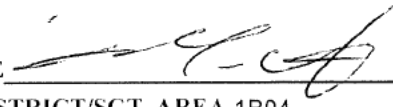
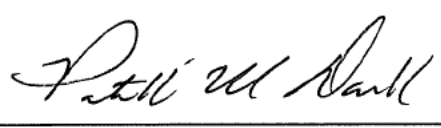


THP-1 (11/10 r104)
REPORT # TX4MIG0UPUYM

TEXAS DEPARTMENT OF PUBLIC SAFETY
TEXAS HIGHWAY PATROL DIVISION
OFFENSE REPORT

ACTIVITY
☒ TRAFFIC
☐ CRIMINAL
☐ SCHOOL NOTIFICATION
REQUIRED(ART. 15.27CCP)

REPORT DATE: Wednesday, June 22, 2016

FILE TITLE: 1. HARRIS, WILBERT JUNIOR 2. 265 CR 3307 3. JACKSONVILLE, TX 75766 4. DOB [REDACTED] 5. SSN# [REDACTED] DL# [REDACTED] ID# [REDACTED] SID# [REDACTED] FBI# [REDACTED]	INVESTIGATING OFFICER: TYPED NAME: Metzsig, Robert Tyson ID-NR 12112 SIGNATURE  REGION/DISTRICT/SGT. AREA 1B04 APPROVING SUPERVISOR: TYPED NAME Dark, Patrick M ID-NR 10546 SIGNATURE 												
RPT-RE: PC # 49.09B DRIVING WHILE INTOXICATED 3RD OR MORE													
COMPLETE IF TRAFFIC OFFENSE AND CHEMICAL TEST IS OFFERED: <table border="1"><thead><tr><th>Test Type</th><th>Test For</th><th>Result</th><th>Test Value 1</th><th>Test Value 2</th><th>Administered by</th></tr></thead><tbody><tr><td colspan="6"> </td></tr></tbody></table>		Test Type	Test For	Result	Test Value 1	Test Value 2	Administered by						
Test Type	Test For	Result	Test Value 1	Test Value 2	Administered by								
DIC-23 SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO													

DEFENDANT(S)
HARRIS, WILBERT JUNIOR

COUNTY
CHEROKEE

DATE/TIME
May 30, 2016 4:04 pm

CHARGE(S):
#1 DRIVING WHILE INTOXICATED-3RD/SUBSEQUENT OFFENSE (TXPC 49.09(B))

LOCATION:
FM-0346 MP-672 in CHEROKEE CO. (32.1070370, -95.4091950)

SYNOPSIS:

Harris was stopped on FM 346 in Cherokee County for speeding and wrong side of the road not passing. Harris had a strong odor of an alcoholic beverage on his breath and displayed signs of intoxication. I conducted two field sobriety task with Harris and determined he was intoxicated. This report will detail the offense of DWI 3rd or more.

TEXAS DEPARTMENT OF PUBLIC SAFETY
TEXAS HIGHWAY PATROL DIVISION
OFFENSE REPORT

FILE TITLE: HARRIS, WILBERT JUNIOR
INVESTIGATING OFFICER: Metzsig, Robert Tyson

COUNTY: CHEROKEE
REPORT DATE: Monday, May 30, 2016

DETAILS:

1. On May 30, 2016 I, Corporal Tyson Metzsig and Trooper Anthony Foto were on routine patrol on FM 346 in Cherokee County.
2. I traveled south on FM 346 and observed a vehicle traveling north, approaching my patrol vehicle.
3. What brought my attention to the vehicle is it appeared to be traveling a speed greater than the posted speed limit of 55 mph.
4. I checked and confirmed the speed of the vehicle with my in car radar at 64 mph.
5. I turned around and pursued the vehicle to make a traffic stop for speeding.
6. While pursuing the vehicle I observed the driver cross the yellow center stripe divider.
7. I turned on my overhead emergency lights to conduct a traffic stop for speeding and wrong side of the road not passing.
8. The driver turned into a gas station on the west side of FM 346 and stopped.
9. I exited my patrol vehicle and approached the driver's side of the vehicle.
10. I identified myself and explained the reason for the traffic stop. I asked to see his driver's license.
11. At this time I observed an open box of Bud Light Beer in the passenger floor area and smelled a strong odor of an alcoholic beverage emitting from the vehicle.
12. The driver was identified by [REDACTED] DL # [REDACTED] as Harris, Wilbert Junior B/M and DOB of [REDACTED].
13. I asked Harris to step out of his vehicle and he complied.
14. While talking to Harris I observed the following signs of intoxication: red, glassy, bloodshot eyes, a blank or glazed look on his face, a very strong odor of an alcoholic beverage on his breath.
15. Because of his driving skills, actions and behavior, I felt Harris might be intoxicated.
16. I conducted the Horizontal Gaze Nystagmus with Harris and observed the following: Pupils were of equal size. There was equal tracking in both of Harris' eyes. There was a lack of smooth pursuit in both eyes. Both eyes jerked and bounced as they moved side to side. There was distinct and sustained nystagmus at maximum deviation. Onset of nystagmus prior to 45 degrees in both eyes. There was no vertical nystagmus present.
17. I did not attempt the walk and turn or one leg stand with Harris due to him advising he was disabled.
18. I asked Harris if he could recite the alphabet and he advised he could not because he had mental problems.
19. I asked Harris if he could count to 4 and he advised he could.
20. I explained and demonstrated the finger count test with Harris and he advised he understood the instruction.
21. Finger count results: Harris counted 1, 2, 3, 4, 1, 2, 3, 4 instead of 1, 2, 3, 4, 4, 3, 2, 1 as instructed and missed the palm of his thumb to the palm of his fingers on each attempt.
22. Due to my training and experience, I believed Harris to be intoxicated by not having the normal use of his mental and physical faculties. I arrested Harris for Driving While Intoxicated 3rd or more.

TEXAS DEPARTMENT OF PUBLIC SAFETY
TEXAS HIGHWAY PATROL DIVISION
OFFENSE REPORT

FILE TITLE: HARRIS, WILBERT JUNIOR

COUNTY: CHEROKEE

INVESTIGATING OFFICER: Metz, Robert Tyson

REPORT DATE: Monday, May 30, 2016

23. I escorted Harris to my patrol vehicle and placed him in the front passenger seat with the seat belt on.

24. I released Harris' vehicle to Terry Whitterspoon, [REDACTED] DL # [REDACTED]

25. I transported Harris to the Cherokee County Jail.

26. At the jail I the DIC-24 DWI statutory warning to Harris and requested a specimen of his breath.

27. Harris refused to provide a breath specimen for analysis.

28. I attempted to contact Judge Dwight Phifer and Judge Janis Stone to obtain a blood warrant.

29. I was unable to make contact with a Judge to obtain a blood warrant.

30. I processed and charged Harris with Driving While Intoxicated 3rd or more.

31. I served all ALR forms to Harris.

32. I released Harris to the jailer on duty.

WITNESS(ES):Name & Address

TROOPER ANTHONY FOTO
522 SE LOOP 456
JACKSONVILLE, TX 75766
Phone# (903)586-6826

Will Testify To:

Probable cause for traffic stop and signs of intoxication.

DESCRIPTION AND CUSTODY OF EVIDENCE:Item:

Roadside Video from DPS unit # D14-4838

Disposition:

Delivered to Cherokee County District Attorney's Office.

VICTIM(S):

NOT APPLICABLE

VEHICLE(S):Vehicle:

VIN# [REDACTED] WILBERT HARRIS JR ;
265 CR 3307, JACKSONVILLE, TX 75766; LIC# [REDACTED]
MAR 1993 CHEVROLET PK

Disposition:

Released to Terry Whitterspoon, [REDACTED] DL # [REDACTED]

WEAPON(S):

NOT APPLICABLE

CHEROKEE COUNTY ARREST REPORT

NAME: _____ CHARGE: (1) DUI 3rd c. mcs
(2) _____
(3) _____

DEGREE: ☐ MC ☐ MB ☐ MA ☐ FS ☐ F3 ☐ F2 ☐ F1

OFFENSE DATE: _____

PENAL CODE: (1) _____
(2) _____
(3) _____

PROSECUTOR ORI#

COUNTY ATTORNEY ☐ TX037013A DIST ATTORNEY ☒ TX037015A
JUSTICE of the PEACE: ☐ Pct 1 ☐ Pct 2 ☐ Pct 3 ☐ Pct 4

D.O.B.: [REDACTED] SS# [REDACTED] DL/ID# [REDACTED]

AGE: 21 RACE: W SEX: M EYES: BRN HAIR: BRN

PHONE: 254-11 HEIGHT: 6 WEIGHT: 175

ADDRESS: 2517 E. 1st St. - Phoenix, AZ 85016

LOCATION OF ARREST: _____

DATE OF ARREST: 12-1-68 TIME OF ARREST: 2:10 PM

SEARCHED BY:

DETAILS:

OFFICER SIGNATURE: _____

BADGE# _____

STATE OF TEXAS
COUNTY OF CHEROKEE

PROBABLE CAUSE AFFIDAVIT

Before me the undersigned authority on this day personally appeared the affiant whose signature appears below, a peace officer for the State of Texas, who after being duly sworn upon oath deposes and states that the said affiant has good reason to believe and does believe

that the accused person, Harris, Robert Junior, did on or

about the 30 day of May, 2016, commit

the offense of DWI 3rd offense PC# 42.04

which offense charged is classified as a () MISDEMEANOR (x) FELONY and is
against the laws of the State of Texas. A B C 1 2 3 4

The good reason and belief of the affiant officer for this affidavit is based upon the following facts and circumstances (provide narrative below and on attached sheets or by attaching the case/offense report copy, as needed):

Harris was stopped for speeding and curbside of road
not passing. Harris had red, glassy bloodshot eyes, slurred speech
standing and a strong odor of an alcoholic beverage on his
breath. I conducted HGN and observed failures. I explained
the fingerprint and asked Harris to conduct this test which
he failed. Harris submitted to a portable breath test
with a result of 0.166. After the test Harris refused
to provide a breath specimen for analysis.

Witness my signature this the 30 day of May, 2016.

Affiant [Signature] Agency TEP

Subscribed and Sworn to before me this the 0 day of May, 2016.

[Signature]
Notary Public/Magistrate/Peace Officer

Vehicle or Ped. Stop: DL/ID# _____ Address _____
Sex _____ Race _____ DOB _____ Height _____ Weight _____ Eyes Color _____
Hair Color _____ Was Race Known Prior to Stop Y/N _____ Location of Arrest _____
Vehicle Search Y/N _____ Consent Y/N _____ PC Y/N _____ Contraband Found Y/N _____
Type Found _____ Veh Make _____ Type _____ YR _____ Color _____
Lic Plate# _____

Receiving Screening

Name: Harmon, Robert Junior

SID# 023 09909

DOB: 6 / 19 / 51

Arresting / Transporting Officer's Statement:

This inmate has no injuries, mental disabilities, recent accident, suicide tendencies, trauma or medical conditions known to me except the following:

None

Arresting / Transporting Officer:

McFar

Badge # / Agency:

1040 / TIPP

DWI INTERVIEW WITH LEGAL WARNINGS

1. You have the right to remain silent and not make any statement at all and any statement you make may be used against you at your trial;
2. Any statement you make may be used as evidence against you in court;
3. You have the right to have a lawyer present to advise you prior to and during any questioning;
4. If you are unable to employ a lawyer, you have the right to have a lawyer appointed to advise you prior to and during any questioning; and
5. You have the right to terminate this interview at any time.

The above legal warnings were either read by me or to me. I understand each of these rights and agree to waive (give up) these rights and answer the following questions.

Name? HARRIS, WILBERT Age? 64 Weight? 165

Were you operating a motor vehicle? Were you intoxicated?

Destination? COUSIN'S HOUSE Started from? COLD SPRINGS

Time you left? 4-4:30 PM Where are you now? CHERRY CO SAIL

When did you last eat? 3:00 PM What & how much? BISKET

Have you been drinking? YES What? BUD LIGHT BEER

How much? 3 OR 5 Time of first drink? 9 OR 10 PM

Time of last drink? 9-10 PM Are you ill? YES

What's wrong? CANCER, HIGH BLOOD PRESSURE, HEART CONDITION

Have you been injured lately? NO What injury? N/A

Are you under a Doctor's care? YES Name of Doctor? RAMSEY, EDWARD

Reason for medical treatment? PRIMARY CARE

Do you have epilepsy? NO Do you have diabetes? BORDERLINE

Taken any medications lately? YES What? HEART, BLOOD PRESSURE MEDS

Last dose? THIS MORNING When did you last sleep? LAST NIGHT

How many hours? 7-8 Physical handicaps? BACK INJURY

Wilbert Harris
(Signature of person arrested)

A. FOTO
Officer / Deputy

05-30-2016 6:00 PM
Date Time

STATUTORY WARNING

DIC-24 (Rev 9/11)

SUBJECT'S NAME HARRIS, WILBERT JUNIOR

DL NO /STATE

DOB

PHYSICAL DESCRIPTION (if unlicensed) Race B Sex M Height 6-1 Weight 175 Eyes Brown Hair Brown

DATE OF ARREST 5-30-16 TIME OF ARREST 4:00 PM COUNTY OF ARREST C. HARRIS

You are under arrest for an offense arising out of acts alleged to have been committed while you were operating a motor vehicle in a public place, or a watercraft, while intoxicated, or an offense under Section 106.041, Alcoholic Beverage Code. You will be asked to give a specimen of your breath and/or blood. The specimen will be analyzed to determine the alcohol concentration or the presence of a controlled substance, drug, dangerous drug or other substance in your body.

