

ROSCOMMON COUNTY SHERIFF DEPT.

RUN TIME 05:27:44

COPY FOR: FILE

INCIDENT REPORT
111 S. SECOND STREET
ROSCOMMON MI 48653

RUN DATE- 6/27/10

TELEPHONE: 989-275-5101

INCIDENT # - 1750-10 FILE CLASS-54002/ STATUS-CLOSED
CITY/TOWN - 7203-DENTON TWP
LOCATION - M-55 NEAR RESERVE
OFFENSE - 8041 OPERATING WHILE INTOXICATED
MAIN BADGE - 7200-00018 ASST1: 7200-00033
REPORTED - 6/25/10 23:54
DISPATCHED - 6/25/10 23:54
ARRIVED - 6/25/10 23:54
CLEARED - 6/26/10 01:15

COMPLAINANTS:

BURMESTER, WALTERS

RP 8041

EMPLOYER : ROSCOMMON CO SHERIFF'S

OFFENDERS:

LEWAND, THOMAS JOSEPH

AR 8041

SEX : M
DATE OF BIRTH : 07/03/69
HAIR : BRO
WEIGHT : 185

RACE : W
EYES : BLU
HEIGHT : 5-11
DRIVERS LICENSE#: [REDACTED]

VEHICLES:

LEWAND, THOMAS JOSEPH

VE 8041

YEAR OF VEHICLE : 09
MODEL : MKX
COLOR : BLACK
TOWED BY : PHILS TOWING

LICENSE STATE : MI
MAKE OF VEHICLE : LINCOLN
STYLE : 4 DOOR
VIN : 2LMDU88C99BJ09930

REPORTING OFFICER
TYPIST - JJB

DEPUTY JOSH BURMESTER

DATE 6/26/10

REVIEWED BY

DATE 6/27/10

Page 1 of 2

ROSCOMMON COUNTY SHERIFF DEPT.

Incident Report

PO BOX 206, 111 SO. 2ND ST.

ROSCOMMON MI 48653

Report 10-0001750

Date 06/27/10

Time 5:28 AM

Phone: (989) 275-5101

Narrative:

INFORMATION:

OFFICERS were on patrol traveling east on M-55 near the Houghton Lake High School when OFFICERS observed a black SUV exit the Limberlost Bar parking lot heading east. The vehicle was in the left eastbound lane. The vehicle then crossed approximately halfway into the right eastbound lane. The vehicle then crossed back into the left eastbound lane. OFFICERS then activated the in-car video system and began recording the vehicle as it travelled east. The vehicle again crossed approximately halfway into the right eastbound lane and straddled the eastbound lanes of travel for approximately 300 feet. OFFICERS then initiated a traffic stop on the vehicle just east of Reserve Rd in Denton Township.

CONTACT WITH DRIVER:

DEPUTY BURMESTER made contact with the DRIVER who was identified as THOMAS LEWAND. OFFICER asked the DRIVER for his driver's license, registration and proof of insurance. The DRIVER provided OFFICER with that information. OFFICER could smell a strong odor of intoxicants coming from the driver compartment of the vehicle. OFFICER noticed that the DRIVER'S eyes were glossy and bloodshot. OFFICER asked the DRIVER how much he had to drink and the DRIVER stated that he has not drank in a year and a half. OFFICER asked the DRIVER where he was coming from. The DRIVER stated that he was the designated driver and he had pulled into the Limberlost to pick a friend up and was now going to the "KOLO" dinner. OFFICER asked the DRIVER to step out of the vehicle to perform sobriety testing.

LEIN:

OFFICERS ran the DRIVER through LEIN. Dispatch advised that the DRIVER was Nil/No valid and not showing any prior OWI'S.

SOBRIETY TESTS:

See attached alcohol/drug influence report form.

PBT RIGHTS:

DEPUTY BURMESTER read the DRIVER his PBT rights and asked him if he would submit to the test. The DRIVER did not answer OFFICER. OFFICER again asked the DRIVER several different times if he would submit to a PBT and the DRIVER would not. The DRIVER wanted OFFICER to explain why he should take the test and what would happen if he did not. OFFICER explained that he

Page 2 of 2

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Phone: (989) 275-5101

Narrative:

could be cited for a civil infraction for refusal to take a PBT. He still refused to take a PBT.

ARREST:

DEPUTY BURMESTER advised the DRIVER that he was under arrest for O.W.I. OFFICERS placed handcuffs on the DRIVER, checked the tension and double locked them. OFFICERS then placed the DRIVER in the back of the patrol car to be transported to the jail.

