he'd probably submit
 23 himself to that, but for the record, I am, in my twenty-two
 24 years as being a lawyer, upset at the way other lawyers and the
 25 press posturized this thing and I would ask the Court for

1 justice in this case like he was any other ordinary citizen.

2 If he was any other ordinary citizen with this kind of
3 a miraculous treatment in fact nothing other than community
4 work service would be imposed. I mean this sentence is far
5 more than any citizen, that anyone in our county has gotten and
6 I have practiced here for twenty-two years and I have had
7 people with six and seven and eight drunk driving violations
8 and this sentence is four times as severe.

9 Other than those comments, Your Honor, I have nothing
10 further but to ask you to consider helping this man out. Thank
11 you.

12 THE COURT: Mr. Mayer, anything further?

13 MR. MAYER: I advised the Court in Chambers, Judge, I
14 disagree with Mr. Rogosheske's interpretation of the statute.
15 I don't believe it is allowable to have concurrent sentences on
16 probation violations. That would be a case of first impression
17 to the best of my knowledge for the Court. I don't think the
18 statute has been tested with respect to probation violations
19 prior to this time.

20 THE COURT: Mr. Johnson, on your own behalf is there
21 anything you would like to say to me before we proceed here
22 this morning?

23 MR. JOHNSON: All I would say, Your Honor, is that I
24 carry a great deal of remorse and shame as a result of my
25 actions and I have, since leaving treatment, have attempted to

1 make amends to many individuals.

2 I accept the consequences for my actions, but I also
3 can tell you that sitting before this Court today that through
4 my treatment, my aftercare at Fairview Psychiatric, it has
5 helped. My depression is arrested and I feel very good about
6 my sobriety and my faith. Thank you, Your Honor.

7 THE COURT: Mr. Johnson, do you admit you are in
8 violation of the probation that was imposed on September 1,
9 1995 by reason of your subsequent convictions for driving while
10 under the influence of alcohol?

11 MR. JOHNSON: Yes, Your Honor.

12 THE COURT: Mr. Rogosheske has very articulately and
13 eloquently stated, based upon the record, the right you have to
14 a hearing and do you understand that by admitting this, this
15 morning you are giving up or waiving that this morning?

16 MR. JOHNSON: Yes, Your Honor.

17 THE COURT: That's how you wish to proceed here today?

18 MR. JOHNSON: Yes, Your Honor.

19 THE COURT: Well, first of all, let me simply indicate
20 for the record that regarding political pressure that the
21 judiciary is able to let it go. There has been, since the
22 inception of our Constitution, the separation of powers. My
23 determination here this morning has nothing to do about Mr.
24 Johnson's position in our State nor with what has happened in
25 the other two counties in which Mr. Johnson has been

1 incarcerated and sentenced.

2 Regarding stoning, let he who is without sin cast the
3 first stone.

4 MR. ROGOSHESKE: That's a good statement, Your Honor.

5 THE COURT: And no, we're not going to stone you, Mr.
6 Johnson, but I do feel that under the circumstances that not
7 withstanding your illness and it is an illness, both in terms
8 of your chemical dependency and your emotional difficulties
9 that you have suffered from, that you have failed the trust
10 bestowed upon you by your constituents as well as the public
11 in general, and I am sympathetic to the fact that you are
12 suffering with the manic depression and the chemical
13 dependency.

14 The emotional difficulties and the family problems that
15 you have had, but you still must be held accountable for your
16 poor judgment. That's why you are where you are; because
17 people trusted your judgment and that's what has not been taken
18 care of here.

19 Upon your admission of the violation, the Court will
20 reinstate you on probation, same terms and conditions that I
21 set on September 1st, 1995.

22 The additional conditions of probation will be that you
23 serve 20 days in the Dakota County Jail. That will be
24 consecutive to any time you are serving in Stearns and/or
25 Beltrami County. That time, however, may be served on the

1 electronic home monitoring or bracelet program as arranged
2 through our Department of Corrections here in Dakota County.
3 That time will also start after you have completed the
4 legislative session.

5 The reason that I'm putting you on probation or on the
6 electronic home -- or I should say on the bracelet and on the
7 electronic home monitoring program is because I feel it would
8 be only important to the tax payers of this County, in the City
9 of Burnsville, Dakota County, and the State of Minnesota that
10 you pay for your own problem here.

11 I don't want to put you in jail at the expense of our
12 tax payers so that's why I'm going to require that you pay your
13 own monitoring fee on the bracelet program. That will be
14 arranged through our Department of Corrections, and you may be
15 entitled to work with the probation agent to modify the time
16 you will be starting that program in view of the perhaps
17 extended session which we may anticipate here this year.

18 I will also require that you perform 40 hours of
19 community work service as arranged through our Department of
20 Corrections.

21 Do you have any questions about the modifications which
22 I have made to your sentence?

23 MR. JOHNSON: No.

24 THE COURT: Do you have any further comments you would
25 like to make to me, Mr. Rogosheske or Mr. Mayer?

1 MR. ROGOSHESKE: Yes, Judge. The only other thing is
2 that the Sherburne County people indicated -- and you have a
3 copy of that Order, that he could serve his time in jail here
4 in our County. It says and it's my understanding that Judge
5 Leslie was informed that if he would serve his sentence here in
6 Dakota County, that that would be on electronic home monitoring
7 because that's what we do.

8 I take it the sentence of the Court has no problem if
9 the defendant can get on the electronic home monitoring and he
10 could serve that as supervised under the Dakota County
11 probation, could he not?

12 THE COURT: I have no difficulty with that. I'm
13 assuming Judge Leslie's Order basically provides for that. Mr.
14 Mayer, do you have anything in that respect?

15 MR. MAYER: I guess I'm not clear on what Mr.
16 Rogosheske is saying. Is he saying Judge Leslie has ordered
17 the defendant can convert the balance of his Sherburne County
18 time to EHM down here?

19 MR. ROGOSHESKE: That's what is my understanding. I'm
20 just saying let's say that the judge indicates that he can
21 begin his time on electronic home monitoring and the purpose
22 for that as you know, as we went over that, is all his
23 aftercare and AA and psychiatric meetings are down here in the
24 Twin Cities so if Judge Leslie would say I would like Dakota
25 County probation to supervise that and execute that, your

1 sentence as a Judge here in Dakota County wouldn't prohibit
2 that? I mean we would extend the courtesy to Judge Leslie to
3 have that accomplished down here?

4 THE COURT: I would certainly not interfere with Judge
5 Leslie's decision.

6 MR. MAYER: And I don't believe I have any authority to
7 argue with a sentence imposed by a judge in another county.
8 Our EHM rules, however, allow a maximum of 60 hours a week out.

9 MR. ROGOSHESKE: Whatever the rules of the electronic
10 home monitoring are, are the rules of the electronic home
11 monitoring.

12 THE COURT: The standard is 60 hours, but from time to
13 time that also has been modified by special circumstances which
14 may be the case we have here today.

15 MR. ROGOSHESKE: All I'll do is contact Judge Leslie
16 and if Judge Leslie says he can serve his Sherburne sentence
17 through our Watch Guard Program, I'll set it up.

18 THE COURT: If Judge Leslie has any questions of me,
19 certainly feel free to have him call me, Mr. Rogosheske.

20 MR. ROGOSHESKE: I'll do that.

21 THE COURT: Mr. Mayer, anything further?

22 MR. MAYER: No.

23 THE COURT: Mr. Johnson, my very best to you and good
24 luck to you. I do commend you on the efforts you have made to
25 correct the problems you have faced and please don't disappoint

1 me again and keep up this good work.

2 MR. JOHNSON: Your Honor, thank you, and let me attempt
3 to make my amends with you. I was very sick. I broke the law.
4 I understand the consequences, but I think the greatest gift I
5 can give myself, to you, my family, constituents, is my
6 sobriety and my mental health, my faith in God and those are my
7 top three priorities.

