Enclosures

1. Correspondence With Commissioner Jordan

2. Dakota County Police Report

3. Beltrami County Sentencing Transcript
December 19, 1995

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

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:


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.


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
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,

Charlie Weaver, Jr.
Anoka

Douglas G. Swenson
Rep. Douglas G. Swenson
Forest Lake
September 22, 1995

Commissioner Michael S. Jordan
Department of Public Safety
1000 MCL 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 Hoe, Senate Majority Leader
Irv Anderson, Speaker of the House
Arne Carlson, Governor
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
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
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 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

STATE OF MINNESOTA,
Plaintiff,

v.

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) ______ on (date) ______ in (city or county) ______.

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

3. I am pleading guilty because on (date) ______ I committed the following acts: ______.

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) ______.

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;

__________________________

(DISTRICT COURT)
FIRST JUDICIAL DISTRICT
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 ch

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 ___ day of __________, 1995.

Signed: Robert Johnson

(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)

___

(Data)

___

(Court)
Subject was involved in a HSR 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 hour after the HSR. Subject failed a BBT. Subject was arrested after paramedics cleared him.

Subject refused a test. Status: Cleared by Arrest.
On 8-21-95 at approximately 1500hrs. I responded to 2729 Diamond Dr. on the report of a damage to property. V. Mundahl had witnessed MN/sic 702 ESS run into his mailbox, causing damage and then leave the scene. Mundahl followed the suspect to 1075 Washington Ave where he started to believe the driver was possibly intoxicated due to his poor driving. W. Holker also witnessed the vehicle 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 F# 9516834 for more).
Orderly: [ ]

State of Alcohol: [ ]

Blood Alcohol Content: [ ]

Time: [ ]

Date: [ ]

Have you been drinking? [ ]

Where? [ ]

When did you start? [ ]

How much? [ ]

Have you been smoking marijuana or taking any other drugs? [ ]

What? [ ]

Have you been sick or have you been injured lately? [ ]

How? [ ]

Have you have any physical or mental disability? [ ]

What type? [ ]

Are you wearing dentures? [ ]

Have you ever been arrested for DWI in the past? [ ]

Where? [ ]

At city? [ ]

Were you represented by an attorney at that time? [ ]

Is your driver's license currently valid? [ ]

Have the vehicle you were driving covered by liability insurance? [ ]

Name of insurance company? [ ]
**PROPERTY AND INVENTORY REPORT**

**JOE TITLE**

**PD NO.**

**EVIDENCE**

- [ ] RECOVERED
- [ ] FOUND
- [ ] OTHER

**C.F. No.** 940-16878

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**RECEIVING OFFICER**

- **Name:** Wally Lund
- **Citation No.:** 39

**DATING OFFICER**

- **Name:** Carpenter
- **Citation No.:** 63

**PROPERTY TAKEN INTO CUSTODY AT:** (Address)

100 Civic Center Parkway - Mount Bay #4

**SUSPECT**

- **Full Name:** Johnson, Robert Alan
- **D.O.B.:** 12/11/45
- **Phone No. (Home):**
- **Phone No. (Work):**

**ADDRESS**

1075 Washington Ave #15

**CITY/COUNTY/STATE/ZIP**

Bemidji / Hubbard / MN / 56601

**PROPERTY PLACED IN:**

- [ ] Property Room
- [ ] Locker No. 26
- [ ] Prisoner Inventory
- [ ] Other (explain)

**BIKE**

<table>
<thead>
<tr>
<th>Brand</th>
<th>Model</th>
<th>Boys</th>
<th>Girls</th>
<th>Tire Size</th>
<th>Serial No. and/or P.I.N.</th>
<th>Speed</th>
</tr>
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<tbody>
<tr>
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<td></td>
<td></td>
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**PROPERTY**

- Itemize: Describe; List Serial Nos.

<table>
<thead>
<tr>
<th>Item</th>
<th>Time</th>
<th>Date</th>
<th>Place</th>
<th>Delivered By</th>
<th>Received By</th>
</tr>
</thead>
</table>

**CONTROLED SUBSTANCES:**

- Type __________
- Weight __________
- Deliver to BCA by: [ ] Date
- New BCA Case [ ] Yes [ ] No

**CHAIN POSSESSION:**

- 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:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Date</th>
<th>Signature</th>
</tr>
</thead>
</table>

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**CARS**

- License Plate # 307 ESS - Front Plate Blue 90 Ford Taurus GL

- Red Paint Transfer - Top of Trunk - Driven Side

- These embedded in crack in Plastic Piece under front bumper - Driven side of Plate

- Foreign Matter Transfer - Top of front Plate assembly

- Possible Paint Transfer - Drivers side rear quarter panel

- Control Paint Sample - Drivers side rear quarter panel

- Green Plastic Filament - Rear side - Mirror i.e. seam over rear window

---

**CLAIMANT'S RECEIPT**

- I certify that I have received: items # ______ and that I am the lawful owner or claimant.

**RELEASED BY:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Date</th>
<th>Signature</th>
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</thead>
</table>
**Incident: PDMVACE H & R**

**Date/Time Arr./CLR.: 8-26-95 2130 - 2330**

**P.E.O. Name:** Wally Lind, SCSA

**Case File #: 22326**

**Investigation Report:**

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<th>DATE/TIME ARR./CLR.</th>
<th>P.E.O. NAME</th>
<th>CASE FILE #</th>
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<td>PD MVACE H &amp; R</td>
<td>8-26-95 2130 - 2330</td>
<td>Wally Lind, SCSA</td>
<td>22326</td>
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**Weather Conditions:**

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<tr>
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<th>WEATHER CONDITIONS</th>
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<tr>
<td>PD MVACE H &amp; R</td>
<td>None</td>
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**Other Officers Present:**

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<tr>
<th>INCIDENT</th>
<th>OTHER OFFICERS PRESENT</th>
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<tbody>
<tr>
<td>PD MVACE H &amp; R</td>
<td>None</td>
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**Vehicle/Description Diagram:**

<table>
<thead>
<tr>
<th>INCIDENT</th>
<th>VEHICLE/DESCRIPTION DIAGRAM</th>
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</thead>
<tbody>
<tr>
<td>PD MVACE H &amp; R</td>
<td>Blue 1990 Ford Taurus GL - 4dr</td>
</tr>
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</table>

**Point of Entry/Damage:**

<table>
<thead>
<tr>
<th>INCIDENT</th>
<th>POINT OF ENTRY/DAMAGE</th>
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<tr>
<td>PD MVACE H &amp; R</td>
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**Point of Exit/Damage:**

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<tr>
<th>INCIDENT</th>
<th>POINT OF EXIT/DAMAGE</th>
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<td>PD MVACE H &amp; R</td>
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**Tool Marks:**

<table>
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<tr>
<th>INCIDENT</th>
<th>TOOL MARKS</th>
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<tr>
<td>PD MVACE H &amp; R</td>
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**Race Evidence:**

<table>
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<tr>
<th>INCIDENT</th>
<th>RACE EVIDENCE</th>
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</thead>
<tbody>
<tr>
<td>PD MVACE H &amp; R</td>
<td>Color Hand, White Hair, White Paint, Black Soil, Black Blood, Black Semen</td>
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</table>

**Footprints - Photo:**

<table>
<thead>
<tr>
<th>INCIDENT</th>
<th>FOOTPRINTS - PHOTO</th>
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<td>PD MVACE H &amp; R</td>
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**Tools Recovered:**

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<th>INCIDENT</th>
<th>TOOLS RECOVERED</th>
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<td>PD MVACE H &amp; R</td>
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**Weapons Recovered:**

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<tr>
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<th>WEAPONS RECOVERED</th>
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<tr>
<td>PD MVACE H &amp; R</td>
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**Weapon Description Info.:**

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<th>WEAPON DESCRIPTION INFO.</th>
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**Victim(s) Name:**

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<tr>
<th>INCIDENT</th>
<th>VICTIMS NAME</th>
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**DOB:**

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**Sex:**

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**Race:**

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**Height:**

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**Weight:**

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**Hair Color:**

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<th>HAIR COLOR</th>
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**Eyes:**

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**Deceased:**

<table>
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<tr>
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**Witnesses:**

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<th>WITNESSES</th>
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**Medical Exam:**

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<th>INCIDENT</th>
<th>MEDICAL EXAM</th>
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<td>PD MVACE H &amp; R</td>
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**Doctors Name:**

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<tr>
<th>INCIDENT</th>
<th>DOCTORS NAME</th>
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<td>PD MVACE H &amp; R</td>
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**Location of Exam:**

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<td>PD MVACE H &amp; R</td>
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**Observed Injuries on Victim:**

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<tr>
<th>INCIDENT</th>
<th>OBSERVED INJURIES ON VICTIM</th>
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<tr>
<td>PD MVACE H &amp; R</td>
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**CTIM Clothing:**

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<tr>
<td>PD MVACE H &amp; R</td>
<td>V1, V2, V3</td>
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**Outfit Coroner:**

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<td>PD MVACE H &amp; R</td>
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**Autopsy Ordered:**

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<tr>
<th>INCIDENT</th>
<th>AUTOPSY ORDERED</th>
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<td>PD MVACE H &amp; R</td>
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**Pathologist:**

<table>
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<tr>
<th>INCIDENT</th>
<th>PATHOLOGIST</th>
</tr>
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<tbody>
<tr>
<td>PD MVACE H &amp; R</td>
<td>N/A</td>
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**Evidence Details/Evidence Observations:**

- Processed H & R Vehicle for Evidence: Photographed Taurus and damaged areas (license plate assembly - hood - both outer mirrors - antenna - windshield - left rear quarter panel - (measurements on packaging). Plate collected. Trace embedded in plastic piece under front bumper. Collected Foreign trace. Top of front plate assembly collected. Three plastic filaments embedded in side mirror and wing window area collected. Numerous scratches on Dimensions photographed.

**Synopsis Cont ON Narrative:**

- CASE FILE: YELLOW INV. PINK WORKING COPY
- FORM 44200-C9 9-88
**BURNSVILLE POLICE DEPARTMENT**

**PROPERTY AND INVENTORY REPORT**

<table>
<thead>
<tr>
<th>UOC TITLE</th>
<th>EVIDENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] RECOVERED</td>
<td>[ ] FOUND</td>
</tr>
</tbody>
</table>

**Receiving Officer**

[ ] CA Carpenter

**Date/Time**

9-27-95

**Citation No.**


**Evidence Recovered**

**Evidence Found**

**Other**

**Evidence Tech: Use**


**Witness**


**Property taken into custody at:** (Address)


**SUSPECT**

**Full Name**

Robert Alan Johnson

**D.O.B.** 12/1/45

**Address**

**Phone No. (Home)**

**Phone No. (Work)**


**City/County/State/Zip**


**Full Name**

[ ] VICTIM

[ ] OWNER

[ ] FINDER


**CASE DISPOSITION:**

[ ] EXC. CLRD.

[ ] PENDING

[ ] ARREST ADULT.

[ ] JUV. REFERRAL

[ ] INACTIVE

[ ] ASST. & ADVSD.


**PROPERTY PLACED IN:**

[ ] Property Room

[ ] Locker No.

[ ] Prisoner Inventory

[ ] Other (explain)


**PROPERTY PLACED IN:**

[ ] Property Room

[ ] Locker No.