VEHICLE DISPOSITION:

The vehicle was removed from the scene by Phil's Towing.

CHEMICAL TEST RIGHTS:

DEPUTY BURMESTER read the DRIVER his chemical test rights while waiting for the wrecker. The DRIVER was asked if he would take a Breath Test and he stated "Ya" at 0023 hours.

BREATH TEST:

DEPUTY WALTERS observed the DRIVER for 15 minutes while at the jail before the first test was administered. DEPUTY WALTERS administered the first test at 0104 hours with a result of .21% and the second test at 0107 hours with a result of .20%.

LODGED:

DEPUTY WALTERS then turned the DRIVER over to Correction Officers to be booked and lodged.

CITATION:

OFFICERS issued citation # 46956 to THOMAS LEWAND for Operating While Intoxicated and for Refusing to submit to a PBT.

STATUS:

Closed

Read the complete page to the arrested person.

I am a peace officer. You are under arrest for the offense of: *(Read only the charge that applies)*

- Operating a vehicle while under the influence of an alcoholic liquor or a controlled substance or a combination of both, or with a bodily alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- Operating a vehicle while visibly impaired due to the consumption of an alcoholic liquor or a controlled substance or a combination of both.
- Operating with any presence of schedule 1 drugs or cocaine.
- Causing the death of another while operating a vehicle while under the influence of, or while visibly impaired by an alcoholic liquor or a controlled substance or a combination of both, or with an unlawful bodily alcohol content.
- Causing serious injury to another while operating a vehicle while under the influence of, or while visibly impaired by an alcoholic liquor or a controlled substance or a combination of both, or with an unlawful bodily alcohol content.
- Operating a commercial motor vehicle with a bodily alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- Operating a vehicle while less than 21 years of age and having any bodily alcohol content.
- Murder resulting from the operation of a motor vehicle.
- Manslaughter resulting from the operation of a motor vehicle.
- Felonious Driving.
- Negligent Homicide.
- Refusing a Preliminary Breath Test if arrested while operating a commercial motor vehicle.
- Endangerment (Operating while Intoxicated with person under age of 16.)

CHEMICAL TEST RIGHTS

I am requesting that you take a chemical test to check for alcohol and/or controlled substances in your body. IF YOU WERE ASKED TO TAKE A PRELIMINARY BREATH TEST BEFORE YOUR ARREST, YOU MUST STILL TAKE THE TEST I AM OFFERING YOU.

If you refuse to take this chemical test, it will not be given without a court order, but I may seek to obtain such a court order. Your refusal to take this test shall result in the suspension of your operator's or chauffeur's license and vehicle group designation or operating privilege, and the addition of six points to your driving record.

After taking my chemical test, you have a right to demand that a person of your own choosing administer a breath, blood, or urine test. You will be given a reasonable opportunity for such a test. You are responsible for obtaining a chemical analysis of a test sample taken by a person of your own choosing.

The results of both chemical tests shall be admissible in a judicial proceeding, and will be considered with other admissible evidence in determining your innocence or guilt.

Will you take a: (Select the appropriate test from the following list)

Breath Test?

or

Blood Test?

or

Urine Test?

*MCL 257.625c(2) provides that a person afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant shall not be considered to have given consent to the withdrawal of blood.

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster

Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 950149

JUNE 26, 2010
SUBJECT'S NAME (L/F/M):
LEWAND/THOMAS/JOSEPH
SUBJECT'S ADDRESS:REPORT NUMBER: R-1750-10
OPERATOR'S NAME (L/F/M):
WALTERS/NICK
OPERATOR CERTIFICATE #:
22837

--- BREATH ANALYSIS ---

BLANK TEST	.000	01:03
INTERNAL STANDARD	VERIFIED	01:04
SUBJECT SAMPLE	.21	01:04
BLANK TEST	.000	01:05
SUBJECT SAMPLE	.20	01:07
BLANK TEST	.000	01:07
INTERNAL STANDARD	VERIFIED	01:07

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATHStart Observation Time 01:16Operator Signature [Signature]Card Stock No.
80023REORDER ALL SUPPLIES FROM N.P.A.B.
P.O. BOX 1435, MANSFIELD, OH 44901