8 THE COURT: And God bless you. Have a good holiday
9 season.

10 - - -

11 COURT REPORTERS CERTIFICATE

12 I, Karen P. King, Official Court Reporter for the 1st
13 Judicial District, do hereby certify that the foregoing 14
14 pages of transcript are an accurate transcription of my
15 stenographic notes so taken by myself in this matter at the
16 time and place noted.

17 Dated: December 26, 1995.

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151

Karen P. King, RPR
District Court Reporter

DISTRIBUTION OF COPIES:
Original Court Administrator
Copy County Attorney
Copy Defense Counsel

5738SS1 V2R3MO 931217

S1041532

10/15/95 12:56:0

Display Device : RECO1PC
User : KARENK

*** DISPLAY INCIDENT ***

Created: 10/15/95 by KARENK
Updated: by

Incident #: 95-0017866

1.DATE REPORTED: 10/11/95 2.Time: 1322
3.Date occurred: 10/11/95 4.Time: 1322

5.OFFENSE: J2500 (TRAFFIC-GM-DRIVE UNDER IN)

<< LOCATION >>>>

6.Loc: ;CD 50 7.Apt: 8.City: REMIDJI
9.State: MN 10.Zip: 11.Grid: 0003 12.Beat: 8109 13.Nwc: 0400

14.Rept ofcr: WINGER 15.Invt ofcr:
16.Disposition: ARREST 17.Disp date: 10/11/95
18.Remarks: ROBERT JOHNSON - SUICIDAL 408MBP

19.Ucr code: 2150 20.Arson code: 21.Damage amt:
22.No victims: 01 23.Status: 24.Roll: 25.Batch/frame:

7 Associated names |
event(cFs)

chg# Delete Text nAmes Crime iVeh Prop acc-Rpt cIt cFs eXit

9501786

95017856

Print Key Output

5738SS1 V2R3M0 931217

S1041532

Page 10/11/95 13:52:3

Display Device : DIS01T
User : JEANNE

Copy to CA Date Oct 12

Event #: 95-0017866 Rcvd: 10/11/95 1322 By: JEANNE
 1. CALL TYPE: 7 ATL Agency: F
 2. Location : ;CD 50 Apt:
 3. City : BEMIDJI Source: P Priority: 3 Dispo: RP
 4. Comments : ROBERT JOHNSON - SUICIDAL 408MBF
 5. Comments : DWI DAR
 6. Caller : STAGNER, DR P Phone: (612)223-5234
 7. Location : Apt:
 8. City : MINNEAPOLIS Grid: 0003 Beat: 8109 Nwc: 0400 Rpt: N

J2500/A

OCT 12 1995

DATE: 10 11 95

COMPLAINT REQUEST FORM

CFS NO: 95-17866

DEFENDANT'S NAME: Robert Alan Johnson A DOB: 12 01 45 AGE: 49

ADDRESS: 1075 Washington #15 Bemidji, mn
Sex M Race W Height 510 Weight 200 Eyes BLU Hair Bro.

* IN CUSTODY. DATE: 10 11 95 TIME: 1322

ADULT FELONY WARRANT
 JUVENILE*** GROSS MISDEMEANOR ~~STATUTE~~ CA Date: _____
 MISDEMEANOR

REQUESTED CHARGES:

- (1) Agg DWI J2500
- (2) _____
- (3) _____
- (4) _____

PLACE OF OFFENSE: City of _____ / Bemidji Township _____
PC SUMMARY:

Received report that Robert Johnson was driving with out a drivers license, and demonstrating the driving behavior of an intoxicated person. He failed his field sobriety and PBT tests.

***REQUIRED If Juvenile

Mother's Name/address: _____

Father's Name/address: _____

EVIDENCE:

Statement from suspect (non-custodial, custodial/Miranda)

No statement from suspect... Why not? refused

Statement from witnesses: (Include name, address, phone, DOB). If no statements, Why not? _____

PHYSICAL EVIDENCE:

Field Sobriety Test, PBT, Video at jail

COMMENTS:

Investigation Complete.

Follow up forthcoming, What? _____

***If JUVENILE: In detention? Yes No (If yes, file JUV. DETENTION RPT).
Released: _____, 19____. Time: _____
To: _____

OFFICER(S) IN CHARGE OF CASE: 8101

774033

PS31123-12

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
SAINT PAUL 55155

95017866

Name Robert Alan Johnson
First Middle Last
Address 108 WASHINGTON AVE APT 15
City BEMLING State MN Zip 56601
Signature of Driver to Acknowledge receipt: [Signature]

*Date Issued 10-11-95
Enf. Agency Beltrami Co Sc
Ticket or Case # 95-17866
DOB 12-1-45
Court Criminal
D/L # 5525-745-040-917

NOTICE AND ORDER OF REVOCATION

On the date shown above (*date issued) you were asked to submit to a test to determine your alcohol concentration pursuant to Minnesota Statutes, section 169.123, the Implied Consent Law.

- Because you refused to submit to testing, the Commissioner of Public Safety will revoke your Driver License and/or driving privileges for one year.
- Because you submitted to a breath test which disclosed an alcohol concentration of 0.10 or more the Commissioner of Public Safety will revoke your driver license and/or driving privileges for ; (1) a period of 90 days; or (2) if you are under the age of 21 years, the period of revocation will be 6 months; or (3) for a period of 180 days if your license has been revoked within the past 5 years under section 169.121 or 169.123.
- Your Driver License and/or privilege to drive in this state is hereby REVOKED. THIS IS YOUR OFFICIAL NOTICE OF REVOCATION. This revocation will take effect 7 days after the date shown above.

SURRENDER OF DRIVER LICENSE

By law, the officer is required to take all Minnesota driver license certificates in your possession and, if you have a valid license, to issue a temporary license effective for 7 days, or invalidate the license.

Yes No Driver license card surrendered and forwarded with this report.

No temporary license issued because: _____

TEMPORARY LICENSE

This entire notice is valid as a temporary license from the date shown above for 7 days. NOT VALID IF DETACHED. Temporary license valid only if record so indicates.

Licensee Height: 510 Weight: 200 Class: C
Restriction: Glasses

AFFIDAVIT OF LOST DRIVER LICENSE

I have lost or destroyed my license. I promise that if it is found I will immediately forward it to the Driver License Office, 108 Transportation Building, St. Paul, MN 55155. I fully realize that in making this affidavit, the license certificate is rendered null and void and may not be used for operating a motor vehicle.

Date Signature of Licensee

Signed: [Signature]
Signature of Peace Officer
STEVE KOVACIL
Printed Name
713 751 9111
Telephone Number



IMPLIED CONSENT ADVISORY

(Effective January 1, 1993)

CF 3 2-11006
95017866
Copy to CA Date OCT 12 1995

Time Started 1332 Location read: Bethrami Co. Jail

COMMERCIAL VEHICLE-BEGIN WITH BOXED AREA

Robert Alan Johnson, I believe you have been driving, (person arrested) operating or controlling a motor vehicle while under the influence of alcohol or a ~~controlled substance~~ "and you have been placed under arrest for this offense," "or you have been involved in a motor vehicle accident resulting in property damage, personal injury, or death."

yes sir 1. Minnesota law requires you to take a test to determine if you are under the influence (Check) of alcohol or a ~~controlled substance~~.

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)

_____, I believe you have been driving, (operator's name) operating, or controlling a commercial motor vehicle with the presence of alcohol.

 1. Minnesota law requires you to take a test to determine the presence (Check) of alcohol.

yes sir 2. Refusal to take a test is a crime.

 3. (READ ONLY IF PROBABLE CAUSE TO BELIEVE VIOLATION (Check) OF CRIMINAL VEHICULAR HOMICIDE AND INJURY LAWS) Because I also have probable cause to believe you have violated the criminal vehicular homicide or injury laws, a test will be taken with or without your consent.

4. Before making your decision about testing, you have the right to consult with an attorney. If you wish to do so, a telephone will be made available to you. If you are unable to contact an attorney, you must make the decision on your own. You must make your decision within a reasonable period of time.