[ ] Prisoner Inventory

[ ] Other (explain)


**PROPERTY**

**Itemize; Describe; List Serial Nos.**

| speed |
| Serial No. and/or P.I.N. |
| Grip |
| Seat |
| Fenders |
| Colors - Frame |
| Property |

1. **Express Teller Receipt dated:** 9/24/95 12:11


**CHAIN POSSESSION:**

<table>
<thead>
<tr>
<th>Item</th>
<th>Time</th>
<th>Date</th>
<th>Place</th>
<th>Delivered By</th>
<th>Received By</th>
</tr>
</thead>
</table>


**CLAIMANT'S RECEIPT**

I certify that I have received: items # and that I am the lawful owner or claimant.

Released By: __________________________ Name: __________________________

Address: __________________________ Signature: __________________________

Date: __________________________
IMPLIED CONSENT ADVISORY
(Effective January 1, 1993)

Time Started 1956 Location read: Burnsville P.D.

COMMERICAL VEHICLE–BEGIN WITH BOXED AREA

Robert Alan Johnson, I believe you have been driving, 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."

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

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)

1. Minnesota law requires you to take a test to determine the presence of alcohol.

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.

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? **Yes**

Time telephone made available: Start: 1959 Stopped: 2010

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

(If person refuses:) it is your reason for refusing "because, I didn't do anything wrong"

Time Completed 2010 CA Carpenter

Date: 0-26-95 (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: 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 private property in the City of 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
City, State, Zip: 1075 Washington Ave #15, Benilde MN 56601
Driver License Number: J-525-745-040-917
State of Issue: MN

3. Reason for Initial Contact:
   [ ] Vehicle stopped by officer because:
   [X] Vehicle parked out asleep in his vehicle, car keys in his right pocket
   [X] Vehicle was involved in an accident earlier in the day
   [X] Saw person
   [X] Person admitted
   [ ] Other:

4. Probable cause that person was driving, operating or in physical control.
   [X] Vehicle involved in accident
   [X] Person admitted
   [ ] Other:

5. Reason that person was under influence (in addition to other information)
   [ ] Odor of alcohol; [X] Bloodshot, watery eyes; [X] Slurred speech; [X] Poor balance
   [X] Other (describe):

6. Check at least one of the following:
   [X] 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)
   [X] Refused to provide a test 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 time, 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

Attachment 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
**BUURNSVILLE POLICE DEPARTMENT**

**Mess. Key Control Number**

<table>
<thead>
<tr>
<th>Date Reported</th>
<th>Time Reported</th>
<th>Location Grid Number</th>
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<tbody>
<tr>
<td>12/28/1990</td>
<td>12:52</td>
<td>5401 Diamond Dr</td>
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**REPORTED BY**

<table>
<thead>
<tr>
<th>Location</th>
<th>Complainant</th>
<th>Address</th>
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</thead>
<tbody>
<tr>
<td>5401 Diamond Dr</td>
<td>Mundahl</td>
<td>24006 Eagan Pl, Eagan, MN 55123</td>
</tr>
</tbody>
</table>

**INCIDENT**

- **Address:** 5401 Diamond Dr
- **Complainant:** Mundahl
- **Address:** 24006 Eagan Pl, Eagan, MN 55123

**SYNOPSIS**

Access: no Taurus

- **Make:** Hager-3417E
- **Model:** 890-8124
- **VIN:** 1527-1558
- **Color:** white/red

**RECVY BY**

| PHONE | 651-1336 |

**SUPV. APP.**

**DATE ENTERED C.J.R.S.**

<table>
<thead>
<tr>
<th>INCIDENT</th>
<th>PROPERTY</th>
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<tbody>
<tr>
<td>08/24/95</td>
<td>1 1</td>
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**LINE NBR**

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<th>UOC Status</th>
<th>Line NBR</th>
<th>ISN</th>
<th>UOC</th>
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*If multiple areas are to be entered a slash (/) must follow each line except the last.*
HIT STOLEN VEHICLE FILE

LIC/302ESS

ROBERT ALAN JOHNSON
75 WASHINGTON AVE #15 BEMIDJI MN 56601
EX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
LN/JONAS ROBERT 12/1/45. CLS/C. EXP 120199
STATUS: VALID GLASSES
PHOTO #: 5752124023. ISU/02095.

MESSAGE WAITING PRESS PA1
**STATE OF MINNESOTA - DEPARTMENT OF PUBLIC SAFETY**

**TRAFFIC ACCIDENT REPORT**

(For Police Use Only as Required by Statute)

**CITY** 
Burnsville

**DATE** 
26 Jul 2015

**DRIVER LICENSE NUMBER 1** 
J-525745-048-917

**NAME (FIRST MIDDLE LAST)** 
Robert Alan Johnson

**DATE OF BIRTH** 
12/1/95

**ADDRESS** 
7075 Washington Ave S, Minneapolis, MN 55410

**VEHICLE** 
Sedan, Blue

**PLATE #** 
12729 Diamond Dr.

**DESCRIPTION OFочкаю CHANGES PEROCING AND OR CRASHES ILED**

(W) #1 witnessed the vehicle Exxon Burnsville traffic slowing back and forth using the entire roadway and hitting mailboxes. (W) #1 followed the vehicle witnessing it hit 2 more mailboxes on Diamond Dr. (W) #2 saw vehicle hit his mailbox 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

**MAILBOX**

**MAP**

*Map showing accident location and surrounding area.*

**INCIDENT REPORTED BY**

Officer CA Carpenter #463

**LOCATION**

12729 Diamond Dr.

**DATE**

06/26/2015

**TIME**

02:30 PM
O HIT STOLEN VEHICLE FILE
QMW LIC/302ESS


R03725  AUG 26 1995  18:34:55  ACK  MESSAGE WAITING  PRESS PA1

JOHNSON ROBERT ALAN
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.

R03725  AUG 26 1995  18:34:55  ACK  MESSAGE WAITING  PRESS PA1
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: 5'10" Weight: 106 Class: C

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]
Printed Name: [Printed Name]
Telephone Number: [Telephone Number]

Date: [Date]
Signature of Licensee:

[Signature]

[Printed Name]

[Telephone Number]
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.
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.
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
## 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
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
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.
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
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.
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.
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 forehand. 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
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 them 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.
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.
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
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
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.
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.
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
on 8-29-95 I received information from officer Adrian regarding a damaged mailbox.

On 8-29-95 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 8-20-95, valued at $40. It is believed that her mailbox was damaged during the HJR in which I arrested Johnson. (See CF# 95016904/ICR only)

Status: Cleared by Arrest
STATE OF MINNESOTA
COUNTY OF BELTRAMI

STATE OF MINNESOTA,

Plaintiff,

vs

ROBERT ALAN JOHNSON,

Defendant.

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

APPEARANCES:

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

Robert M. Wallner, Esq., Attorney at Law, 514 America Avenue, P. O. Box 880, Bemidji, Minnesota 56601, appeared for and on behalf of the defendant, who was also personally present in court.
WHEREUPON, the following proceedings took place in open Court:

THE COURT: State versus Robert Johnson.

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

THE DEFENDANT: No.

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

MR. BURG: Your Honor, the State received and reviewed a copy of the presentence investigation report. And would only note the following: The presentence investigation report recommendation the imposition of separate sentences on the two charges to which Mr. Johnson has pled guilty. This recommendation is inconsistent with the decision of the Minnesota Supreme
Court in the case of *State versus Simon*. That decision, as the Court will recall, indicates that the offenses of gross misdemeanor DWI and gross misdemeanor Refusal to Submit to Testing arise out of a single behavior incident, and therefore Minnesota Statute 609.035 prohibits the imposition of multiple sentences on convictions on those matters.

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

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

Again as Minnesota Statutes 169.121 Subdivision 3 (e) requires that consecutive sentences be imposed on
separate DWI's incidences, and we would ask that the Court require that the sentence it imposes here today, be consecutive to that imposed on Mr. Johnson in relation to his Dakota County conviction, should it be necessary for this sentence to be executed.

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

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

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

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

THE COURT: All right. They are granted.

Well, Robert Alan Johnson, the Court will accept the pleas you heretofore entered on the 27th day of November, 1995, to the charge of Habitual Offender DWI and gross misdemeanor Refusal to Submit to Testing, and it is determined and adjudged that you are guilty of these offenses.
With respect to the Habitual Offender DWI, you are sentenced to serve one year in the county jail. All but 60 days of that sentence will be stayed for a period of two years, on condition that you refrain from all use of alcohol, and not enter any establishment that's primary purpose is the sale of alcohol.

Further that you will complete the aftercare program that you are presently enrolled in.

You are further sentenced to the payment of a fine in the amount of one thousand dollars ($1,000.00), together with the statutory surcharge and law library fees.

How long would you require to make that payment?

THE DEFENDANT: Your Honor, I ask one year.

THE COURT: I will grant you 12 months in which to make that payment.

This sentence must be served consecutively to the sentence that was imposed upon you in Dakota County, but you will be given credit against the jail time for the time in treatment and jail time you have already served.

MR. WALLNER: Thank you, Your Honor.

* * *
REPORTER'S CERTIFICATE

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, 1998.

[Signature]

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

[Signature]

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

[Signature]
Ted Thordarson, CCDCR
Primary Therapist
Range Treatment Center

An Equal Opportunity Employer
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,

[Signature]
David L. Stagner, M.D.
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
**PRE-SENTENCE INVESTIGATION REPORT**

<table>
<thead>
<tr>
<th>Report By (Name)</th>
<th>Supervisor</th>
<th>Date of Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>John C. Countryman</td>
<td>Richard W. Crawford</td>
<td>11/30/95</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name (as given in court record)</th>
<th>Address</th>
<th>City, State, Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johnson, Robert Alan</td>
<td>1075 Washington Ave, Apt 15</td>
<td>Bemidji, MN 56601</td>
</tr>
<tr>
<td></td>
<td>101 McAndrews Ave #204</td>
<td>Burnsville, MN 55337</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>True Name: Same</th>
<th>Telephone No. (Include Area Code)</th>
<th>Aliases-Nicknames</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(218) 759-9748 (612) 898-5968</td>
<td>None</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Birth Date</th>
<th>Birthplace</th>
<th>Citizen</th>
<th>Social Security No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/1/45</td>
<td>Minneapolis, MN</td>
<td>(X) Yes</td>
<td>(X) Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Religious Preference</th>
<th>Race/Ethnic Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lutheran</td>
<td>(X)White</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Complexion</th>
<th>Height</th>
<th>Weight</th>
<th>Build</th>
<th>Eyes</th>
<th>Hair</th>
<th>Marks and Scars-Description</th>
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</thead>
<tbody>
<tr>
<td>Medium</td>
<td>5'10&quot;</td>
<td>200 lbs</td>
<td>Medium</td>
<td>Blue</td>
<td>Brown</td>
<td>Scar on right thigh</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Last School Attended</th>
<th>Date Left</th>
<th>Grade Completed</th>
<th>Subsequent Training</th>
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</thead>
</table>

|Military Service Record: | NA |

**OFFICIAL DATA**

<table>
<thead>
<tr>
<th>Convicted Offense &amp; Statute No.</th>
<th>Where Committed</th>
<th>Date Committed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ct 1: Habitual Offender DWI: MSA 169.121, Subd. 1(a); Subd. 3(c)(1).</td>
<td>Beltrami County</td>
<td>10/11/95</td>
</tr>
<tr>
<td>Ct 2: GM Refusal to Submit to Testing: MSA 169.121, Subd. 1(a), Subd. 3(c)(2).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>( ) Verdict</th>
<th>(X) Plea</th>
<th>Date</th>
<th>Place of Arrest</th>
<th>Arrest Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>11/27/95</td>
<td>Bemidji, MN</td>
<td>10/11/95</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>County Attorney</th>
<th>Jail(Days)</th>
<th>Arresting Agency &amp; Officer's Name(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Randy Burg</td>
<td>10/11/95-10/12/95 &amp; 11/27/95-Present</td>
<td>Beltrami Co. Sheriff's Dept. Deputies Kovacic, Atwater, &amp; Winger</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Defense Attorney</th>
<th>Bond/Bail</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bob Wallner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Accomplices: | NA |

| Disposition: | |

Post-Hallfax transmittal memo 7671 of pages > 5

---

**Signature**

Pamela R. Preece

---

**To:**
Pamela R. Preece

**From:**
Bill Kain

**Co.:**

**Dept.:**

**Fax #:** 612/451-9454
LEONARD G. HOFFMAN
DEPARTMENT OF CORRECTIONS

STATE OF MINNESOTA

Department of Corrections

PRE-SENTENCE INVESTIGATION REPORT

Johnson, Robert Alan

09/95 Agg. OWI
01/14/95 Speeding

DATE
09/01/95
09/95
01/14/95

OFFENSE
DUI
Agg. DUI
Speeding

PLACE
Dakota County
Sherburne County

DISPOSITION
0-1 yr. stay of imp. $241.50 fine. CD eval. $125 CD eval charge. no alc or related offenses. Pending.

