



Kirkland Police Department

Summary

Print Date/Time: 05/13/2008 11:24
 Login ID: pmalkows
 Case Number: 2008-00013495

**NO FURTHER DISSEMINATION ANY
 OTHER AGENCY REQUESTING THIS
 INFORMATION SHOULD BE REFERRED
 TO THE KIRKLAND POLICE DEPARTMENT.**

Kirkland Police Department
 ORI Number: WA0170800

Case Details

| | |
|---|---------------------------------|
| Case Number: 2008-00013495 | Incident Type: DUI |
| Location: 11300 NE 85TH ST Block Kirkland, WA, 98033 | Occurred From: 05/10/2008 02:11 |
| Reporting Officer ID: 309 - Aksdal | Occurred Thru: 05/10/2008 02:11 |
| | Disposition: |

Offenses

| No. | Group/ORI | Crime Code | Statute | Description | Counts |
|-----|-----------|------------|------------------------|--|--------|
| 1 | State | 90D | 46.61.502(5) [5404] | DUI-ALCOHOL-DRIVE UNDER THE INFLUENCE [LIQUOR] | 1 |

Subjects

| Type | No. | Name | Address | Phone | Race | Sex | DOB |
|---------|-----|------------------|--------------------|-------|-------|------|------------|
| Suspect | 1 | Mosiula M Tatupu | Kirkland, WA 98033 | | White | Male | 11/15/1982 |

Arrests

| Arrest No. | Name | Address | Date/Time | Type |
|------------|------------------|--|------------------|----------------|
| 8675 A | Mosiula M Tatupu | 11300 NE 85TH ST Block Kirkland, WA 98033 | 05/10/2008 02:26 | On-view arrest |

Property

Suspect Vehicles

| No. | Vehicle Type | Year | Make | Model | Color | License Plate | State |
|-----|---------------|------|---------|--------|-------|---------------|-------|
| 1 | Passenger car | 2006 | Hyundai | Accent | Blue | | WA |

OfficerID: taksdal, Case Narrative
 Case #2008-00013495
 DUI Arrest
 Sergeant T. Aksdal #309

This investigation occurred in the State of Washington, County of King and City of Kirkland. On 05-10-08, at about 0211 hours, I was parked facing westbound on the north shoulder in the 11400 block of Ne 85th St. I observed a blue 2006 Hyundai driving eastbound in the #2 lane from the 11300 block at a high rate of speed. I visually estimated the Hyundai's speed to be 50+ mph. The speedlimit in this location is 35 mph and the Hyundai was moving much faster than several other vehicles on the roadway. As the Hyundai passed me, I activated the emergency lights on my fully marked Kirkland Police patrol vehicle #P2. I made a u-turn and attempted to overtake the Hyundai. I accelerated to 60 mph and was still not catching up to it. The driver of the Hyundai, who I later identified as Mosiula M. Tatupu 11-15-82, slowed down for a red light at 120th Ave Ne and I was able to get closer to him. I turned off my emergency equipment and followed Tatupu eastbound when the light turned green. In the 12200 block, Tatupu caught up to a slower moving traffic. He made an abrupt lane change into the #1 lane of travel, without signaling, and passed the slower moving vehicle that had been in front of him. As Tatupu approached 124th Ave Ne the lights were green for eastbound traffic and for traffic turning left from eastbound Ne 85th St onto northbound 124th Ave Ne. Just prior to the intersection, Tatupu signaled to the left immediately moved into the #2 lane and then turned left onto 124th Ave Ne from the #2 eastbound lane instead of the left turn lane. Tatupu turned into the McDonald's parking lot, without signaling, and pulled into the drive thru. I activated my emergency lights and pulled in behind him.



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I contacted Tatupu at the driver's side window. I immediately smelled a strong odor of intoxicants coming from the interior of the vehicle. There were four passengers in the car. I asked Tatupu why he had been driving so fast. He stated that one of his friends really had to go to the bathroom. I told Tatupu that his friend would not have been able to go in the drive thru. He stated that he was going to get out to go. I asked Tatupu for his license, registration and insurance. He provided me his license, but did not hand me any other documents. Tatupu's eyes were bloodshot / watery and his speech was noticeably slurred. I asked him how much alcohol he had consumed and he stated that he had not had any. I asked Tatupu to back up, so that he was clear of the drive thru. He backed up and pulled into a parking space.

I requested a second unit for field sobriety tests. Officer Trombley arrived to assist me. I re-contacted Tatupu and asked him if he was willing to perform voluntary field sobriety tests. He said, "Yes sir." Tatupu exited his vehicle and I directed him to painted white line in the paved parking lot. The ground was dry and the area was lit by overhead streetlights. The emergency equipment on my patrol vehicle was turned off. Tatupu was wearing a pair of Nike athletic shoes. I have been trained in the administration of the SFT's and administered the field tests according to my training.

Horizontal Gaze Nystagmus

Tatupu was not wearing corrective lenses. Both of his eyes tracked equally and his pupils were equal in size. I did not observe resting nystagmus in either of Tatupu's eyes. I observed a lack of smooth pursuit in both of Tatupu's eyes on both passes. I also noticed distinct and sustained nystagmus for at least four seconds at maximum deviation in both of Tatupu's eyes on both passes. Tatupu exhibited early onset of nystagmus in both eyes prior to 45 degrees on both passes. I could smell a strong odor of intoxicants coming from Tatupu's person during the administration of the HGN.