If the test is unreasonably delayed or if you refuse to make a decision, you will be considered to have refused the test. Do you understand what I have just explained? yes sir

Do you wish to consult with an attorney? no

Time telephone made available: Start: _____ Stopped: _____

Will you take the (Breath) (Blood) or (Urine) test? no

(If person refuses:)

What is your reason for refusing I don't have... I don't want you (Blood)
On urine - simply because I don't want to

Time Completed 1337 Steve Jensen
(Printed name of officer requesting test)

Date: 10-11-95

IMPLIED CONSENT LAW PEACE OFFICER'S CERTIFICATE

▶ (PLEASE TYPE OR PRINT LEGIBLY, CROSS OUT REFERENCES TO INAPPLICABLE ITEMS.)

Name of Peace Officer <u>STEVE KOVACE</u>	Name of Police Agency <u>BELTRAMI Co Sheriff's Dept</u>
--	--

I certify to the Commissioner of Public Safety, State of Minnesota, that I am a member of the above police agency and:

1. I am a "peace officer" within the meaning of Minnesota Statutes, Section 169.123, Subdivision 1.
2. On (Date) 10-11-95, I had probable cause to believe that the person named below had been driving, operating or physically controlling a motor vehicle within the State of Minnesota on _____
in the City or Township of _____ in _____ County,
while under the influence of alcohol or a controlled substance, or a commercial motor vehicle with the presence of alcohol, contrary to law.

Full Name <u>Robert Alan Johnson</u>	Date of Birth <u>12-1-45</u>
Address <u>1075 Washington APT 15</u>	City, State, Zip <u>Bemidji MN 56601</u>
Driver License Number <u>S-525-745-040-917</u>	State of Issue <u>MN</u>

3. Reason for initial contact:
 - Vehicle stopped by officer because: swerving over center line
 - Accident Vehicle already stopped (describe): _____
 - Other (describe): _____
4. Probable cause that person was driving, operating or in physical control.
 - Saw person Person admitted Other: _____
5. Probable cause that person was under influence (in addition to other information)
 - Odor of alcohol; bloodshot, watery eyes; slurred speech poor balance
 - Other (describe): said he had been drinking
6. Check at least one of the following:
 - DWI arrest accident refused PBT (preliminary screening breath test);
 - failed PBT with alcohol concentration of .10 or more
7. Other pertinent information know he was DAR
8. The person was requested to submit to a test to determine (alcohol concentration) (or) ~~(presence of a controlled substance)~~, pursuant to the provisions of Minnesota Statutes, Section 169.123, and was read the Implied Consent Advisory on the other side of this form by: (Name and Agency) STEVE KOVACE BELTRAMI Co Sheriff's Dept
9. The person: (X APPLICABLE BOX)
 - Refused to provide a test sample to determine the presence of (alcohol) (or) ~~(controlled substance)~~;
 - Provided a sample (blood) (breath) (urine) for analysis, which indicated an alcohol concentration of _____.

The sample was submitted for analysis to:

Name of Agency, Analyst or Breath Test Operator
Address of Agency or Analyst
City, State, Zip
Sample Identification Number (Blood or Urine Tests Only)

MEDICAL PERSONNEL CERTIFICATE

Pursuant to Minn. Stat. § 634.15, I certify as follows: at the request of the undersigned peace officer, I withdrew a sample of blood from:

NAME: _____

AT: _____
(Location)

I am authorized and qualified to draw blood samples pursuant to Minn. Stat. § 169.123, Subd. 3.

I withdrew the sample of blood at _____ A.M./P.M., after preparing the site of withdrawal with a non-alcohol substance.

I used a sterile needle and container in withdrawing and receiving the blood sample.

I gave the blood sample to the undersigned peace officer.

DATE: _____ Signature _____

Printed Name _____

Occupation (M.D., R.N., M.T., L.T., etc.) _____

Signature of Peace Officer _____

SEND WITH COPY OF ALCOHOL INFLUENCE REPORT, ARREST OR ACCIDENT REPORT, BREATHALYZER OR INTOXILYZER RECORDS, LABORATORY REPORT TO:

Department of Public Safety
Driver and Vehicle Services Division
Implied Consent Section
108 Transportation Building
St. Paul, MN 55155

Attach Notice of Revocation (Form PS-31123) if issued.

Signature of Peace Officer <u>Steve Kovace</u>
Printed Name of Peace Officer <u>STEVE KOVACE</u>
Badge Number <u>8114</u>
Business Telephone Number <u>218 759-9661</u>
Date <u>10-11-95</u>

1995 10220010

NOT WRITE ABOVE THIS LINE

J-525-745-040-917

Birthdate 12 / 1 / 45
Month / Day / Year

Driver's License/Identification Card Number

Legal Name: ROBERT ALAN JOHNSON
First Middle Last

Previous Name: SAME
(Only if name changed since last application)

Residence Address: 1075 WASH. AVE #15
BEMIDJI MN 56601 BELTRAMI
City/Township State Zip Code County

Calling Address: SAME
P.O. Box or Number Street Apt.#
City/Township State Zip Code

Physical Description: BLUE 5'11, 205
Eye Color Height Weight Male Female

I certify that the information on this application is correct. If I am applying for driving privileges, I am aware of the duties, responsibilities, and penalties outlined in MN Statute 169.444 regarding the safety of children around school buses.

Applicant's Signature: Robert A. Johnson Date: Sept. 15, 1995

774033

250 17866

*Date Issued: 10-11-95
Enf. Agency: Beltrami Co. S
Ticket or Case #: 95-17866
DOB: 12-1-45
Court: Criminal
D/L #: J-525-745-040-917
State: MN Zip: 56601

to determine your alcohol concentration
revoke your Driver License and/or driving

- Public Safety will revoke your driver license and/or driving privileges for ; (1) a period of 90 days; or (2) if you are under the age of 21 years, the period of revocation will be 6 months; or (3) for a period of 180 days if your license has been revoked within the past 5 years under section 169.121 or 169.123.
- Your Driver License and/or privilege to drive in this state is hereby **REVOKED**. THIS IS YOUR OFFICIAL NOTICE OF REVOCATION. This revocation will take effect 7 days after the date shown above.

SURRENDER OF DRIVER LICENSE

By law, the officer is required to take all Minnesota driver license certificates in your possession and, if you have a valid license, to issue a temporary license effective for 7 days, or invalidate the license.

Yes No Driver license card surrendered and forwarded with this report.

No temporary license issued because: _____

TEMPORARY LICENSE

This entire notice is valid as a temporary license from the date shown above for 7 days. NOT VALID IF DETACHED. Temporary license valid only if record so indicates.

Licensee Height: 510 Weight: 200 Class: C
Restriction: Glasses

AFFIDAVIT OF LOST DRIVER LICENSE

I have lost or destroyed my license. I promise that if it is found I will immediately forward it to the Driver License Office, 108 Transportation Building, St. Paul, MN 55155. I fully realize that in making this affidavit, the license certificate is rendered null and void and may not be used for operating a motor vehicle.

Signed: [Signature] Signature of Peace Officer

STEVE KOVACIL
Printed Name

218 751 9111
Telephone Number

Date Signature of Licensee

*

TXT

ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
OLN/J525745040917. OLT/1. CLS/C. EXP 120199
STATUS:VALID GLASSES
PHOTO #:5752124023. ISU/052095.