CHEMICAL DEPENDENCY TREATMENT
NO
YES

WHERE LAST TREATED

EMPLOYMENT: Name & Address

State Representative

Bemidji Public Schools

Type of Business
Politics
Education

From
1986
1995

To
Present
Present

Occupation
Government
Social Worker

Salary
$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
MID-STATE PROBATION DEPARTMENT
ALCOHOL PROBLEM ASSESSMENT
Court File #: 87-25-73

Name: [Redacted] Address 1775 Washington Ave
City: [Redacted] State: [Redacted] Zip: [Redacted] Phone: [Redacted]
DOB: [Redacted] Ser#: [Redacted] Marital Status: [Redacted]
Spouse of Dependents:
SS # [Redacted] Education: [Redacted]


Offense(s): [Redacted] BAC: .00 #Prior Alcohol Related Offenses: [Redacted]

Date of Offense: 03/28/95 Date of Assessment: 04/15/95

Diagnosis: [Redacted]
Drug used: [Redacted]

Previous Drug Education or Treatment: [Redacted]
marijuana hallucinogens

Cocaine narcotics

Stimulants Other

RECOMMENDATION

Amount of Fine: $2000 Suspended $4000
Jail 126 Suspended 135

Count 2 Suspended Jail Suspended

CONDITIONS

To report to Officer(s) Alcohol for evaluation, follow
must use prescribed medications and continue to
medications as prescribed. Attend AA/COA meetings.

COMMENTS

If indicates to use ma be re-charged
against violations relating to treatment.
If Gt this status be maintained by the
president that he would like
in self to take care of. [Redacted]

By completing the
(2) Time in [Redacted] represents
under psychiatric care and taking
medicity for depression."

(2) Appr. to [Redacted] and that at that time
appraiser to take full responsibility for his actions.
**State of Minnesota**  
**Department of Public Safety**  
**Chemical Use Assessment Report**

Send with notice of conviction

---

**Name:** Robert Allen Johnson  
**DOB:** 12/14/73  
**DL#:** 7-535-745-5H-917  
**Date of Offense:** 9/28/95  
**Date of Assessment:** 12/12/95  
**Court Case No.:** 49-95-1782  
**County of Assessment:**  

**Instructions:**
1. 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.)
2. The arrest, prior history, collaterals, and no action sections must be completed.

---

### Level 0  
**No apparent problem**

<table>
<thead>
<tr>
<th>Court</th>
<th>Assessor</th>
<th>Alcohol concentration at arrest</th>
<th>Number of prior alcohol related license revocations within the last 5 years</th>
<th>Number of prior licensed CD treatments within the last 5 years</th>
<th>Illicit drug use within the last year (Yes/No)</th>
<th>Number of collateral contacts reached for assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>R</td>
<td>R</td>
<td>30</td>
<td>Refused test</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U</td>
<td>U</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Alcohol problems lectures
- Family or ind. counseling
- Further assessment

---

### Level 1  
**Risk Status**

<table>
<thead>
<tr>
<th>Court</th>
<th>Assessor</th>
<th>Alcohol problems lectures</th>
<th>Support group</th>
<th>Alcohol abuse programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q</td>
<td>O</td>
<td></td>
<td>O</td>
<td></td>
</tr>
<tr>
<td>O</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Family or ind. counseling
- Further assessment

---

### Level 2  
**Chemical Abuse**

<table>
<thead>
<tr>
<th>Court</th>
<th>Assessor</th>
<th>Outpatient treatment</th>
<th>Aftercare</th>
<th>Support group</th>
</tr>
</thead>
<tbody>
<tr>
<td>M</td>
<td>M</td>
<td></td>
<td></td>
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</tr>
<tr>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O</td>
<td>O</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Alcohol abuse programs
- Family or ind. counseling
- Further assessment

---

### Level 3  
**Chemical Dependency**

<table>
<thead>
<tr>
<th>Court</th>
<th>Assessor</th>
<th>Inpatient treatment</th>
<th>Outpatient treatment</th>
<th>Combination in/out tx</th>
<th>Aftercare</th>
</tr>
</thead>
<tbody>
<tr>
<td>L</td>
<td>L</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M</td>
<td>M</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>N</td>
<td>N</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Extended care
- Relapse prevention program
- Support group
- Family or ind. counseling
- Further assessment

---

**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.*
1. Station Number: 2630  2. County: Sherburne  3. Case #: 95,604,624


5. Nature of Incident: GROSS MISDEMEANOR D.W.I. LAWS - 169.129; 169.121 sd 3 (e) (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 MNTH-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:


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 downtown area of St. Cloud when the MSP RCO put out a call for 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: ___________________________  DATE: 10-12-95
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.
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 blubbing fashion (similar to a reverse snore or
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 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 downtown 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 - 10-08-95.

TROOPER SIGNATURE: [Signature] DATE: 10-12-95
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 USTK-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. MBF/101.

TROOPER SIGNATURE: [Signature] DATE: 10-12-95
IMPLIED CONSENT ADVISORY
(Effective January 1, 1993)

Time Started ______________ Location read: ___________________________

COMMERCIAL VEHICLE—BEGIN WITH BOXED AREA

Robert Alan Johnson _______________ I believe you have been driving, 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.

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

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)

_________ I believe you have been driving, 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 of alcohol.

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.

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? ______

Do you wish to consult with an attorney? ______

Time telephone made available: Start: _______________ Stopped: _______________

Will you take the (Breath) (Blood or Urine) test? ______

(If person refuses:) What is your reason for refusing ______

Cpl Marvin E. Felderman, Jr. #101

Time Completed _______________

(Printed name of officer requesting test)

Date: 09-28-95
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 199B.23, 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 US9-10-06 in the City or Township of 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

Address
1075 Washington Ave #15
Bemidji, MN 56601

Driver License Number
J-525-745-040-917

1. Reason for initial contact:

☐ Accidental ☑ Vehicle stopped by officer because: erratic driving, stopped by truckers

2. Other (describe):

4. Probable cause that person was driving, operating or in physical control:

☐ 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: ☑ Blood alcohol content: ☐ slurred speech ☐ poor balance

☐ Other: odor of alcohol at hospital; subject unconscious at scene & hospital

6. Check at least one of the following:

☐ DWI arrest ☐ Accident ☐ Failed PBT (preliminary screening breath test)

7. Other pertinent information:

☐ Subject had limited D/L from prior DWI

☐ Subject has limited D/L from prior DWI

☐ Other:

8. The person was requested to submit to a test to determine (alcohol concentration) (or) presence of a controlled substance as a condition of license pursuant to Minnesota Statutes, Section 199B.17, Subdivision 2. I issued the implied consent advisory on the other side of this form by (Name and Agency) Cpl Marvin E. Felderman, Jr. #101.

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 or breath) (w{Name of Agency: Analyze or Breath Test Operator: Lorraine McPartlin, Forensic Scientist Address of Agency or Analyst: City, State, Zip:

State of Issue
MIN

Name of Agency: Analyze or Breath Test Operator: Lorraine McPartlin, Forensic Scientist
Address of Agency or Analyst: City, State, Zip: St. Paul, MN 55155
Sample Identification Number (Blood or Urine Tests Only): 206299

MEDICAL PERSONNEL CERTIFICATE

Pursuant to Minn. Stat. § 604.15, I certify as follows: at the request of the undersigned peace officer, I withdraw a sample of blood from:

NAME: Robert Alan Johnson

AT: St. Cloud Hospital, Emergency Room

I am authorized and qualified to draw blood samples pursuant to Minn. Stat. § 604.15, Subd. 3.

I withdraw the sample of blood at 1510 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: 09-28-95

Signature

Patricia Keffer

Printed Name

Lawrence Assistant Phlebotomist

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

Cpl Marvin E. Felderman, Jr. #101

Signature of Peace Officer

PS-01802-09 (1/93)

IMPLIRED 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 199B.23, 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 US9-10-06 in the City or Township of 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

Address
1075 Washington Ave #15
Bemidji, MN 56601

Driver License Number
J-525-745-040-917

1. Reason for initial contact:

☐ Accidental ☑ Vehicle stopped by officer because: erratic driving, stopped by truckers

2. Other (describe):

4. Probable cause that person was driving, operating or in physical control:

☐ 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: ☑ Blood alcohol content: ☐ slurred speech ☐ poor balance

☐ Other: odor of alcohol at hospital; subject unconscious at scene & hospital

6. Check at least one of the following:

☐ DWI arrest ☐ Accident ☐ Failed PBT (preliminary screening breath test)

7. Other pertinent information:

☐ Subject had limited D/L from prior DWI

☐ Subject has limited D/L from prior DWI

☐ Other:

8. The person was requested to submit to a test to determine (alcohol concentration) (or) presence of a controlled substance as a condition of license pursuant to Minnesota Statutes, Section 199B.17, Subdivision 2. I issued the implied consent advisory on the other side of this form by (Name and Agency) Cpl Marvin E. Felderman, Jr. #101.

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 or breath) (w{Name of Agency: Analyze or Breath Test Operator: Lorraine McPartlin, Forensic Scientist Address of Agency or Analyst: City, State, Zip:

State of Issue
MIN

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I withdraw the sample of blood at 1510 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: 09-28-95

Signature

Patricia Keffer

Printed Name

Lawrence Assistant Phlebotomist

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

Cpl Marvin E. Felderman, Jr. #101

Signature of Peace Officer

PS-01802-09 (1/93)
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:

INDIVIDUAL: Johnson, Robert Alan

DATE/TIME DRAWN: 09/29/95 15:10

DATE OF BIRTH: 12/01/45

D.L. NO: J 525 745 040 917

STATE OF ISSUE: MN

ANALYZED AND INTERPRETED ON: 10/4/95

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

TO: MSP 2600

ATTN: CPL Felderman 101

ICR/Ticket No: 95 604 624

Lab Case No: B205269

Date Sample Recd: 09/29/95

Date/Time Drawn: 09/29/95 15:10

State of Issue: MN

Analysis and Interpreted On: 10/4/95
MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART A

DECLARANT: Norman Charles Blanchard

ADDRESS: 1400 Todd Way, Hastings, MN 55033

DATE OF BIRTH: 03-22-47

I make this statement to Col. 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

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

Page 1 of 5
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. 03-26-47.