OD-80

SUBRIETY CHECK:**SURFACE TESTS PERFORMED:**☒ ROADWAY ☐ PARKING LOT ☐ LAWN/FIELD ☐ ON BOARD WATER VESSEL**SURFACE CONDITION:**☒ PAVED ☐ GRAVEL ☐ DIRT ☒ DRY ☐ WET ☐ SNOW/ICY ☐ GRASS ☐ SMOOTH/LEVEL ☐ INCLINE/DECLINE ☐ CURVE
☐ OTHER (i.e., on-board vessel) _____**ALPHABET:** (RECITE ALPHABET. CIRCLE MISSED, SLASH WERE STOPS, LINE OUT IF IT JUMBLED)

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

NOTES: Completed As Requested**COUNTING TEST:** (COUNT 1 TO 20, THEN BACK 20 TO 1. CIRCLE MISSED, SLASH WERE STOPS, LINE OUT IF JUMBLED)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

NOTES: Completed As Requested**WALK & TURN:** (HAVE SUBJECT WALK NINE PACES HEEL TO TOE WITH HANDS AT SIDES, SLOWLY TURN TAKING SMALL STEPS AND RETURN IN THE SAME MANNER)☐ NORMAL ☐ SWAYING ☐ STUMBLER ☐ FELL ☒ OPEN PACES ☐ HANDS NOT AT SIDES ☐ STEPS OFF LINEOTHER: Not Heel to Toe As Requested**ONE LEG STAND:** (HAVE SUBJECT LOCK OUT EITHER KNEE, EXTEND SAME FOOT AND HOLD SIX INCHES ABOVE THE GROUND, STAND IN THIS MANNER WHILE COUNTING 1001, 1002 AND SO ON UNTIL TOLD TO STOP)☐ NORMAL ☒ SWAYING ☒ LOST BALANCE ☒ PUT FOOT DOWN ☐ HOPPING ☒ USES ARMS TO BALANCEOTHER: Counted to 1 then Dropped foot / 2nd Attempted Counted to 20**HORIZONTAL GAZE NYSTAGMUS:** ☒ PUPILS EQUAL ☒ EQUAL TRACKING

LEFT EYE RIGHT EYE

LACK OF SMOOTH PURSUIT

DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION

ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

OTHER INFORMATION: Moved Head while attempting to follow Pen**RHOMBERG:** (FEET TOGETHER, HANDS AT SIDES, HEAD TILTED BACK, EYES CLOSED FOR MINIMUM OF TEN SECONDS)☐ NORMAL ☒ SWAYING ☐ LOST BALANCE ☐ FELL DOWN

OTHER _____

FINGER TO NOSE:RIGHT HAND: ☐ NORMAL☒ UNABLE TO COMPLYWHY? Touched upper lipLEFT HAND: ☐ NORMAL☒ UNABLE TO COMPLYWHY? Touched upper lip then nose**PRELIMINARY BREATH TEST:**

OBSERVED FROM _____ hrs to _____ hrs

BY DEPUTY BUMESTER

PBT ADMINISTERED BY DEPUTY _____

TIME ADMINISTERED: _____

RESULT: _____

IF REFUSED, WHY? Would NOT take test / offered several times**VEHICLE DISPOSITION:**YEAR: 2009 MAKE: LincolnMODEL: MKXREG: BZ877 COLOR: BlackTOWING FIRM: Phil's TowingMECHANICAL CONDITION: Good

SOBRIETY CHECK:**SURFACE TESTS PERFORMED:**☒ ROADWAY ☐ PARKING LOT ☐ LAWN/FIELD ☐ ON BOARD WATER-VESSEL**SURFACE CONDITION:**☒ PAVED ☐ GRAVEL ☐ DIRT ☒ DRY ☐ WET ☐ SNOW/ICY ☐ GRASS ☐ SMOOTH/LEVEL ☐ INCLINE/DECLINE ☐ CURVE
☐ OTHER (i.e., on-board vessel) _____**ALPHABET:** (RECITE ALPHABET. CIRCLE MISSED, SLASH WERE STOPS, LINE OUT IF IT JUMBLED)

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

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OTHER: _____

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OBSERVED FROM _____ hrs to _____ hrs

BY DEPUTY BUMESTER

PBT ADMINISTERED BY DEPUTY _____

TIME ADMINISTERED: _____

RESULT: _____

IF REFUSED, WHY? Would NOT TAKE TEST / OFFERED SEVERAL TIMES**VEHICLE DISPOSITION:**YEAR: 2009 MAKE: LINCOLNMODEL: MXREG: B2X877 COLOR: BlackTOWING FIRM: Phil's TowingMECHANICAL CONDITION: Good