02/26/95 RETAKE LETTER MAILED ON 02/26/95

SIMILAR NAME-DOB EXISTS:

10/02/95	REINSTATE DRIVING PRIVILEGES - RECEIPT		
*09/17/95	* LIMITED UNTIL		10/02/95
09/15/95	FEE REQUIREMENT MET		260/750
09/15/95	DRIVER TEST WAIVED		
09/15/95	PASSED WRITTEN TEST		09/15/95
*09/02/95	* REV - REFUSE TO TEST	00030	10/02/95 08/26/95
08/26/95	7-DAY TEMP		
08/26/95	SURRENDERED DL		E5
08/26/95	DRIVING WHILE UNDER THE INFLUENCE	IC-1	E19 090195XX
01/14/95	SPEED		274 512836A
08/01/89	SPEED		923341A

=====

950 17866

OJ2852 BJI314 OCT 11 1995 15:13:59 OCT 11 1995 15:14:02

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*
*
*

TXT

ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
DLN/J525745040917. OLT/1. CLS/C. EXP 120199
STATUS:VALID GLASSES
PHOTO #:5752124023. ISU/052095.
02/26/95 RETAKE LETTER MAILED ON 02/26/95

SIMILAR NAME-DOB EXISTS:

10/02/95	REINSTATE DRIVING PRIVILEGES - RECEIPT		
09/17/95	* LIMITED UNTIL	10/02/95	
09/15/95	FEE REQUIREMENT MET		260/750
09/05/95	DRIVER TEST WAIVED		
09/05/95	PASSED WRITTEN TEST		09/15/95
09/02/95	* REV - REFUSE TO TEST	00030	10/02/95 08/26/95
08/26/95	7-DAY TEMP		
08/26/95	SURRENDERED DL		E5
08/26/95	DRIVING WHILE UNDER THE INFLUENCE	IC-1	E19 090195XX
01/14/95	SPEED		274 512836A
08/01/89	SPEED		923341A

OJ2852 BJI314 OCT 11 1995 15:13:59 OCT 11 1995 15:14:02
IMMEDIATELY CONFIRM RECORD WITH ORI

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**

Case # 95-17866
Date of 10/11/95
Follow-up 10/11/95

Beltrami - Bemidji

Copy to CA Date _____

Offense AG DWI

Case Name Robert Alan Johnson

SYNOPSIS:

On 10/11/95, I Deputy Steve Kovacic stopped the vehicle driven by **ROBERT JOHNSON** on Co. 50 in Beltrami County. It was known prior to the stop that **ROBERT JOHNSON** was driving with out a drivers license and after following him I also witnessed that he was exhibiting behavior of an intoxicated person. After the vehicle was stopped the field sobriety tests which were conducted on, he failed as well as failing the PBT. He was arrested for DWI, brought to the Beltrami County jail, read the implied consent advisory and refused blood or urine testing. It was found that this was an aggravated DWI.

PEOPLE MENTIONED IN REPORT:

1. **JOHNSON, ROBERT ALAN**, dob 12/1/45, 1075 Washington #15, Bemidji.

DETAILS:

I, Deputy Steve Kovacic of the Beltrami Sheriff Dept. responded to a call for service on 10/11/95 at approximately 1515 hours. Information had been received that a **ROBERT ALAN JOHNSON** was driving a 1990 blue Taurus, with lic. 408MBP. He was some where between Cass Lake and Bemidji heading towards the Bemidji area. This individual also had a handgun in the car and was driving on a drivers license which had been taken by the state. We had also been told that he had been drinking and had driven through Walker with the gun to his head.

I proceeded to the Hwy 2 bypass on the east end of Bemidji at which point in time I did see the vehicle in question. Following closely behind a blue p/u with a white toper. The individual in the drivers seat of the blue Taurus was slightly hunched over, leaning forward, staring straight ahead and I believe did not see me behind him. I notified the other officers aware of this situation, Deputy Scott Winger of the Beltrami County Sheriff Dept., that I had spotted the vehicle and we were heading towards town. Then the Taurus turned west onto Co. 50 to enter the east

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

Pg. 2

95014581086

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
Beltrami - Bemidji

Date of Follow-up _____

Copy to CA. Date _____

Type of Offense _____ Case Name _____

end of Bemidji, I notified Deputy Atwater and Deputy Winger of this situation and we were going to set up a stop on the vehicle before it entered town. I saw the vehicle swerve over the center line 2 times once he was on Co. 50.

Upon passing the Great Lakes Gas Company, I activated my red lights and the 2 squads in front of me coming towards us from the west on Co. 50 activated their red lights. The 2 squads then pulled in front of the vehicle in an attempt to block it from getting into town, at which point the driver being ROBERT JOHNSON drove around the lead vehicle going part way onto the shoulder and back onto the highway. This was done at a very slow speed. The vehicle was stopped a short distance further when all the squads boxed it in so that it could not go forward. I pulled my squad up against the back bumper area of this car so that it would not be able to back out of the box. Upon going up to the vehicle ROBERT JOHNSON was seen talking on a cellular phone and immediately moved his right hand over to the passenger side front seat and moved a pillow in an attempt to cover a portion of the seat. The drivers door was locked at that point and Deputy Winger was on the passenger side of the vehicle and found that to be open. After opening it he unlocked the drivers door using the electronic lock and I asked MR. JOHNSON to hang up the phone. I reached in and turned the car off and put the keys on the floor. MR. JOHNSON appeared to be confused at this point and his hair was tousled and his pants were unzipped to the full length of the zipper. Deputy Winger picked up a black Crossman BB pistol from the floor of the car on the front passenger side which was cocked. This pistol was a .45 simulation of a Colt .45. As Mr. Johnson got out of the car I could detect a strong odor of an alcoholic beverage emitting from his person. I then asked him if he had in fact been drinking and he stated yes but he could not state how many he had. I then requested him to do some field sobriety tests which he did consent to do. The first test I did was the gaze nystagmus. This test he could not do at first because he kept moving his while following my finger. I finally

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest <input type="checkbox"/> Assisted/Advised <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Citation Issued <input type="checkbox"/> Pending <input type="checkbox"/> Inactive <input type="checkbox"/> Unfounded	<input type="checkbox"/> County Attorney <input type="checkbox"/> City Attorney <input type="checkbox"/> Investigators <input type="checkbox"/> Patrol <input type="checkbox"/> Court Services <input type="checkbox"/> Special Detail <input type="checkbox"/> Other	<input type="checkbox"/> Arrest <input type="checkbox"/> Arrest Juvenile <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Unfounded <input type="checkbox"/> Inactive/Pending	<input type="checkbox"/> Ref. Other Agency <input type="checkbox"/> Summons Issued <input type="checkbox"/> Warrant Issued <input type="checkbox"/> Other (Explain)

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**

Beltrami - Bemidji

950179-676

Case # _____
Date of Follow-up _____

pg: 3

of Offense _____ Case Name _____ Copy to CA - Date _____

had him hold his head still with his hands, however he still moved his either direction while I attempted to do the maximum deviation portion of the test. I finally held his hands with one hand while I did the test and he still moved his head to either side so it was very difficult to do the test, however I did determine that portion was a failure. The next test I attempted to do was the fast pursuit which he again failed. It was impossible to determine the onset, however, because he kept looking down and other directions than where he was supposed to. The next test was to walk the line and after telling **MR. JOHNSON** how I wished to have the test done and showing him how to place heel to toe, I asked him to walk the nine steps which he walked with his hands apart in a wide long, stumbling gate not touching heel to toe, taking his hands away from his body and counting out loud every second sometimes third step as being one. He did not turn around correctly and just walked back to the location he started. The next test I asked him to do was to stand on one leg. I asked **MR. JOHNSON** if he had any bad legs and he stated that his right one was. I then asked if he could stand on his left and he stated yes. I then asked him to raise it up and count to 30 while maintaining his balance. **MR. JOHNSON** repeatedly tried to walk over to the car to try to hold on to it to do this test. After 4 attempts I then asked him to stand unassisted to do this test at which point he attempted to hold on to my shoulder. After 2 times I stated to him that this is a balance test and he would have to do it without touching anything. He then attempted to do and would count one then set his foot down, then pick it up and count two, set his foot down, pick it up and went to five when I told him he had to keep it up the whole time. He then stated that he could not do this test. At this point Deputy Bill Atwater gave **MR. JOHNSON** the PBT test of which he again failed. **MR. JOHNSON** was placed under arrest and transported to the Beltrami County jail. Upon arrival at the jail he was read the implied consent advisory. A video tape was made of the reading and the refusal. When I first attempted to get information from **Mr. Johnson** he could not spell his last name for me. When he was asked how old he was after I learned he was born in 1945, he said 41. **MR. JOHNSON**, upon the initial reading of the implied consent, first paragraph, he repeatedly stated that he did not understand it. I

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	_____
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail	_____	_____
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other	_____	_____

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

pg 4

950-178-616

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT

Beltrami - Bemidji

Case # 718-616
Date of Follow-up _____

Copy to CA _____ Date _____

_____ of Offense _____ Case Name _____

continued to break it down to the point where he was finally told that he had been driving a car, did he understand that? He said yes. I then told him that I believed he had been drinking, did he understand that. He stated yes. I also told him that he had been placed under arrest, did he understand that, and he stated yes. I also told him that Minnesota law tells me that I have to take a test to determine if he had been drinking, did he understand that? He finally stated yes sir. He stated yes sir to all of the other questions until the point when I asked if he wanted to talk to an attorney which he stated no. I then asked whether he would give his blood or urine he stated no. The reason was that he simply did not want to. He also stated at this time that he was diabetic.