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.
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 berm 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 cut 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 berm of the road but one of the cars that had been behind him shot by, shot by him and got you

Signed ___________________ Date ___________________
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 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 his 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 coma 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.
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.
MINNESOTA DEPARTMENT OF PUBLIC SAFETY
MINNESOTA STATE PATROL DIVISION

VOLUNTARY STATEMENT

PART A

DECLARANT: Curt Jayle Ostman

ADDRESS: 2028 242nd Avenue N.E., St. Cloud, MN 55379

DATE OF BIRTH: 12-02-64

I make this statement to Col. Schmalzbauer, of the Minnesota State Patrol, Badge No. 20, freely and voluntarily without the presence of threat or promise of any form on October 1, 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__________________

Page 1 of 5
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?

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. Are you 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. Are you 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 ___________________________
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 60's, 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 an 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.
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.
Curt Ostman
8038-242 Rex NE
Stock 65079
(Sysco)

Nina Blanchard
1460 Toneway
Hastings MN
55033
(Tobacco's measure)

God bless someone who helped you.
TXT

LIC/408MBP. LIV/96. LIT/FC.

JOHNSON ROBERT ALAN

075 WASHINGTON AVE #15 BEMIDJI 56601

VIN/1FACP586LS165288. VYR/90. VHA/FORD. VCD/BLU/BLU.

VNO/Taurus 6L, 4DR SEDAN

EXM/PR. DOB/120145. STICKER: T366731.

TXT

ROBERT ALAN JOHNSON

1075 WASHINGTON AVE #15 BEMIDJI MN 56601

SEX/M. DOB/120145. HST/510. WGT/200. EYE/BLU.

VIN: 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 * 10/02/95. 260/750

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

08/01/95 SPEED

--------------------------------------------------------
MINI...SOTA
Department of Public Safety
Division: State Patrol
INITIAL COMPLAINT REPORT

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Incident Description:

DUI - All over road - Semi driver pulled over with driver - took keys - Poss DIABETIC - SP101 arrives - Diabetic shot - up-conscious

Msg Key | DOT | DOR | Date of Impound | No Further Report |
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Gold Cross Rolling.
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<td>ADDRESS:</td>
<td>1075 WASHINGTON AVE #15 BEMIDJI MN 56601</td>
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**SEX/M.DOB/DOD/20145, HGT/510, WGT/200, EYE/BLU.**

**CLN/J525745040917, OLT/1, CLS/C, EXP 120199**

**STATUS:LIMITED GLASSES**

**PHOTO #:5752124023, ISU/052095.**

**TXT**

**LIC/408MBP, LIY/96, LIT/PC.**

**JOHNSON ROBERT ALAN**

**ADDRESS: | 1075 WASHINGTON AVE #15 BEMIDJI 56601**

**VIN/1FACP526L6185298, VVR/90, VMA/FORD, VCD/BLU/BLU.**

**VMD/TAURUS GL, 4DR SEDAN**

**EXM/APR, DOB/120145, STICKER:T3669751.**

---

| CRN: | TROOPER#: | DATE: | TIME: | LOCATION: | ACCIDENT TYPE: |
NAME: ROBERT ALAN JOHNSON
ADDRESS: 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
STAT/S: LIMITED GLASSES
PHOTO #: 2752124023. ISU/052095.

NAME: ROBERT ALAN JOHNSON
ADDRESS: 1075 WASHINGTON AVE #15 BEMIDJI
VIN/IFACP526&165288. VVR/90. VMA/FORD. VCD/BLU/BLU.
VIN/TATRUS GL. 4DR SEDAN
EXM/APR. DOB/120145. STICKER:T3669751.
MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION: STATE PATROL
FIELD REPORT

1. Station Number: 2630  2. County: Sherburne
3. Case #: 95,604,624
4. Type of Report: Arrest#  Supplemental XXXX
        Incident Report  Juvenile Report
        3(c)(1) a-d-e
6. Date: 09-28-95  7. Time: 1400 hrs
8. Location: USTH-10 e/b east of MNTH-301
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:
        Model: 4 dr Taurus  Color: blue
15. Narrative:  Writer of this report is: Lt. Roger Anhorn

On 10-12-95 I called Mr. Jerry Abbott of the Bemidji School
District to confirm the employment status of Mr. Robert Johnson
on 9-28-95. Mr. Abbott said that Mr. Johnson was employed by the
school district as a school social worker. He said that if Mr.
Johnson was working he would be at the high school and that it
would be rare to be outside the school district during the course
of his employment. Mr. Abbott said that Mr. Johnson was on leave
the entire week of 9-25-95 and that Mr. Johnson was not on school
business in St. Cloud. I asked Mr. Abbott if he would fax me a
copy of the leave request for the week of 9-25-95 and he complied
with that request (leave slip attached).

Trooper signature:  
Date: 10-12-95
LICENSED STAFF REQUEST FOR LEAVE

NAME (print): Robert A. Johnson

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 (day) - September 29 (day) TOTAL DAYS/HOURS: 5.0

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.)

   (E1) Personal Illness/Child Illness
   (E2) Family Illness
   (E3) Doctor/Dentist Apppt
   (III) ILLNESS RELATED
   (E4) Bereavement-Sick Leave........Relationship to Deceased: _____________________________
   (E5) Maternity/Medical Leave
   (E6) On-the-Job Injury..........Must be reported to Bldg/Dept Office immediately
   (E7) Special Leave
   (E8) Vacation Leave
   (E9) Handful Leave
   (P1) Personal Leave
   (D1) Discretionary/Personal Leave
   (A1) Association Leave BEA
   (A2) Association Leave BEA Supervisors/Discretion
   (A3) Bereavement Leave........Relationship to Deceased: _____________________________
   (X1) 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 __________
   (X2) Jury Duty...............All jury duty checks must be turned over to district or salary will be deducted.
   (X3) Military Leave (Attach a copy of the order)
   (X4) Other:
   (X5) Professional/Lab 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 __________
   (X6) Salary Deduct

4. IS A SUBSTITUTE NEEDED? YES ___ NO ___

   If a substitute is needed for less than a full day, indicate the exact time:

   RECOMMENDATIONS:
   IMMEDIATE APPROVE _______ (initials) DISAPPROVE _______ (date)
   SUPERVISOR APPROVE _______ (initials) OFFICE DISAPPROVE _______ (date)

   If approval of this request is not recommended, state the reason(s) below:

   Proc 10-3-95
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<thead>
<tr>
<th>Field</th>
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<tr>
<td>Name</td>
<td>Robert Alan Johnson</td>
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<tr>
<td>Home Address</td>
<td>1075 Washington Ave. #15, Berdelli</td>
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<tr>
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<td>10/2/99</td>
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<tr>
<td>Violations Pending</td>
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This driver is only licensed to drive within the following limitations:

- 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.

Limitation violation is punishable by law and loss of driving privilege. License is valid if record so indicates and in possession when driving.

Drivers Signature: Robert Johnson

No other driving permitted.
State of Minnesota

County of Beltrami

District Court

NAME: first, middle, last ROBERT ALAN JOHNSON

1075 Washington #15
Bemidji, MN 56601

DEFFENDANT.

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

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 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: [Signature]

DATE: October 12, 1995

PROSECUTING ATTORNEY:
NAME/TITLE: Rendall R. Burg (13067)
Asst. Beltrami County Attorney

ADDRESS/TELEPHONE: (218) 759-4219

FORM A
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 NBP).

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 Nemidji. 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).
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 believe, and to believe or conditions of release where applicable, Defendant(s) arrest or other lawful steps be taken to secure Defendant(s) appearance in Court, or his detention, if already in custody, pending further proceedings. The Defendant(s) shall therefore be charged with the above stated offenses.

SUMMONS

Therefore, the ONE OR MORE 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

In the County of Beltrami, in the State of Minnesota, I, the undersigned, hereby execute this WARRANT, in the name of the State of Minnesota, for the arrest of the above named DEFENDANT(S), to be apprehended at the time and place named herein, to be delivered before the Judge or Judicial Officer of this Court, without unnecessary delay, and in my absence, to be delivered as soon thereafter as such Judge or Judicial Officer is available, to be dealt with according to law.

ORDER OF DETENTION

Defendant(s)

Bail:

Conditions of Release:

NAME: Signature:

TITLE: Judge of District Court

STATE OF MINNESOTA COUNTY OF

Beltrami

State of Minnesota

Plaintiff,

vs.

Robert Alan Johnson

Defendant(s)
Event #1 95-0017966
1. CALL TYPE: 7  ATL
2. Location: ICU 50
3. City: BEUMIDJI
4. Comments: ROBERT JOHNSON - SUICIDAL 408MBP
5. Comments: DWI NAR
6. Caller: STAGNER, DK
7. Location:
8. City: MINNEAPOLIS
Grid: 0003 Beat: 8109 Nuc: 0400 Rpt: N
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 seen 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.
and 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 gage nystagmus. This test he could not do at first because he kept moving his while following my finger. I finally

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OFFICER: Krivacic 8144  DATE 10/1/95  SUPERVISOR: 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 FBT 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.

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OFFICER Kovac 8/14 DATE 10/1/95 SUPERVISOR DATE
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. 66 which is a video made in the booking room, note

End of report. 8114.
Transcribed by PN on 10/11/95.
**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 408MPB, 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.
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 Casey 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 came 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 other.

---

**ACTION TAKEN**

- Arrest
- Assisted/Advised
- Excep. Cleared
- Citation Issued
- Pending
- Inactive
- Unfounded

**REFERRED**

- County Attorney
- City Attorney
- Investigators
- Patrol
- Court Services
- Special Detail
- Other

**FINAL DISPOSITION**

- Arrest
- Arrest Juvenile
- Excep. Cleared
- Unfounded
- Inactive/Pending
- Ref. Other Agency
- Summons Issued
- Warrant Issued
- Other (Explain)

---

**OFFICER**

**DATE**

**SUPERVISOR**

**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 and 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 bb'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.
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
07/26/95 7-DAY TEMP
08/26/95 SURRENDERED DL
08/26/95 DRIVING WHILE UNDER THE INFLUENCE
01/14/95 SPEED
08/01/89 SPEED
09/02/95 * REV - REFUSE TO TEST
10/02/95 * 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
00030 10/02/95 08/26/95
09/15/95 260/750
08/26/95 09/15/95
10/02/95 274 512836A
10/02/95 923341A

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IMMEDIATELY CONFIRM RECORD WITH ORI

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<table>
<thead>
<tr>
<th>PROBABLE CAUSE FOR ARREST</th>
<th>WHITE</th>
<th>Reason for Detention</th>
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| 10-11-75 |
| BADGE NUMBER | DATE | 
|aggi | 8-11-75 |

**COMMENTS**
Placed in observation/15 min watch.
BEMIDJI POLICE DEPARTMENT
FOLLOWUP
DETECTIVE CLARENCE ERICKSON

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 Shepard 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 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 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 us 71 to his apartment at Century Apartments. However,
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 Luecke's Store, South on 71. However Cell 2000, Dave Walch stated that he did not believe he was anywhere near Luecke's Store. Sat. 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
Time Started 1332 Location read: Bethlehem Center

COMMERCIAL VEHICLE—BEGIN WITH BOXED AREA

Robert Alan Johnson, I believe you have been driving, 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."

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

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)

I believe you have been driving, 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 of alcohol.

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.

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?

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 to (said)

On urine: simply because I don't wish to

Time Completed 1337 Steve LeVan

Date: 10-11-95
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 189.123, 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 189.121 or 189.123.

☑ 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.