Walk & Turn

When I asked Tatupu if he had any questions, he asked if I wanted him to turn at the end of the line. I told him that I wanted him to turn after 9 steps as instructed. I demonstrated the turn to him a second time and explained that his left foot would end up in front on the line when he made his turn. Tatupu took 10 steps and ended up with his right foot in front on the line. He stopped and asked if he could turn around. I told him that I wanted him to complete the test as he had been instructed. Tatupu picked up his right foot, turned on the ball of his left foot and ended up with both of his feet next to each other about 12" off of the line to the right. Tatupu got back on the line and took 9 steps back down. Tatupu did not touch heel to toe on any of the 19 steps. There was a 6-12" gap on all of his steps.

One Leg Stand

Tatupu elected to perform this test by lifting his left foot off of the ground. Tatupu said, "1000-15, 1000-15, 1000-17." At 1000-17 Tatupu raised his arms approximately 12" from his sides in an attempt to maintain his balance and then put his foot down. He asked if I wanted him to continue and I told him that I did. Tatupu resumed the test and made it to 1000-26 prior to putting his foot down a second time.

I asked Tatupu if he had anything to drink in the last 15 minutes. He again stated that he had not drunk anything. I asked him if he would be willing to take a voluntary portable breath test. I explained to him that the portable breath test would not take the place of any breath test that he may be asked to take at the station.



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Tatupu told me that he was not sure if he should take it. He stated that he had been advised on a prior occasion not to take it. I told Tatupu that he was an adult and he had to decide for himself whether or not to take the test. He told me that he knew how he had been driving and that he understood if I had to take him in, but that he did not care to take the test.

At 0226 hours, I advised Tatupu that he was under arrest for DUI. I handcuffed him without incident. I used two sets of handcuffs, checked them for proper fit and double locked them. I searched him incident to arrest and secured him in the back of my patrol vehicle.

I asked the 4 passengers to step out of the vehicle and they complied. They stated that they were going to call someone for a ride. I searched the vehicle incident to Tatupu's arrest and did not locate anything of evidentiary value. Officer Trombley assisted me by completing a Washington State Vehicle Impound Report. I had Mac Towing impound Tatupu's vehicle.

I started to drive Tatupu to the Kirkland Jail for processing. While in route to the jail, I realized that I had not advise Tatupu of his Constitutional Rights. I pulled over to the shoulder and advised Tatupu of his rights from my department issued Miranda card. Tatupu acknowledged, verbally, by saying "yes" that he understood his rights.

While at the Kirkland Police Department, I advised Tatupu of his Constitutional rights from the Washington State DUI Arrest Report. Tatupu stated that he understood his rights and signed the form. I asked Tatupu if he had an attorney that he wanted me to call. He stated that he did not really have an attorney. I asked him if he wanted me to call the public defender for him. He replied, "No." I read over the waiver of rights and Tatupu stated that he wanted me to call the public defender for him.

I paged public defender Jeff MacNichols at 0256 hours. MacNichols returned my call at 0301 hours. I secured Tatupu in the phone room and he began speaking with MacNichols at 0302 hours. At 0307 hours, I heard the phone in the phone room buzzing like it had been left off of the hook. I told Tatupu that I would call MacNichols back and reconnect them. Tatupu stated that he did not need to talk with MacNichols again. I asked Tatupu twice if he wanted me to call MacNichols back for him and each time he said, "no."

I advised Tatupu of his Implied Consent Warning for Breath from the DUI arrest report by reading it to him. Tatupu did not express any confusion concerning his implied consent warnings and did not ask any questions prior to signing the form.

At 0313 hours, I conducted a mouth check and did not locate any foreign substances. I conducted a 16+ minute observation period and then began entering the information into the BAC Datamaster. Tatupu provided one valid sample and then gave an invalid sample. Tatupu did not provide a consistent blow on the second sample. He kept starting and stopping his flow of air. I conducted a second mouth check at 0339 hours and did not locate any foreign substances. I coached Tatupu and explained to him that he needed to provide a steady flow of air. I conducted a 16+ minute observation period and began entering the information into the BAC Datamaster. Tatupu again provided one valid sample followed by an invalid sample. Tatupu started and stopped his breath on the second sample again. I advised Tatupu that we needed to do a third mouth check. I asked him why he was unable to provide two samples either time. He stated that he was doing his best. I told him that I would conclude that he was incapable of providing breath samples if it happened again and that I would take him to the hospital for a voluntary blood draw. At 0403 hours, I conducted a third mouth check and did not locate any



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foreign substances. After a 16+ minute observation period, I entered the information into the BAC Datamaster. Tatupu once again provided a valid first sample and then started stopping on the second. I continued to coach Tatupu and obtained a two valid samples on the third attempt. I observed Tatupu during all three of the observation periods. He was in my direct or peripheral vision at all times. During that time, he did not vomit, eat, drink, smoke or place an foreign substances in his mouth.

Tatupu's final breath samples were .155 / .158. I showed Tatupu his readings and provided him a copy of th print out. I also gave him the following documents: DOL hearing request, DOL fee waiver request, business card with the case number and a copy of the impound report.

I issued citation #C30660K, through investigation. for Driving Under the Influence of Intoxicating Liquor and or Drugs. I also completed a probable cause affidavit for this case.

Nothing further.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF WASHINGTON STATE THAT THE FOREGOING IS TRUE AND CORRECT

SERGEANT T. AKSDAL #309 / 05-10-08 / 123 5TH AVE KIRKLAND WA 98033