DESCRIPTION OF EVIDENCE IN CUSTODY:

One implied consent advisory, tape no. 6B which is a video made in the booking room, note

End of report. 8114.
Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest <input type="checkbox"/> Assisted/Advised <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Citation Issued <input type="checkbox"/> Pending <input type="checkbox"/> Inactive <input type="checkbox"/> Unfounded	<input type="checkbox"/> County Attorney <input type="checkbox"/> City Attorney <input type="checkbox"/> Investigators <input type="checkbox"/> Patrol <input type="checkbox"/> Court Services <input type="checkbox"/> Special Detail <input type="checkbox"/> Other	<input type="checkbox"/> Arrest <input type="checkbox"/> Arrest Juvenile <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Unfounded <input type="checkbox"/> Inactive/Pending	<input type="checkbox"/> Ref. Other Agency <input type="checkbox"/> Summons Issued <input type="checkbox"/> Warrant Issued <input type="checkbox"/> Other (Explain)

OFFICER Kovacic 8114 DATE 10/11/95 SUPERVISOR _____ DATE _____

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**

Date of Follow-up 10/11/95

Beltrami - Bemidji

Type of Offense AG DWI

Case Name Copy to CA. ~~Robert Johnson~~

SYNOPSIS:

At approximately 1556 on 10/11/95, Deputy Atwater assisted Deputy Steve Kovacic and Deputy Scott Winger in attempting to stop a vehicle that was coming in to Bemidji on Co. Rd 50. The vehicle plate no. is 408MBP, a blue Ford Taurus. Deputy Kovacic informed Deputy Atwater and Deputy Winger by radio that he was behind a vehicle coming off the bypass onto Co. Rd 50 headed towards town. Deputy Winger intercepted the vehicle near the intersection of Co 404 and Co 50. Deputy Atwater observed Deputy Winger's squad car overhead red lights come on, that's when we attempted to stop the vehicle. Atwater observed the vehicle pull over towards the shoulder of the road and go around Deputy Winger's car and continue towards town and towards Deputy Atwater who was approximately 1/4 mile behind Deputy Winger. As the car approached Deputy Atwater activated the red lights on the squad car, also the siren and flashing head lights and pulled approximately halfway across into the west bound lane of Co. 50 and motioned with his hand for the driver to pull over to the side of the road. The driver did pull over to the side of the road and come to almost a complete stop and then continued and started to go around Deputy Atwater. By this time Deputy Winger had gotten turned around and blocked the path of the vehicle from going around Deputy Atwater's squad car and Deputy Kovacic came up behind the vehicle making it impossible for the vehicle to move. Deputy Atwater did recognize the party driving as **BOB JOHNSON**. He was speaking on a cell phone in his vehicle as he sat in the drivers seat.

End of report. 8105.
Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail		
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other		

OFFICER Atwater 8105 DATE 10/11/95 SUPERVISOR _____ DATE _____

**LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT**

Beltrami - Bemidji

Case # 95017866
Date of Follow-up 10/11/95

Follow up _____ Copy to CA _____
Date of Offense _____ Case Name Robert Johnson

SYNOPSIS:

I was speaking Sgt. Dick Keckler of the Bemidji PD who advised me that **BOB JOHNSON** was coming to Bemidji from the cities and he was suicidal. Was also advised that he had a handgun with him and that he was making threats of using it upon himself. We were also given the description of the vehicle and license number. We were advised that **JOHNSON** was between the cities of Bemidji and Cass Lake.

Deputy Kovacic and myself left the LEC and headed south east out of Bemidji to intercept the vehicle prior to entering the city. I spoke with Deputy Atwater on a tactical plan and advised him we had a possible situation in which may require more assistance and we met at the Honda Yamaha Center where I explained the situation to him. I had also been advised that **BOB JOHNSON** was extremely intoxicated at this time. After appraising Deputy Atwater of the situation we received word from Deputy Kovacic that the vehicle had just come to the Hwy 2 bypass on the south edge of Bemidji. At that time Deputy Atwater and myself headed south bound on Co. 50. I met the suspect vehicle which was being followed at this time by Deputy Kovacic near Great Lakes Gas. Deputy Kovacic was attempting to stop the vehicle. I activated my red lights and siren and turned my squad sideways in the road to stop the further progress of that vehicle. The driver applied the brakes, slowed his vehicle and then went around the front of my car and continued. Deputy Kovacic continued the pursuit at that time. I followed. Deputy Atwater also turned his squad sideways approximately 1/4 mile from that area across the road attempting to stop this vehicle. The vehicle once again started to stop and then tried to proceed around the front of Atwater's vehicle. I at that time pulled my squad to the passenger side front of the vehicle driven by **JOHNSON** and we contained it at that point. Deputy Kovacic did stop the vehicle from moving backwards by parking his unit behind it.

At that time we approached the vehicle. I came to the passenger side and observed who I knew to be **BOB JOHNSON** reaching for the passenger seat with one hand and holding the cell phone in the

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest <input type="checkbox"/> Assisted/Advised <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Citation Issued <input type="checkbox"/> Pending <input type="checkbox"/> Inactive <input type="checkbox"/> Unfounded	<input type="checkbox"/> County Attorney <input type="checkbox"/> City Attorney <input type="checkbox"/> Investigators <input type="checkbox"/> Patrol <input type="checkbox"/> Court Services <input type="checkbox"/> Special Detail <input type="checkbox"/> Other	<input type="checkbox"/> Arrest <input type="checkbox"/> Arrest Juvenile <input type="checkbox"/> Excep. Cleared <input type="checkbox"/> Unfounded <input type="checkbox"/> Inactive/Pending	<input type="checkbox"/> Ref. Other Agency <input type="checkbox"/> Summons Issued <input type="checkbox"/> Warrant Issued <input type="checkbox"/> Other (Explain)

OFFICER Winger DATE _____ SUPERVISOR _____ DATE _____

LAW ENFORCEMENT CENTER
FOLLOW UP/CONTINUATION REPORT
 Beltrami - Bemidji

95017866
 Case # 95-17866
 Date of Follow-up _____

pg. 2

of Offense _____ Case Name _____ Copy to CA _____ Date _____

other. He made 2 sweeping motions in that area of the passenger seat towards him and then looked towards me as I opened the door feeling that he was attempting to find the gun which he allegedly had. **JOHNSON** at that point grabbed a coat and a pillow and slid over the seat towards him and I did observe a hand gun lying on the floor. I did immediately recover the hand gun advise both Deputy Atwater and Kovacic that I did have a handgun and placed it on top of the vehicle. At that time I also went back into the passenger door and did move the other items to see if there were any further weapons which may be used against himself or us at that time. I was unable to locate anything but an open bag of M&M's and did not find anything which appeared threatening.

I did turn the gun over to Kovacic as well as the b b's which were extracted from the gun. The gun was a Marksman BB gun which was in a cocked and ready position at the time of the stop.

End of report. 8109.
 Transcribed by PN on 10/11/95.