Licenses Height: 5'10" 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, 100 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: ________________________________

Printed Name: __________________________

Telephone Number: 719-751-9111

YELLOW COPY TO COUNTY ATTY. OR COURT
STATE OF MINNESOTA
COUNTY OF SHERBURNE

DISTRICT COURT

TENTH JUDICIAL DISTRICT

-------------------------------------------------------

State of Minnesota, Plaintiff,

PLEA OF GUILTY ENTERED
TO COUNT TWO

vs.

PRE-PLEA PSI COMPLETED

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.

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APPEARANCES

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.

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The Defendant, Robert Alan Johnson, was also

present in the Courtroom.
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
understand it he'll be asking the Court to start that jail
time on Monday.

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

THE COURT: I understand that.

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

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

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

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

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

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

ROBERT ALAN JOHNSON,

having been first duly sworn,

was examined and testified as follows:

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

THE DEFENDANT: Guilty.

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

THE DEFENDANT: Yes.

THE COURT: Do you have a petition, counsel?

MR. KAIN: I do, Your Honor.

EXAMINATION

BY MR. KAIN:

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

A Yes.

Q Do you understand the statements contained in the
petition?

A Yes.
Q Are they true and correct to the best of your knowledge?
A Yes.
Q You were present in the courtroom when Mr. Emanuel recited to the Court the contents of our plea agreement. Is that the agreement as you understand it?
A Yes.
Q Showing you the line marked defendant. Is that your signature?
A Yes, it is.
MR. KAIN: I'll offer the petition, Your Honor.
THE COURT: Any objection?
MR. EMANUEL: No, Your Honor.
THE COURT: I have before me a petition to enter a plea of guilty to the charge. It bears your signature on the fifth page or fourth page. Is that correct?
THE DEFENDANT: Yes, sir.
THE COURT: Before signing it did you go over it carefully?
THE DEFENDANT: Yes, Your Honor.
THE COURT: Did you understand it?
THE DEFENDANT: Yes.
THE COURT: Do you have any questions about
the contents of this document that you'd like to direct to me, to your attorney or the prosecuting attorney?

THE DEFENDANT: No, I do not.

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

THE DEFENDANT: Yes, I am, Your Honor.

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

THE DEFENDANT: Yes.

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

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

MR. KAIN: I can inquire further.

THE COURT: If you will.
MR. KAIN: To assist the Court.

EXAMINATION

BY MR. KAIN:

Q  You do agree that you were driving a motor vehicle on that date?
A  Yes.

Q  And you were in Sherburne County, Minnesota?
A  Yes.

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

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

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

THE COURT: Point what?

MR. KAIN: 30.

BY MR. KAIN:

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

MR. EMANUEL: Your Honor, could I ask a just
a couple of questions?

BY MR. EMANUEL:

Q The date that we're talking about is September 28, 1995, correct?
A I believe so.
Q And that occurred in Sherburne County, correct?
A Yes.

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

MR. KAIN: Also if I can inquire.

BY MR. KAIN:

Q You've have a prior conviction for DWI, is that correct?
A That is correct.
Q From Dakota County?
A Yes.
Q And you were represented by an attorney at that time, is that correct?
A Yes.
Q And that took place earlier in September, is that right?
A August 27th.
Q All right. So the conviction was from sometime in September of 1995?
A Yes.
Q In any case, after -- that took place before this driving incident?
A Yes.

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

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

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

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

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

MR. KAIN: That's correct.

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

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

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

THE DEFENDANT: Yes, Your Honor.
THE COURT: Which would be consistent with the policy here if this had been the third one?

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

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

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

THE COURT: He would have gotten 60 days here.

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

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

MR. EMANUEL: Correct.

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

MR. KAIN: That's correct, Your Honor.
THE COURT: Have you had an opportunity to review the pre-sentence investigation?

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

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

(Off the record.)

(On the record.)

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

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

MR. KAIN: We have, Your Honor.

MR. EMANUEL: I have, Your Honor.

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

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

THE COURT: Sure.

MR. EMANUEL: Thank you. Your Honor, the recommendation as I understand it is for 30 days, well, actually, for 365 days, suspend 335 days which is a 30 day executed sentence and a $1,500 fine. I think that that is within the parameters of a second DWI which as I indicated earlier to the Court I believe this one is. I think it
should be treated since at the time of this incident on September 28th, Mr. Johnson had one prior DWI conviction. I think it’s consistent with our policy to impose or execute 30 days. And I would ask that the Court do that.

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

And finally, Your Honor, with regard to the jail time, I think that 30 days should be served. I think that the statute requires that it be consecutive to any time and that he’s done in Beltrami County. Now I understand that he only has a day or so left on his sentence up in Beltrami County. So as a practical matter, I don’t know that the Court could make that concurrent with that time any way. If the Court were to do that he basically would suffer no additional penalty for this DWI and I don’t think that’s proper.
Finally, Your Honor, there's, there has been a tremendous amount of publicity about this case and I know the Court is aware of it. Most of it has been negative publicity at the expense of the Sherburne County Attorney's office and I would just simply like to say that I'm extremely disappointed in a number of people and the way that this case has been handled. I'm the one who charged this case out and it came to me because I handle gross misdemeanors and I've been handling it from the beginning and I'm completing it today and not once has anyone who has made comments about this case ever called me or talked to me about this case and there has been extensive discussion in the press and on TV and throughout all of the media with regard to concurrent time versus consecutive time and basically implying that the Sherburne County Attorney's Office either a, doesn't know what they're doing or b, is being too soft on drunk drivers. I received numerous phone calls from private citizens and in my five years here, I've never received any other calls on any cases that I've handled from private citizens including cases which are much more serious than this case. And I think it's very unfortunate that because of the politics of this case there was a misunderstanding and there was no attempt to contact me to find out if any of the stories or allegations that are floating out there with true which, of course, they were
not. And I don't think that Mr. Johnson should be treated any less severe than anyone else in his same situation, but on the same hand, I don't believe he should be treated any more harshly than anyone else because of his political position and I believe that the plea agreement and the recommendation in the APA is consistent with what any citizen would get if they found themselves in this situation and I'm comfortable with that and I think that that is justice and I think that's more important than trying to have a perception that you're tough or that sort of thing which I believe that certain legislators and certain county attorneys in other counties have been making implications about how tough they are and so forth and I just think that that's, has no place here. I think we should all be after what's right and what's just and I believe that this settlement is that and I would encourage the Court to adopt it. Thank you.

THE COURT: Anything you'd like to say?

MR. KAIN: Just a few comments, Your Honor, although I'll pick up where Mr. Emanuel left off. Just so that the record is clear on this, I agree with Mr. Emanuel that there's been quite a bit of publicity about this matter. There's been a glare that has probably produced a little more heat than light. But for the record I want the record to conclude despite the confusion that has at times
surrounded this matter, my dealings with Mr. Emanuel were never anything but clear and Mr. Emanuel has handled himself with utmost professionalism and I want the record to reflect that. He and I were the ones who were handling this matter and I think we understood each other even if other people did not. And to also reflect what Mr. Emanuel said, in representing Mr. Johnson we're not asking you for any more leniency than what in your sound judgment is deserved and we're not asking you to treat, we're asking you not to treat Mr. Johnson any more harshly than anyone else similarly situated. That's been Mr. Johnson's instructions to me. That's the way we've handled this case.

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

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

Mr. Johnson, as Mr. Emanuel referenced, is in jail. He is serving jail sentence right now in Beltrami County and was furloughed out today. He will be released
from custody I believe tomorrow. I think that’s what it is from Beltrami County.

THE DEFENDANT: Actually it’s completed today.

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

As is referenced in the pre-sentence investigation, Mr. Johnson does have an aftercare program that is available to him. It takes place from 7:00 to 9:00
p.m. on Tuesdays. I'm going to ask the Court to allow Mr. Johnson a furlough to attend that program provided that he verifies attendance. I will tell the Court that because of the location of the program which is in Burnsville because of a lack of public transportation after a certain time in the evening, it's possible that he will not be able to do that, but if we can make arrangements to obtain transportation, we'd like to have the opportunity to attend that aftercare program. We submit that that's important to maintaining Mr. Johnson's sobriety which obviously is the goal of what we want to accomplish today.

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

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

THE COURT: I have had an opportunity to review the pre-sentence report with the probation officer who is sitting in court here today. I'm satisfied that she has done a very thorough job and come up with
recommendations that makes sense to the Court and which I’m
going to adopt.

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

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

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

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

During my stay as a judge in Hennepin County I suppose over the years I sentenced more felons than any other judge and I had a good record. But I had a policy of calling it as I see it often times placing people on probation, but if necessity arose, I pulled the plug. I can tell you an occasion that describes quite clearly my
attitude. I had a young man that I had placed on probation and he failed and he came back and I sent him to Stillwater. I pulled the plug. He was awaiting delivery to Stillwater in the back of the courtroom when I placed another person on probation. And I told that person if you screw up, I will pull the plug. And the young man in the back of the room that I had just sent to Stillwater and who took his revocation properly yelled out and you better God damn well believe him because I didn’t. Those were his words not mine. And I’ve used that quite often since that time just in those words in telling that story when I place somebody on probation and if you screw up I’ll pull the plug and you better God damn well believe me. And I don’t use that language, but I am quoting the young gentleman who went to prison and who took his medicine. I say to people that I’m willing when the occasion arises to place a person on probation, to mix a little mercy with harsh sentences but if you go to jail eventually because you screw up, it’s yourself that’s sending you there, not me.

And that’s going to be true with you, Mr. Johnson. I feel for you. I have a report that tells me about your problems, your depression and it’s a moving report. And I feel for you. But in the system we can only go so far and if you screw up again I’m sure Judge Preece up in Beltrami will pull the plug and I’ll pull the plug or if
it comes before another judge in this jurisdiction because
I'm not here, then I'm sure that judge will pull the plug.

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

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

MS. DUNLEAVY: Yes, Your Honor.

MR. KAIN: Yes, Your Honor.

THE COURT: Facility. Also that you
participate in the AA program on a twice weekly basis which
I understand you're prepared to do; that you take any
medication which is prescribed for you for your depression;
that you continue with your psychiatric evaluation and
follow any recommendations of the doctor with respect to
medication and counseling. I want you to deal with your
depression. I'm satisfied that it's real.
Any time you serve will be served consecutive with any time that may be remaining on the sentence in Beltrami County and would also be consecutive with any time that may be imposed on any revocation that may come out of Dakota County. I don't know what that situation is there and I don't presume to try to tell Dakota County what to do in that matter, but if for any reason they should revoke, this time would be consecutive with any of that time. In addition I will, -- have I missed anything with respect to the conditions of probation? I'm asking the probation officer now who is sitting in court here.

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

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

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

I want to tell you about the other experience. As I say I have a unique opportunity here and nobody can shut me up. In 1971 I went with Judge Burris and Judge O'Riley out of Hennepin County. We were in Municipal Court then where we handled a lot of DWIs. At a time incidentally when the blood alcohol content could be .15 before anything was imposed. And as a matter of fact if you read .17, it was usually reduced to careless driving. Well, I went to Sweden and Norway and Denmark with these other judges and we, a part of the purpose of our trip was to review the procedures particularly in Sweden and Norway with respect to dealing with those people who were brought in for driving under the influence of intoxicating beverage. And, of course, the, those Scandinavian countries were much more severe than we were. As a matter of fact in Norway it was .05 and in Sweden it was .10. And I came back from that and I recommended to our bench at that time that we do the same thing here, that we reduce the level from .15 to .10 and my colleagues for the most part ridiculed me and, however, two months later to their good fortune maybe, I got an appointment to the District Court, so I didn’t have the opportunity to follow through except on a couple of occasions with imposing a sentence that was more severe than
was the practice. Well subsequently Madd came into the picture, thank God, and have through their efforts caused people to rethink the whole problem and we have reduced, so many changes have occurred in the law with respect to driving under the influence that, and they must be given a great deal of credit for the changes in the law which I think in large measure are very positive.