If you refuse to give the specimen, that refusal may be admissible in a subsequent prosecution. Your license, permit or privilege to operate a motor vehicle will be suspended or denied for not less than 180 days, whether or not you are subsequently prosecuted for this offense.

If you refuse to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from you.

If you are 21 years of age or older and submit to the taking of a specimen and an analysis of the specimen shows that you have an alcohol concentration of 0.08 or more, your license, permit or privilege to operate a motor vehicle will be suspended or denied for not less than 90 days, whether or not you are subsequently prosecuted for this offense.

If you are younger than 21 years of age and have any detectable amount of alcohol in your system, your license, permit or privilege to operate a motor vehicle will be suspended or denied for not less than 60 days. However, if you submit to the taking of a specimen and an analysis of the specimen shows that you have an alcohol concentration of less than 0.08, you may be subject to criminal penalties less severe than those provided for under Chapter 49, Penal Code.

If you were operating a motor vehicle and you refuse to give the specimen or provide a specimen that shows you have an alcohol concentration of 0.08 or more, you may be disqualified from driving a commercial motor vehicle for a period of not less than one year.

You may request a hearing on the suspension or denial. This request must be received by the Texas Department of Public Safety at its headquarters in Austin, Texas, no later than 15 days after you receive or are presumed to have received notice of suspension or denial. The request can be made by written demand, fax, or other form prescribed by the Department.

I certify that I have informed you both orally and in writing of the consequences of refusing to submit to the taking of a specimen or providing a specimen. I have provided you with a complete and true copy of this statutory warning.

I am now requesting a specimen of your ☒ Breath ☐ Blood

☐ Subject refused to allow the taking of a specimen and further refused to sign below as requested by this officer

OR

☐ Subject refused to allow the taking of a specimen as evidenced by his/her signature below

Wilbert Harris

Subject's Signature

☐ I further certify that because you are a child as defined in Section 51.02, Family Code, the above request for a specimen and your response have been videotaped.

FOR DEPARTMENT USE ONLY

Officer's Signature

Officer's Printed Name

Agency

Telephone No

DPS Copy — White

Driver's Copy — Yellow

NOTICE OF SUSPENSION
TEMPORARY DRIVING PERMIT

DIC-25 (Rev. 10/09)

SUBJECT'S NAME Harris, W. West Junior DL/ID NO./STATE [REDACTED] DOB [REDACTED]
ADDRESS 265 CR 3307, Jacksonville, TX 75766
PHYSICAL DESCRIPTION (if unlicensed) Race: B Sex: M Height: 6' 1" Weight: 175 Eyes: Brown Hair: Dark
DATE OF ARREST: 5-30-16 TIME OF ARREST: 1:00pm COUNTY OF ARREST: Cherokee

YOUR LICENSE, PERMIT OR PRIVILEGE TO OPERATE A MOTOR VEHICLE OR WATERCRAFT WILL BE SUSPENDED OR DENIED EFFECTIVE 40 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE BECAUSE YOU:

ADULT:

- ☒ **REFUSED** to provide a specimen or specimens of breath or blood following an arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated, while under the influence of alcohol, or while under the influence of a controlled substance.
- ☐ **PROVIDED** a specimen of breath or blood, and an analysis of the specimen showed an alcohol concentration of .08 or greater following an arrest for an offense involving the operation of a motor vehicle or watercraft.

MINOR (Under 21):

- ☐ **REFUSED** to provide a specimen or specimens of breath or blood following an arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated, while under the influence of alcohol, or while under the influence of a controlled substance.
- ☐ **PROVIDED** a specimen of breath or blood, and an analysis of the specimen showed either an alcohol concentration of .08 or greater or a detectable amount of alcohol following an arrest for an offense involving the operation of a motor vehicle or watercraft.
- ☐ **WERE NOT REQUESTED TO SUBMIT** to the taking of a specimen following an arrest involving the operation of a motor vehicle or watercraft, as the presence of alcohol was detected or measured by other means.