ACTION TAKEN	REFERRED	FINAL DISPOSITION	
<input type="checkbox"/> Arrest	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Arrest	<input type="checkbox"/> Ref. Other Agency
<input type="checkbox"/> Assisted/Advised	<input type="checkbox"/> City Attorney	<input type="checkbox"/> Arrest Juvenile	<input type="checkbox"/> Summons Issued
<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Investigators	<input type="checkbox"/> Excep. Cleared	<input type="checkbox"/> Warrant Issued
<input type="checkbox"/> Citation Issued	<input type="checkbox"/> Patrol	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other (Explain)
<input type="checkbox"/> Pending	<input type="checkbox"/> Court Services	<input type="checkbox"/> Inactive/Pending	_____
<input type="checkbox"/> Inactive	<input type="checkbox"/> Special Detail	_____	_____
<input type="checkbox"/> Unfounded	<input type="checkbox"/> Other	_____	_____

OFFICER Winger 8109 DATE 10/11/95 SUPERVISOR _____ DATE _____

MALE GM/FELONY

BELTRAMI COUNTY JAIL BOOKING FORM 95017866

ICR # 95-17866 Jail File # 0965 Booking # 09

NAME ROBERT ALAN JOHNSON DOB 120145

ADDRESS 1075 Washington Ave Bemidji, MN 56601 Copy to CA Date

Age 49 Sex M Race W Height 511 Weight 208 Hair Blu Eyes Bro

BOOKING DATE 101195 TIME 1350 BY RR

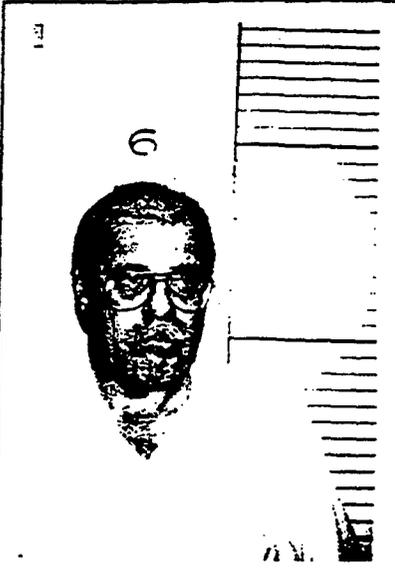
RELEASE DATE TIME BY

HOW

OFFENSE (~~WV~~PC) AGG DWT

BOND SENTENCE

COMMENTS Placed in observation/15 min watch.



PROBABLE CAUSE FOR ARREST Saw veh sewer
open Center line 2xs - Fail.
F.S. Tools 1 PBT

REASON FOR DETENTION

- To prevent bodily harm to the accused or another.
- To prevent further criminal conduct.
- There is a substantial likelihood that the prisoner will fail to respond to a citation.
- Prisoner does not possess, or have ready access to, adequate resources to post bail or pay a fine.

STEVE KOVACS
ARRESTING OFFICER'S NAME

8111
BADGE NUMBER

[Signature]
ARRESTING OFFICER'S SIGNATURE

10-11-95
DATE

OCT 12 1995

950 17866

Copy to CA ~~On~~ OCT 12 1995

BEMIDJI POLICE DEPARTMENT
FOLLOWUP
DETECTIVE CLARENCE ERICKSON

CASE NO:95-17866

SYNOPSIS: Michael Meuers and Pat Welle came to the Law Enforcement Center to report that Robert Johnson, State Representative was in the Brainerd area they believed on his cell phone and stated that he had a gun and was going to commit suicide.

PEOPLE MENTIONED IN REPORT:

Complainant: ^{com} Michael Douglas Meuers, DOB:10-24-44 Box 44 Bemidji Mn 56601

Complainant: ^{com} Pat Welle, 2315 Birchmont Drive, Bemidji Mn 56601

Suspect: Robert Allen Johnson, DOB:12-01-45

^{men} Dave Walch, Cellular 2000, assisted the Police. #766-0555

DETAILS: Michael Meuers and Pat Welle came to the Police Department and talked to Detective Erickson and told Detective Erickson that they had a real crisis they believed on their hands. They stated that a friend of theirs was stating that he was in the Brainerd area on his cell phone and was contemplating suicide. Pat Welle and Michael Meuers stated that the person was Robert Johnson and that due to the new releases that came out in the news that he was very upset, that life was not worth living anymore that he did have a gun.

Detective Erickson contacted ^{men} Shep Wilimek at the Evergreen House and let him talk to Pat Welle on how to get some ideas on how to intervene. It was decided at this point that he would get ahold ^{men} Don Lussier who was the alcohol counselor at Red Lake and who Robert Johnson trusted and was a friend of. It was found that Don Lussier was on his way to Wilmer. Eventually Don Lussier was contacted. Don Lussier also called Bob Johnson and received from Bob Johnson a statement that he would come to Bemidji and go to his apartment and wait there until Lussier could come over and talk to him. At this point it was decided that we would attempt to track him through Cellular 2000.

Detective Erickson contacted Cellular 2000 and was eventually turned over to Dave Walch, who was able to track Johnson's cell phone by using different towers and the strength of the signal that was being received by that tower. Dave Walch stated that he would assist the Police Department after talking to some Supervisors. It was found that Bob Johnson had stated that he was near Brainerd, however Dave Walch was able to pin point him and found that he was in the Walker area. He continued tracking him. Bob Johnson told people that he had talked to that he was in the Laporte area. It was found that he was not, he was in the Walker area. He stated that he would be coming to Laporte over to 71 and up 71 to his apartment at Century Apartments. However,

COPY

95017866

OCT 12 1995

Copy to CA

Date _____

CFS#95-17866

PG. 2

Dave Walch was able to track him. He continued up 371 at times parking. When it was found that he was in the Cass Lake area he called his Psychiatrist and told his Psychiatrist that he was North of Cass Lake, had a gun to his head and that he was intoxicated. This was the first time that Detective Erickson was aware that alcohol was involved. At this point it was unknown whether he was on Hwy# 2 or County Road 9. Dave Walch believed that he was on Hwy#2. Michael Meuers and Pat Welle had agreed after talking to him on the cell phone to meet him at Luepke's Store, South on 71. However Cell 2000, Dave Walch stated that he did not believe he was anywhere near Luepke's Store. Sgt. Keckler was notified of this situation and then a Lic# by running an Alpha was found for the vehicle that Robert Johnson was driving. This information was given to the Beltrami County Sheriffs Department, that it was believed that he would be coming in on Highway 2 where they took up their positions. They eventually stopped Bob Johnson. The track through Cellular 2000 was discontinued and the case was turned over to the Beltrami County Sheriffs Department.

Michael Meuers and Pat Welle both came in and thanked the Police Department for their assistance and will discuss this case further with Sheriff Rognstad. That will be the end of this report.

Detective Clarence Erickson, #8563

Transcribed by:SK, 10-11-95, 1632 hours

950 17866

BEMIDJI POLICE DEPARTMENT
FOLLOWUP
DETECTIVE CLARENCE ERICKSON

CASE NO:95-17866

SYNOPSIS: Michael Meuers and Pat Welle came to the Law Enforcement Center to report that Robert Johnson, State Representative was in the Brainerd area they believed on his cell phone and stated that he had a gun and was going to commit suicide.

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Complainant: Michael Douglas Meuers. DOB: 10-24-44 Box 44 Bemidji Mn 56601

Complainant: Pat Welle. 2315 Birchmont Drive. Bemidji Mn 56601

Suspect: Robert Allen Johnson, DOB: 12-01-45

Dave Walch, Cellular 2000. assisted the Police. #766-0555

DETAILS: Michael Meuers and Pat Welle came to the Police Department and talked to Detective Erickson and told Detective Erickson that they had a real crisis they believed on their hands. They stated that a friend of theirs was stating that he was in the Brainerd area on his cell phone and was contemplating suicide. Pat Welle and Michael Meuers stated that the person was Robert Johnson and that due to the new releases that came out in the news that he was very upset, that life was not worth living anymore that he did have a gun.