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

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

THE COURT: Yes. Oh, yes. There are a couple of other things as you requested. I have no objection to a Christmas furlough. I’m a Christmas person. I guess we all are or most of us are. So I think that
that's fair. I also understand that you have a father that you want to spend Christmas with. That's fine. And so you may have that furlough. You may start serving your time at 3:00 p.m. on Monday, December 18th. You're entitled to, or if you qualify for Huber, you may serve it under the Huber law and if a bed is available at Anoka you may serve it in Anoka.

Now have we covered everything?

MR. KAIN: The aftercare issue, Your Honor.

We would ask for a furlough during the sentence for aftercare. I don't know whether you covered that.

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

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

THE COURT: Any objection to that, counsel?

MR. EMANUEL: No, Your Honor.

THE COURT: Then it's granted.

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

THE COURT: That makes sense.

MR. KAIN: That's fine.

THE COURT: You have no problem with that?
MR. KAIN: That's right, Your Honor.

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

THE DEFENDANT: Thank you.

MR. KAIN: Thank you, Your Honor.

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

THE COURT: Well, of course.

MR. KAIN: Also the other counts are dismissed?

MR. EMANUEL: Yes, they are.

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

MR. KAIN: We understand what the charges are.

THE COURT: Okay.

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

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REPORTER'S CERTIFICATE

I, Sandra J. Shoutz, Official Court Reporter, do hereby certify that this and the foregoing twenty-five (25) pages of typewritten material constitute a full, true, and complete transcript of my original stenograph notes
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:
DV04  ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST **  01/05/1996
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 LEN:  Y
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

DL ISSUE DATE: 05/20/1995 (E5)  DL EXPIRE DATE: 12/01/1999  OPER-ID:

NEXT REQUEST:
TRANSFER TO:
DV04  ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST **  01/05/1996
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
08/26/95 7-DAY TEMP
* 09/02/95  * REV - REFUSE TO TEST 0030 10/02/95 N 08/26/95
09/15/95 PASSED WRITTEN TEST
09/15/95 DRIVER TEST WAIVED
09/15/95 FEE REQUIREMENT MET
* 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:
DV04  ** D.P.S. DRIVER LICENSE JACKET INQUIRY - RECORD REQUEST **  01/05/1996
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
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. Perpich’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
STATE OF MINNESOTA
COUNTY OF BELTRAMI

IN DISTRICT COURT
NINTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

vs

ROBERT ALAN JOHNSON,

Defendant.

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

APPEARANCES:

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

Robert M. Wallner, Esq., Attorney at Law, 514 America Avenue, P. O. Box 880, Bemidji, Minnesota 56601, appeared for and on behalf of the defendant, who was also personally present in court.
WHEREUPON, the following proceedings took place in open Court:

THE COURT: State versus Robert Alan Johnson.

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

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

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

He will submit himself to the custody of the Beltrami County Sheriff later today to begin serving an anticipated jail sentence of 60 days. It will be the State's recommendation, at the time of sentencing here in Beltrami County, that Mr. Johnson receive day for day credit for the time he has spent in inpatient chemical dependency treatment.
In addition Your Honor, during the pendency of his jail term here in Beltrami County, it would be, I believe, mutual request of the State and the defense that Mr. Johnson be furloughed for one day for an anticipated appearance in Sherburne County, where it is expected that he will be entering a plea to a charge pending in that county.

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

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

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

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

MR. BURG: That is correct, Your Honor.

THE COURT: All right. Mr. Johnson, what are your pleas to the charges of Habitual Offender DWI and
Refusal to Submit to Testing?

THE DEFENDANT: Guilty, Your Honor.

THE COURT: Are you moving for immediate sentencing?

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

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

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

You will receive credit, however, against that time for all the time you have spent in treatment.

I will allow you a furlough for one day to Sherburne County to take care of the matter that is pending there. You must provide your own transportation.

I will further allow Huber privileges, even though it is prior to formal sentencing.
MR. WALLNER: And Mr. Johnson will also receive
credit Your Honor, for time served?

THE COURT: He would.

MR. BURG: Thank you.

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

THE COURT: That is all right.

MR. WALLNER: Thank you.

* * *

REPORTER’S CERTIFICATE

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 28th day of November, 1995.

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

IN DISTRICT COURT
NINTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

vs

ROBERT ALAN JOHNSON,

Defendant.

FILE NO. K4-95-1198

PLEA OF GUILTY

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

APPEARANCES:

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

Robert M. Wallner, Esq., Attorney at Law, 514
America Avenue, P. O. Box 880, Bemidji, Minnesota 56601,
appeared for and on behalf of the defendant, who was also
personally present in court.
WHEREUPON, the following proceedings took place in open Court:

THE COURT: State versus Robert Alan Johnson.

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

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

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THE DEFENDANT: Guilty, Your Honor.

THE COURT: Are you moving for immediate sentencing?

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

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

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

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I will allow you a furlough for one day to Sherburne County to take care of the matter that is pending there. You must provide your own transportation.

I will further allow Huber privileges, even though it is prior to formal sentencing.
MR. WALLNER: And Mr. Johnson will also receive credit Your Honor, for time served?

THE COURT: He would.

MR. BURG: Thank you.

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

THE COURT: That is all right.

MR. WALLNER: Thank you.

* * *

REPORTER'S CERTIFICATE

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 28th day of November, 1995.

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

Name: First. middle. last

ROBERT ALAN JOHNSON
1075 Washington Avenue, #15
Bemidji, MN 56601

Date of Birth
12-01-45

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: 
PROSECUTING ATTORNEY: 

COMPLAINANT’S SIGNATURE:  
PROSECUTING ATTORNEY’S SIGNATURE: 

DATE: 11-7-95  
ADDRESS/TELEPHONE: 13880 Highway 10

PROSECUTING ATTORNEY: Dean E. Emanuel

Attorney I.D. No. 163983

Attorney 1.0. NQ. 163983
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 15th day of December __, 1995 at 8:30 AM 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:
Condition of Release:

This COMPLAINT - SUMMONS, WARRANT, ORDER OF DETENTION, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this __ day of __________ 1995

NAME: ROBERT B. DANFORTH
TITLE: DISTRICT COURT JUDGE

Sworn testimony has been given before the Judicial Officer by the following witnesses:

STATE OF MINNESOTA COUNTY OF SHERBURNE

Filed

RETURN OF SERVICE

I hereby Certify and Return that I have served 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:

Clerk's Signature or File Stamp:

Notary Public, Administration

State of Minnesota

Plaintiff,

ROBERT ALAN JOHNSON

Defendant(s)
STATE OF MINNESOTA
COUNTY OF SHERBURNE

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

vs.

Robert Alan Johnson,
Defendant.

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
Attorney for Defendant
Daniel Building
11 North Seventh Avenue
St. Cloud, MN 56303
(612) 252-0330
STATE OF MINNESOTA
COUNTY OF SHERBURNE
STATE OF MINNESOTA

vs.

ROBERT ALAN JOHNSON
DOB: 12-01-45
Defendant.

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT
FILE NO. 89-95-1722

CHARGE:

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 unspecified reasons 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 $1,500.00, 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 $1,500.00 of the fine is stayed for 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 $1,500.00 at the rate of $ 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 $', and law library assessment of $3.00 by

☐ 1. 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.

Notice of hearing: If not paid as ordered, the defendant must appear in court on Wednesday, 8-3-97 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 $1,728.00

☐ 2. Defendant shall serve 30 days and shall report to jail on 8-18-97 at 5 P.M. with Huber credit for time served on this offense.

☐ 3. Defendant shall pay restitution by

☐ 4. Defendant shall reimburse the public defender fund in the amount of $ by

☐ 5. Defendant shall contribute ________ hours of community service by

☐ 6. Defendant may perform approved community service credited at $5 per hour of as determined by the probation/restitution officer.

☐ 7. Defendant may/shall attend an inpatient DWI clinic (Anoka/St. Cloud Program) in lieu of 30 days of imposed jail sentence by

☐ 8. Defendant shall complete treatment/counseling for facility approved by Court Services by

☐ 9. Defendant shall attend AA a minimum of twice per week for ____________ of fine or days jail.

☒ 10. Defendant shall not use or possess alcohol or non-prescription drugs.

☐ 11. Defendant shall not be convicted of any criminal or traffic offenses in which alcohol was a contributing factor.

☐ 12. 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.

☐ 13. Defendant shall not be convicted of any same or similar violations.

☐ 14. Defendant shall turn in vehicle license plates and vehicle registration certificate(s) to the Court Administrator by

☐ 15. No assaultive or disorderly behavior.

☐ 16. Submit to random urinalysis at the direction of Court Services.

April 1996

By Deputy

STATE OF MINNESOTA
COUNTY OF SHERBURNE
FILED

DEC 15 1996

Dorayne Haglund
Deputy

Court Administrator

STATE OF MINNESOTA
COUNTY OF SHERBURNE
FILED

JUDGE DISTRICT COURT

ATTEND MAOD Panel

☐ Attend MAOD Panel

☐ Follow recommendations of MAOD Counseling +

☐ Attend case at Fairview Ridge - 8th Seminaries Court

☐ Take meds prescribed for you - Cont Psychiatric Care +

☒ Follow recommendations of MAOD Counseling +

Dated: 12/15/95

I understand the sentence and conditions checked above and have received a copy.

Defendant
STATE OF MINNESOTA
COUNTY OF SHERBURNES

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

Robert Alan Johnson,

Defendant.

TO: DEAN EMMANUEL, ASSISTANT COUNTY ATTORNEY, SHERBURNES 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
Attorney for Defendant
Daniel Building
11 North Seventh Avenue
St. Cloud, MN 56303
(612) 252-0330
STATE OF MINNESOTA  
COUNTY OF SHERBURNE  
STATE OF MINNESOTA  

vs.  

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 ______), the Court having determined the defendant has the ability to pay.
□ c. Defendant shall pay a surcharge of $225.00, chemical dependency assessment of $______, and law library assessment of $______ by ______.
□ d. Execution of 30 days of jail and ______ of 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.
□ e. Defendant shall pay restitution by ______ of $______.
□ 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 up to ______ 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 ______ approved by Court Services by ______.
□ k. Defendant shall attend AA a minimum of ______ per week for ______.
□ 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 PC Complete Mental Health/Counseling + Aftercare + Passive Testing - Dismiss Remain Court.
□ t. Take the prescribed for you - Cont. Preparatory Care + follow aff.

Dated: 12/15/95

[Signature]
Judge of District Court

[Signature]
Defendant
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 8th grade.

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. AWE - 3 counts

committed on or about Sept. 24 1995 in Sherburne

County, Minnesota, (and that the crime I am talking about is GROSS MISD. AWE 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 Rain 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 ____ years. That if a minimum sentence is required by statute the court
      may impose a sentence of imprisonment of not less that ____ 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  
      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  
Defendant: Robert Johnson
STATE OF MINNESOTA
COUNTY OF DAKOTA

------------------~---------------------------------------

STATE OF MINNESOTA
vs.
Robert Alan Johnson,
Defendant.