If your Texas driver license was confiscated, this document will serve as your temporary driving permit. It is subject to the same restrictions and endorsements as your Texas driver license. If you hold a commercial driver license, this permit authorizes the operation of commercial motor vehicles. This permit does not provide you with any driving privileges if you do not have a Texas driver license or if your Texas driver license is expired, suspended, revoked, cancelled, or disqualified. This permit is valid for 40 days from the date of service shown below. If you request a hearing, this permit will remain in effect until the administrative law judge makes a final decision in your case.

Driver License Confiscated: ☒ Yes ☐ No If no, explain _____

Date Notice Served: 5-30-16

Officer's Signature [Signature]

Officer's Printed Name T. B. Miller

Agency 903.586.6826

Telephone No. _____

FOR DEPARTMENT USE ONLY

DRIVER INFORMATION

You may request a hearing to contest the suspension by calling (800) 394-9913, faxing (512) 424-2650 or writing the Texas Department of Public Safety, Driver Improvement Bureau, at PO Box 4040, Austin, Texas 78765-4040. All correspondence must include the following information: Full name, date of birth, driver license number and state, current mailing address, home and daytime telephone numbers, date and county of arrest, arresting agency, arresting officer, whether the test was failed, refused or not requested, and such other information as requested by the Department. Please specify if you wish to have your hearing by telephone or in person. **The request for hearing must be received by the Texas Department of Public Safety no later than 15 days after you receive or are presumed to have received notice of suspension. Failure to request a hearing within this time is a waiver of your right to a hearing.** You will be notified of the date, time, and location of your hearing. You will be required to pay a \$125 reinstatement fee to the Texas Department of Public Safety, Driver Improvement Bureau, PO Box 15999, Austin, Texas 78761-5999, in addition to any other fees required by law. See reverse side for periods of suspension and statutory references.

DPS Copy - White

Driver's Copy - Yellow

PEACE OFFICER'S SWORN REPORT

DIC-23 (Rev 9/11)

STATE OF TEXAS

COUNTY OF Cherokee

My name is Robert Tyson Metzig, and I am a Texas Peace Officer. I certify that the following information is

true and correct. I had probable cause to believe and do believe that Harris, Wilbert Junior

Subject's Name

was driving or in actual physical control of a motor vehicle in a public place, or watercraft powered by an engine having a manufacturer's rating of 50 horsepower or above, in this state while intoxicated or under the influence of alcohol. Facts in support of this belief are:

☐ A. Contained in report(s) incorporated by reference for all purposes as if written and copied herein.

Specify report(s) or document(s) _____ No. of pages _____

OR

☒ B. Noted in the following:

I. On or about 5/30/16, a maroon chevrolet p/u, was observed by Robert Tyson Metzig

Date and Time of Offense

Description of Motor Vehicle or Watercraft

Observer

in the following public place FM 346-Cherokee County

Location (address, including city and county)

II. Reasonable suspicion to stop or make contact:

Speeding 64/55 and wrong side of road not passing.

III. The driver was identified to me as Harris, Wilbert Junior

Name

Driver License No.

DOB

IV. Probable cause for arrest or detention:

a. Signs of intoxication or consumption of alcohol:

a blank or glazed look on face, slow responses and swaying and unsteady on feet, alcohol consumption

b. Sobriety tasks requested, if any, and performance obtained (explain):

I ☒ am ☐ am not certified to administer standardized field sobriety tests. ☒ including ☐ not including horizontal gaze nystagmus

HGN: 6 clues. Finger Count: Failed

☐ _____ continuation page(s) incorporated by reference for all purposes as if written and copied herein.

V. Check one:

☐ Subject provided specimen - Intoxilyzer results _____

☒ Subject refused test

☐ Subject provided blood sample, results pending

☐ Subject was a minor and was not requested to provide a specimen

FOR DEPARTMENT USE ONLY

The statutory warning given to the person is set out in detail in the document DIC-24, which is incorporated by reference for all purposes as if written and copied herein.

[Signature]
Officer's Signature

Robert Tyson Metzig
Printed Name

Texas Department of Public Safety
Agency

My name is Robert Tyson Metzig My date of birth is [Redacted]

First

Middle

Last

My agency address is 522 SE Loop 456 Jacksonville TX 75766 and U S of A

Street

City

State

Zip Code

I declare under penalty of perjury that the foregoing is true and correct

Executed in Cherokee County State of Texas on the 30 day of May 2016

Month

Year

[Signature]
Declarant