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Copy to CA

OCT 13 1985
Date

950 17866

CFS#95-17866

PG. 2

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Michael Meuers and Pat Welle both came in and thanked the Police Department for their assistance and will discuss this case further with Sheriff Rogstad. That will be the end of this report.

Detective Clarence Erickson, #8563

Transcribed by:SK, 10-11-95, 1632 hours

MALE GM/FELONY

BELTRAMI COUNTY JAIL BOOKING FORM

ICR # 95 - 17866

Jail File # 0965

Book # **95017866**

NAME ROBERT ALAN JOHNSON

DOB 120145

ADDRESS 1075 Washington Ave., Bemidji, MN

Age 19 Sex M Race W Height 5-11 Weight 208 Hair BRN Eyes BLU

BOOKING DATE 11-27 95 TIME 1700 BY DL

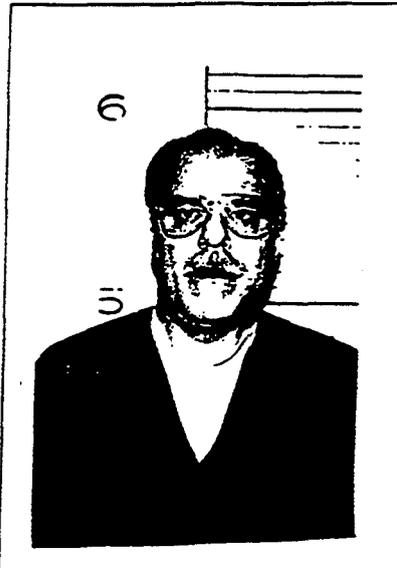
RELEASE DATE _____ TIME _____ BY _____

HOW _____

OFFENSE (W/C PC) Comm - Agg DWT

BOND _____ SENTENCE 60 Days - HUBER

COMMENTS Credit for time in treatment & for time served.



PROBABLE CAUSE FOR ARREST

Self Turn-in DUT

REASON FOR DETENTION

To prevent bodily harm to the accused or another.

To prevent further criminal conduct.

There is a substantial likelihood that the prisoner will fail to respond to a citation.

Prisoner does not possess, or have ready access to, adequate resources to post bail or pay a fine.

ARRESTING OFFICER'S NAME

BADGE NUMBER

ARRESTING OFFICER'S SIGNATURE

DATE

Bob Rom

11-27-95

NOV 28 1995

05-17866

State of Minnesota County of Beltrami District Court

CCT	LIST CHARGE STATUTE ONLY	M.O.C.	GOC	CTY. ATTY. FILE NO.	CONTROLLING AGENCY	CONTROL NO.
I	169.121, subd. 1(a); subd. 3(c)(1)	J2501	N	95-17037	0040000	95-17866
II	169.121, subd. 1a; subd. 3(c)(2)	J2R01	N	K4-95-1198		10-12-95

Amended Tab Charge Previously Filed

✓ if more than 6 counts (see attached) ✓ if domestic assault

State of Minnesota

PLAINTIFF,

SERIOUS FELONY
 FELONY
 GROSS MISDM DWI
 GROSS MISDM
 SUMMONS
 WARRANT
 ORDER OF DETENTION

NAME: first, middle, last ROBERT ALAN JOHNSON
 1075 Washington #15
 Bemidji, MN 56601

Date of Birth 12/01/45
 SJIS COMPLAINT NUMBER 04-11-6-00 0679
 BELTRAMI CTY

DEFENDANT.

COMPLAINT

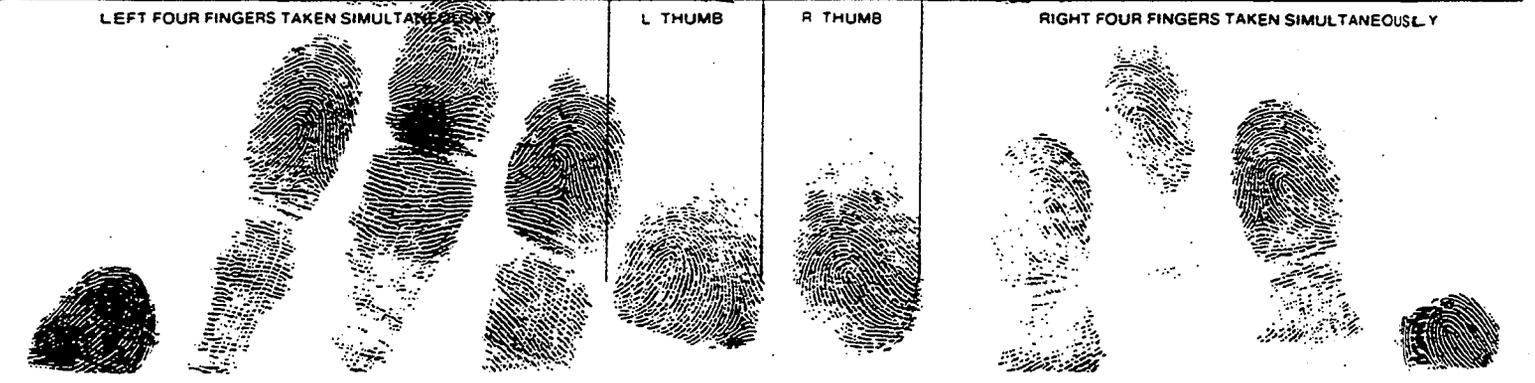
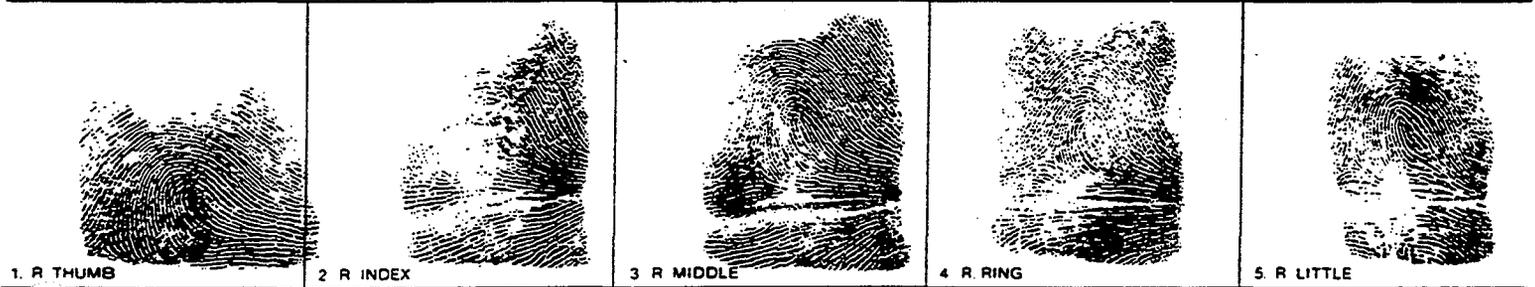
The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense (s). The complainant states that the following facts establish PROBABLE CAUSE:

LAW ENFORCEMENT COPY

95017866

THE INFORMATION ON THIS FORM IS REQUIRED BY MN STATE STATUTES 299C.10 & 299C.11. IT MAY BE COMPUTERIZED AND GIVEN TO CRIMINAL JUSTICE AGENCIES, OR REGULATORY AGENCIES WHEN PERMITTED BY TITLE, STATUTE, OR ORDINANCE.