The above-entitled matter came on for hearing before
the Honorable Michael V. Sovis, Judge of District Court, at the
Dakota County Court Facility, Apple Valley, Minnesota, on

APPEARANCES

Michael Mayer, City Attorney, 1260 Yankee Doodle Road,
Suite 200, Eagan, MN 55121; appeared on behalf of the State.

Paul Rogosheske, Attorney at Law, 833 Southview Blvd.,
South St. Paul, MN 55075; appeared on behalf of the defendant.

The Defendant appeared personally.

---
WHEREUPON, the following proceedings were duly had and entered of record, to-wit:

THE COURT: At this time we'll consider the matter of the State of Minnesota, City of Burnsville, against Robert Johnson. Mr. Johnson does appear in person before the Court here this morning represented by legal counsel, Paul Rogosheske. Michael Mayer appears here on behalf of the State.

The matter is being brought before the Court here this morning on allegations of a probation violation. The record should reflect that on September 1st, 1995, this Court sentenced Mr. Johnson, upon his plea of guilty to driving while under the influence of alcohol, to a stay of imposition.

I did place Mr. Johnson on probation for a period not to exceed one year on certain conditions. One of the most important conditions, of course, would be that he have no arrests or convictions for driving after revocation, driving after suspension, driving without a valid license or without insurance on his vehicle and, of course, the one we're back here on now is he have no alcohol related offenses.

I believe that we do understand that there have been some subsequent offenses, Mr. Mayer?

MR. MAYER: That's correct, Your Honor. It's my understanding that subsequent to the day of your sentence, Mr. Johnson has been convicted of two additional driving while under the influence charges. Those offenses took place within
approximately five and a half or six weeks of the date that you
sentenced him on the first DWI that arose in the City of
Burnsville.

Clearly he's violated his probation. I presume, based
on some discussions we had in Chambers, there is an admission
and procedurally I don't know if you want that first or my
pitch or how do you want to handle it?

THE COURT: Mr. Rogosheske, what is your client's
position?

MR. ROGOSHESKE: Your Honor, Judge, my client will
admit he violated probation. There's a court record he has
violated both in Sherburne and Beltrami Counties so he would
admit he violated probation and waive any right he has to a
hearing. That would be a fair statement, wouldn't it, Bob?

MR. JOHNSON: Right.

MR. ROGOSHESKE: You understand you have a right to
have a hearing before the Court and the prosecution would have
the burden of going forward and proving you have been convicted
in these other counties and that the convictions cause a
violation of probation, you understand that, is that correct?

MR. JOHNSON: Yes.

MR. ROGOSHESKE: What you're willing to do is waive
your right to have that hearing and admit you violated
probation, is that correct?

MR. JOHNSON: Yes.
MR. ROGOSHESKE: I don't have any further questions.

THE COURT: Mr. Mayer?

MR. MAYER: Thank you, Your Honor. Judge, I understand based on information counsel has provided me as well as things I have read in the newspapers about this case that the defendant has had some rather significant personal difficulties in his life and that perhaps that is what caused him to act as he did during that four, five, six week period and I am sympathetic to those difficulties that he's experienced.

However, in the ten years I have been a prosecuting attorney, I don't think I can recall ever having seen someone who goes out and gets two more offenses within a four or five week period after obtaining that first driving while under the influence.

I have gone on the record as indicating that I think that at a certain point in our process, I don't pay a lot of attention to the rehabilitative aspect of our penal system. I think once someone gets three of them inside a five or six week period, that the focus should then be on a punitive and on a deterrent aspect of our system, and the public safety aspect of our system and I can't sit here as a representative of the people of Burnsville and say that this gentleman shouldn't do additional time.

I believe that he needs to serve an additional 15 days in our jail facility. There has to be a deterrent aspect and
There has to be a public safety aspect on behalf of the people who are also out on the road at the same time.

I understand that because of his position that he does not want to be incarcerated at the outset of the legislative session and I guess I see the logic of that position.

At the same time, however, when we're sentencing any other offender, we don't give a great deal of deference to what type of an impact we're going to have on their employment and I guess my pitch to the Court is simply to give him 15 extra days in jail and if you're so inclined, some additional community work.

The Court: Anything further?

Mr. Mayer: That would be it, Judge.

The Court: Mr. Rogosheske?

Mr. Rogosheske: Judge, I don't want to get up too much on a soapbox but I have some strong, personal feelings about this type of case and I'll try to keep my remarks short.

The first is that this man, in the State of Minnesota, in every county that he's been in, has been treated probably ten times harsher than a normal person and if his name was Joe Schmedlap, and he wasn't a state representative.

It amazes me that we have lawyers who serve in the legislature that pontificate and parlay themselves to the press when they have no clue of the underlying factual basis.

I have practiced criminal law for twenty-two years and I have
never -- I have had cases much like this and all these cases have a common theme, that of mental illness, and I'm appalled at people who do not want to treat the mental illness and the record is so clear that my client was operating from a major depression.

He went through a very bitter divorce. His father was diagnosed with Alzheimers. He had fifteen years of sobriety and he was then diagnosed with diabetes. If one has ever participated with close family members with diabetes, one knows the blood sugar is a very difficult thing to control. This is what he was going through after approximately fifteen years of sobriety. This is a classic case of a major mental illness brought on by severe problems and which were exasperated by alcoholism.

So, that is why he got three of them right in a row. The last one, as surprising as Mr. Mayer may find it, is he was calling for help on his car phone. He called the highway patrol and told them where he was and they found him.

He has completed a rehabilitation program. The record is absolutely clear he's done an outstanding job in treatment. It's unfortunate that we have this type of a situation. It's unfortunate that in Sherburne County they have asked us to place him on electronic home monitoring knowing that we can do that, yet they don't do it up there because of political pressure or other things of that nature, but based on what they
have told me and what's been represented to me by the attorney for Mr. Johnson, up in Sherburne County, I would ask the Court to consider that the Court give him 30 days on the electronic home monitoring, giving him credit for time served in Sherburne County and then that he assess him some community work service.

The statute, Minnesota Statute 169.121, subd. e does not under any circumstances in any construction, indicate that a probation violation has to be sentenced consecutively to other sentences. It is totally discretionary and I called the Court's attention to the actual reading and it's been my understanding that this is the interpretation that the State of Minnesota, Attorney General's Office, would give that statute.

Now, that might not be the interpretation that Senator Merriam gives or Representative Phil Carruthers, but that is an executive branch and this is a judicial branch and the judiciary is always in charge of interpretation of statutes.

The final analysis is this man has been humiliated throughout the State of Minnesota. Has been humiliated everywhere he goes and I think that he has served his penance enough.

The only thing he hasn't done is been put out and we bring back stoning. We could do that and he'd probably submit himself to that, but for the record, I am, in my twenty-two years as being a lawyer, upset at the way other lawyers and the press posturized this thing and I would ask the Court for
justice in this case like he was any other ordinary citizen.

If he was any other ordinary citizen with this kind of a miraculous treatment in fact nothing other than community work service would be imposed. I mean this sentence is far more than any citizen, that anyone in our county has gotten and I have practiced here for twenty-two years and I have had people with six and seven and eight drunk driving violations and this sentence is four times as severe.

Other than those comments, Your Honor, I have nothing further but to ask you to consider helping this man out. Thank you.

THE COURT: Mr. Mayer, anything further?

MR. MAYER: I advised the Court in Chambers, Judge, I disagree with Mr. Rogosheske's interpretation of the statute. I don't believe it is allowable to have concurrent sentences on probation violations. That would be a case of first impression to the best of my knowledge for the Court. I don't think the statute has been tested with respect to probation violations prior to this time.

THE COURT: Mr. Johnson, on your own behalf is there anything you would like to say to me before we proceed here this morning?

MR. JOHNSON: All I would say, Your Honor, is that I carry a great deal of remorse and shame as a result of my actions and I have, since leaving treatment, have attempted to
make amends to many individuals.

I accept the consequences for my actions, but I also can tell you that sitting before this Court today that through my treatment, my aftercare at Fairview Psychiatric, it has helped. My depression is arrested and I feel very good about my sobriety and my faith. Thank you, Your Honor.

THE COURT: Mr. Johnson, do you admit you are in violation of the probation that was imposed on September 1, 1995 by reason of your subsequent convictions for driving while under the influence of alcohol?

MR. JOHNSON: Yes, Your Honor.

THE COURT: Mr. Rogosheske has very articulately and eloquently stated, based upon the record, the right you have to a hearing and do you understand that by admitting this, this morning you are giving up or waiving that this morning?

MR. JOHNSON: Yes, Your Honor.

THE COURT: That’s how you wish to proceed here today?

MR. JOHNSON: Yes, Your Honor.

THE COURT: Well, first of all, let me simply indicate for the record that regarding political pressure that the judiciary is able to let it go. There has been, since the inception of our Constitution, the separation of powers. My determination here this morning has nothing to do about Mr. Johnson’s position in our State nor with what has happened in the other two counties in which Mr. Johnson has been
incarcerated and sentenced.

Regarding stoning, let he who is without sin cast the first stone.

MR. ROGOSHESKE: That's a good statement, Your Honor.

THE COURT: And no, we're not going to stone you, Mr. Johnson, but I do feel that under the circumstances that notwithstanding your illness and it is an illness, both in terms of your chemical dependency and your emotional difficulties that you have suffered from, that you have failed the trust bestowed upon you by your constituents as well as the public in general, and I am sympathetic to the fact that you are suffering with the manic depression and the chemical dependency.

The emotional difficulties and the family problems that you have had, but you still must be held accountable for your poor judgment. That's why you are where you are; because people trusted your judgment and that's what has not been taken care of here.

Upon your admission of the violation, the Court will reinstate you on probation, same terms and conditions that I set on September 1st, 1995.

The additional conditions of probation will be that you serve 20 days in the Dakota County Jail. That will be consecutive to any time you are serving in Stearns and/or Beltrami County. That time, however, may be served on the
electronic home monitoring or bracelet program as arranged through our Department of Corrections here in Dakota County. That time will also start after you have completed the legislative session.

The reason that I'm putting you on probation or on the electronic home -- or I should say on the bracelet and on the electronic home monitoring program is because I feel it would be only important to the tax payers of this County, in the City of Burnsville, Dakota County, and the State of Minnesota that you pay for your own problem here.

I don't want to put you in jail at the expense of our tax payers so that's why I'm going to require that you pay your own monitoring fee on the bracelet program. That will be arranged through our Department of Corrections, and you may be entitled to work with the probation agent to modify the time you will be starting that program in view of the perhaps extended session which we may anticipate here this year.

I will also require that you perform 40 hours of community work service as arranged through our Department of Corrections.

Do you have any questions about the modifications which I have made to your sentence?

MR. JOHNSON: No.

THE COURT: Do you have any further comments you would like to make to me, Mr. Rogosheske or Mr. Mayer?
MR. ROGOSHESKE: Yes, Judge. The only other thing is
that the Sherburne County people indicated -- and you have a
copy of that Order, that he could serve his time in jail here
in our County. It says and it's my understanding that Judge
Leslie was informed that if he would serve his sentence here in
Dakota County, that that would be on electronic home monitoring
because that's what we do.

I take it the sentence of the Court has no problem if
the defendant can get on the electronic home monitoring and he
could serve that as supervised under the Dakota County
probation, could he not?

THE COURT: I have no difficulty with that. I'm
assuming Judge Leslie's Order basically provides for that. Mr.
Mayer, do you have anything in that respect?

MR. MAYER: I guess I'm not clear on what Mr.
Rogosheske is saying. Is he saying Judge Leslie has ordered
the defendant can convert the balance of his Sherburne County
time to EHM down here?