LEAVE BLANK SID: MN		TYPE OR PRINT ALL INFORMATION IN BLACK LAST NAME: <i>Johnson</i> FIRST NAME: <i>Robert</i> MIDDLE NAME: <i>Alan</i>					9579334		
ARRESTEE'S SIGNATURE <i>Robert Johnson</i>		ALIAS:					REEL:		
OFFICIAL'S SIGNATURE <i>John Eck</i>		DATE <i>12-10-95</i>					FRAME:		
US CITIZEN: Y/N		COUNTRY:					OTHER DATES OF BIRTH (MMDDYYYY)		
PLACE OF BIRTH		PHOTO AVAILABLE Y/N		INTERSTATE TRANSFER?					
SCARS, MARKS, TATTOOS	MISCELLANEOUS NUMBERS	DATE OF BIRTH (MMDDYYYY)	SEX	RAC	HGT	WGT	EYES	HAIR	SKIN
		<i>120145</i>	<i>M</i>	<i>W</i>	<i>511</i>	<i>208</i>	<i>BLU</i>	<i>BRN</i>	<i>FAR</i>



ORIGINATING AGENCY-CAG MN0040000	ORIGINATING CASE NO -OCA 95017866	DATE OF ARREST-DOA 10/11/95	ARREST DISPOSITION-ADN 205
ORIGINATING AGENCY NAME-ORA Bethrami County Sheriff	ARRESTING AGENCY NCIC-ORI MN0040000	DATE OF OFFENSE-DOO 10/11/95	
OCCUPATION/EMPLOYER-OCC-EMP	LOCAL IDENT NO -LID	COMPLAINT ISSUED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, COMPLAINT NO -CCN 04-11-6-006679	ADDITIONAL INFORMATION FINAL DISPOSITION ADD
RESIDENCE OF PERSON FINGERPRINTED-LKA 1075 Washington Ave Bemidji, MN 56601	IF ADDITIONAL COMPLAINTS LIST HERE		

OFFENSES

ACH	MOC	GOC	DESCRIPTION OF OFFENSE	STA	CCD	STATUTE/ORDINANCE/TITLE NUMBER-STU
0.1	J.2.S.O.1	N	Agg DWI	M, N	S.S	1.6.9.1.2.1, subd. 1(a); subd. 3 (c) (1)
0.2	J.2.R.O.1	N	Agg DAR	M, N	S.S	1.6.9.12.1, subd 1(a); subd. 3 (c) (2)
				M, N		
				M, N		
				M, N		

- General Offense Character (GOC)**
- A - Attempt to Commit (ATPT)
 - B - Assault to Commit (ASLT)
 - C - Conspiracy to Commit (CNSP)
 - F - Facilitation of (FACL)
 - S - Solicitation to Commit (SOLC)
 - T - Threat to Commit (THRT)
 - X - Aid/Abet (ABET)
 - Y - Accessory Before the Fact (ACBF)
 - Z - Accessory After the Fact (ACAF)
 - N - Not Applicable

- Charge Code (CCD)**
- SS - State Statute
 - TT - Federal Title
 - OR - Ordinance
 - OT - Any Others

Arrest Disposition Numeric (ADN)

The Arrest Disposition Numeric codes provide for entry of information concerning the disposition of the individual at the time of arrest. The following table reflects the codes to be used in this field, including the description and the abbreviations used in the Computerized Criminal History Records

Description	CCH Abbrev	Codes
Deportation	DEPORTED	203
Granted Voluntary Departure from U S	VOL DEPART	204
Held	HELD	205
Released on Bail or Own Recognizance	BAIL/ROR	206
Not Prosecuted	NOT PROS	207
Turned Over to Another Agency	TOT	208
Bail Forfeited	BAIL FORF	210
No Bill Returned	NO BILL	211
Referred to Juvenile Court or Juvenile Authorities (Adults Only)	REFER JUV	212
Consolidate with Another Arrest	CONSOL	213
Pretrial Diversion	DIVERSION	214
Disposition Unavailable per Contributor	DISPO UNKN	215
Treated as Adult	ADULT ARR	216
Determine Mental Competence Before Trial	DETRM COMP	217
Rebooked	REBOOKED	218
Received	RECEIVED	219
Released Pending Further Investigation	PEND INVEST	260
Extradited	EXTRADITE	261
Referred to City Attorney	REFER CITY ATTY	262
County Prosecutor Issued Misdemeanor Complaint	MISO COMP ISSUE	263
Misdemeanor Tab Citation Issued	MISO TAB CIT IS	264
Pre Court Diversion	PRE COURT DIVER	265

- RACE CODES (RAC)***
- W - White**
A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
 - B - Black/Negro**
A person having origins in any of the black racial groups of Africa
 - I - American Indian or Alaskan Native**
A person having origins in any of the original people of North America
 - A - Asian or Pacific Islander**
A person having origins from Mainland China, Japan, or who is an Asian Indian, Filipino, Indonesian, Korean, Polynesian or other Non-White
 - U - Unknown**

ATTACH PHOTO IN THIS AREA

AMERICANS WITH DISABILITIES ACT

P.L. 101-336

employers, in short, are now facing the prospect of punitive and compensatory damages under a new statute imposing many novel requirements unfamiliar to most businesses in the private sector. This prospect threatens to undermine all support for this legislation and is the one issue which will result in complete opposition to the bill by the entire business community.

We strongly urge that the original agreement be adhered to and that an amendment be adopted on the House floor which would expressly adopt, in text, current Title VII remedies.

BILL GOODLING.
TOM COLEMAN.
TOM PETRI.
MARGE ROUKEMA.
STEVE GUNDERSON.
STEVE BARTLETT.
TOM TAUKE.
HARRIS W. FAWELL.
FRED GRANDY.
CASS BALLENGER.
PETER SMITH.
TOMMY F. ROBINSON.

HOUSE REPORT NO. 101-485(III)

[page 1]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

[page 23]

EXPLANATION OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The amendment in the nature of a substitute adopted by the Committee is modeled after bills ordered reported by other Committees with jurisdiction over the bill and S. 933 as passed by the Senate. The bill differs in significant respects from the bill as introduced.

The amendment differs from the bill as introduced primarily in the following respects: The amendment deletes the general provisions title of the bill (title D), and incorporates those provisions in the remaining titles of the amendment. The amendment adds specific provisions, discussed below, detailing obligations under the employment, public services, public accommodations, and telecommunications titles. The amendment adds miscellaneous provisions, including coverage of Congress, technical assistance, and the exclusion from coverage of individuals discriminated against because of current illegal use of drugs and other specific conditions.

AMERICANS WITH DISABILITIES ACT

P.L. 101-336

disability, the criterion must concern an essential, and not marginal, aspect of the job. The criterion must be carefully tailored to measure the actual ability of a person to perform an essential function of the job. If the criterion meets this test, it is not discriminatory on its face and is not prohibited by the ADA. If the legitimate criterion can be satisfied by the applicant with a reasonable accommodation, then the reasonable accommodation must be provided under Section 102(b)(5).

Section 101. Definitions

A number of definitions from title VII of the Civil Rights Act of 1964 are incorporated by reference in this title ("person," "labor organization," "employment agency," "commerce," and "industry affecting commerce"). Other terms, such as "Commission" and "employer" use the same concepts as contained in title VII. The definition of "employer" differs from title VII only to allow a phase-in for the first two years the law is in effect for employers employing less than 25 employees. "Employee" means an individual employed by an employer. The exception set out in title VII for elected officials and their employees and appointees is not incorporated in the ADA.

Section 101(5)—Illegal use of drugs

The term "drugs" means controlled substances as listed in schedules I through V of Section 202 of the Controlled Substances Act.²⁴ The Controlled Substances Act makes unlawful certain possession or distribution of listed drugs. The Committee does not intend to affect the Controlled Substances Act. The term "Illegal use of drugs" does not include the use of controlled substances, including the use of experimental drugs, taken under the supervision of a licensed health care professional. It also does not include uses authorized by the Controlled Substances Act or other provisions of federal law.

Section 101(7)—Qualified individual with a disability

The term "qualified individual with a disability" means an individual with a disability who, with a reasonable accommodation if

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necessary, can perform the essential functions of the employment position that such individual holds or desires.

This same concept is used in the regulations implementing Sections 501 and 504 of the Rehabilitation Act of 1973. The phrase "essential functions" means job tasks that are fundamental and not marginal. The regulations point out that "inclusion of this phrase is useful in emphasizing that handicapped persons should not be disqualified simply because they may have difficulty in performing tasks that bear only a marginal relationship to a particular job."²⁵

For example, many employers require driver's licenses for a variety of jobs which do not require driving or where driving is incident-

²⁴ 21 U.S.C. 812.

²⁵ 42 Fed. Reg. 22686 (1977).