MR. ROGOSHESKE: That's what is my understanding. I'm
just saying let's say that the judge indicates that he can
begin his time on electronic home monitoring and the purpose
for that as you know, as we went over that, is all his
aftercare and AA and psychiatric meetings are down here in the
Twin Cities so if Judge Leslie would say I would like Dakota
County probation to supervise that and execute that, your
sentence as a Judge here in Dakota County wouldn't prohibit
that? I mean we would extend the courtesy to Judge Leslie to
have that accomplished down here?

THE COURT: I would certainly not interfere with Judge
Leslie's decision.

MR. MAYER: And I don't believe I have any authority to
argue with a sentence imposed by a judge in another county.
Our EHM rules, however, allow a maximum of 60 hours a week out.

MR. ROGOSHESKE: Whatever the rules of the electronic
home monitoring are, are the rules of the electronic home
monitoring.

THE COURT: The standard is 60 hours, but from time to
time that also has been modified by special circumstances which
may be the case we have here today.

MR. ROGOSHESKE: All I'll do is contact Judge Leslie
and if Judge Leslie says he can serve his Sherburne sentence
through our Watch Guard Program, I'll set it up.

THE COURT: If Judge Leslie has any questions of me,
certainly feel free to have him call me, Mr. Rogosheske.

MR. ROGOSHESKE: I'll do that.

THE COURT: Mr. Mayer, anything further?

MR. MAYER: No.

THE COURT: Mr. Johnson, my very best to you and good
luck to you. I do commend you on the efforts you have made to
correct the problems you have faced and please don't disappoint
me again and keep up this good work.

MR. JOHNSON: Your Honor, thank you, and let me attempt
to make my amends with you. I was very sick. I broke the law.
I understand the consequences, but I think the greatest gift I
can give myself, to you, my family, constituents, is my
sobriety and my mental health, my faith in God and those are my
top three priorities.

THE COURT: And God bless you. Have a good holiday
season.

---

COURT REPORTER'S CERTIFICATE

I, Karen P. King, Official Court Reporter for the 1st
Judicial District, do hereby certify that the foregoing 14
pages of transcript are an accurate transcription of my
stenographic notes so taken by myself in this matter at the
time and place noted.


Karen P. King, RPR
District Court Reporter

DISTRIBUTION OF COPIES:
Original Court Administrator
Copy County Attorney
Copy Defense Counsel
DATE REPORTED: 10/11/95
TIME: 1322

LOCATION:

DATE OCCURRED: 10/11/95
TIME: 1322

OFFENSE: J2500 (TRAFFIC-GM-DRIVE UNDER IN)

LOCATION:

LOCATION:

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<td>BEMIDJI</td>
<td>Source: P</td>
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<td>Dispo: RP</td>
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<td>STAGNER, DR</td>
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</table>

**Phone:** (612)223-5234

**Apt:**

**Agency:** P

**Apt:**

**Source:** P

**Priority:** 3

**Disposition:** RP
DATE: 10/11/95

COMPLAINT REQUEST FORM

CFS NO: 95-178666

DEFENDANT'S NAME: Robert Alan Johnson A
DOB: 12/01/45 AGE: 49

ADDRESS: 1075 Washington #15 Bemidji, MN
Sex: M Race: W Height: 5'10 Weight: 200 Eyes: BLU Hair: BRN

* IN CUSTODY. DATE: 10/11/95 TIME: 13:22

ADULT

JUVENILE

GROSS MISDEMEANOR

MISDEMEANOR

REQUESTED CHARGES:
(1) Agg DWI

J2500

PLACE OF OFFENSE: City of

Bemidji Township

PC SUMMARY:

Received report that Robert Johnson was driving with
out a driver's 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: B101

BPD 04/89
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: 700  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: ____________________________

Printed Name: STEVE KOVALC

Telephone Number: 715 751 9111

Date: ____________________________

Signature of Licensee

PINK COPY TO BE RETAINED BY OFFICER
COMMERCIAL VEHICLE–BEGIN WITH BOXED AREA

Robert Alan Johnson, I believe you have been driving, 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."

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

OR

(READ ONLY IF PERSON WAS OPERATING A COMMERCIAL VEHICLE)

, I believe you have been driving, 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 of alcohol.

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.

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. 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?

Do you wish to consult with an attorney? No

Time telephone made available: Start: Stopped:

Will you take the Breath test?

(If person refuses:)

What is your reason for refusing:

I don't have . . . I don't want . . . [Blood] On urine: Simply because I don't want to

Time Completed: 13:17

Date: 10-11-95
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 _______________

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

Address: 1075 Washington

City, State, Zip: Bemidji, MN 56601

Driver License Number: 5-525-745-040-917

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): Swirl in her hand

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: Known he was DAI

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:

<table>
<thead>
<tr>
<th>Name of Agency, Analyst or Breath Test Operator</th>
<th>Address of Agency or Analyst</th>
<th>City, State, Zip</th>
</tr>
</thead>
</table>

Sample Identification Number (Blood or Urine Tests Only)
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.

You are 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.

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 Minnesota Statute 169.444 regarding the safety of children around school buses and the duties to determine your alcohol concentration.

I am aware of the duties to determine your alcohol concentration.

I am aware of the duties to determine your alcohol concentration.

I am aware of the duties to determine your alcohol concentration.

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: 5'10"  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:  

Date  Signature of Licensee

BLUE COPY ATTACH LICENSE & IMPLIED CONSENT CERTIFICATE TO DEPT. OF PUBLIC SAFETY

OVER
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. ISS/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
09/15/95 DRIVER TEST WAIVED
09/15/95 PASSED WRITTEN TEST
*09/02/95 * REV - REFUSE TO TEST 09/15/95
09/26/95 7-DAY TEMP
08/26/95 DRIVING WHILE UNDER THE INFLUENCE IC-1 E19 090195XX
08/14/95 SPEED 274 512836A
08/01/89 SPEED 923341A
COPV to CA. ..---95 01'78 66


TXT
ROBERT ALAN JOHNSON
1075 WASHINGTON AVE #15 BEMIDJI MN 56601
SEX/M. DOB/120145. HGT/510. WGT/200. EYE/BLU.
JLN/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 10/02/95 260/750
09/15/95 FEE REQUIREMENT MET
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
08/26/95 DRIVING WHILE UNDER THE INFLUENCE IC-1 E19 090195XX
01/14/95 SPEED 274 512836A
08/01/89 SPEED 923341A
==============================================================================
==============================================================================
IMMEDIATELY CONFIRM RECORD WITH ORI
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 without a driver's 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 him, 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 driver's 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
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
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.

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<td>County Attorney</td>
<td>__Arrest</td>
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<tr>
<td>__Assisted/Advised</td>
<td>City Attorney</td>
<td>__Arrest Juvenile</td>
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<tr>
<td>__Excep. Cleared</td>
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<td>Special Detail</td>
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<tr>
<td>__Unfounded</td>
<td>Other</td>
<td>__Other (Explain)</td>
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</table>

OFFICER: Kovac 8114  DATE 10/11/95  SUPERVISOR  DATE
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.
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.
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 came 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.

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
other. He made two 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 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.
MALE GM/FELONY

BELTRAMI COUNTY JAIL BOOKING FORM

ICR # 95-17866
Jail File # 0965
Booking # 00

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 Brw

BOOKING DATE 101195 TIME 1350 BY RR
RELEASE DATE TIME BY

HOW

OFFENSE (MNPC) AGG DWI

BOND SENTENCE

COMMENTS Placed in observation/15 min watch.
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,
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
BEMIDJI POLICE DEPARTMENT
FOLLOWUP
DETECTIVE CLARENCE ERICKSON

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Detective Clarence Erickson, #8563

Transcribed by: SK, 10-11-95, 1632 hours
BELTRAMI COUNTY JAIL BOOKING FORM

NAME ROBERT ALAN JOHNSON

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 M.

RELEASE DATE 11-27-95  TIME 1700  BY M.

OFFENSE (W/C PC) Comm - Agg DWI

BOND  SENTENCE 60 Days - HUBER

COMMENTS Credit for time in treatment & for time served.
### State of Minnesota

#### County of Beltrami

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<td>II 169.121, subd. 1a;</td>
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- **If more than 6 counts (per attached).**
- **8 domestic assault.**

### State of Minnesota

**PLAINTIFF:**

**NAME:** first, middle, last

ROBERT ALAN JOHNSON

1075 Washington #15

Bemidji, MN 56601

**DATE OF BIRTH:** 12/01/45

**STJIS COMPLAINT NUMBER:** 04-11-6-30673

**BELTRAMI CTY:**

**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**
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

OFFICIAL'S SIGNATURE:

FINGERPRINTS:
1. R. THUMB
2. R. INDEX
3. R. MIDDLE
4. R. RING
5. R. LITTLE
6. L. THUMB
7. L. INDEX
8. L. MIDDLE
9. L. RING

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY

RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

PHOTO AVAILABLE Y/N

INTERSTATE TRANSFER? Y/N

LAST NAME: Johnson
FIRST NAME: Robert
MIDDLE NAME: Alan

OTHER DATES OF BIRTH (MMDDYYYY)

PLACE OF BIRTH

COUNTRY:

US CITIZEN: Y/N
COUNTRY:

REEL:

FRAME:

SCARS, MARKS, TATTOOS
MISCELLANEOUS NUMBERS
DATE OF BIRTH (MMDDYYYY)
SEX RAC HGT WGT EYES HAIR SKIN

180145 M 5'11 208 BLU BLK FHL

TYPE OR PRINT ALL INFORMATION IN BLACK

95017866

9579334
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**General Offense Character (GOC):**
- A - Attempt to Commit (ATPT)
- B - Assault to Commit (ASL)
- C - Conspiracy to Commit (CNSP)
- F - Facilitation of (FACIL)
- S - Solicitation to Commit (SOLIC)
- T - Threat to Commit (THRT)
- X - Abet (ABET)
- Y - Accessory Before the Fact (ACBF)
- Z - Accessory After the Fact (ACAF)
- N - Not Applicable

**RACE CODES (RAC):**
- W - White
- B - Black/ Negro
- A - American Indian or Alaskan Native
- I - Asian or Pacific Islander
- U - Unknown

**STATE OF MINNESOTA DEPARTMENT OF PUBLIC SAFETY BUREAU OF CRIMINAL APPREHENSION**

**CJIS - IDENTIFICATION UNIT 1246 UNIVERSITY AVENUE ST PAUL MINNESOTA 55104**

**PS-25010 (REV. 9/92) 1075 Washington Ave, Bemidji, MN 56601**

**OFFENSES**
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.**
**PETE SMITH.**
**TOMMY P. 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 I), 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.
Behaviors and conditions not included as disabilities

In other sections of the bill, certain behaviors are explicitly not included as disabilities. Current illegal use of drugs is not protected under the bill. See Sections 104 and 510. Homosexuality and bisexuality, which were never covered disabilities under other federal disability laws, because they are not physical or mental impairments, are explicitly noted as not being impairments and as such are not disabilities under the ADA. See Section 511(a). Transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal use of drugs, are also excluded. See Sections 511(b)-(d).

Title I—Employment

Title I prohibits discrimination in employment against a qualified person with a disability. The title borrows much of its procedural framework from title VII of the Civil Rights Act of 1964,12 which prohibits discrimination in employment on the basis of race, color, religion, sex or national origin, by incorporating title VII's enforcement provisions, notice posting provisions, and employer coverage provisions. The title borrows much of its substantive framework from Section 504 of the Rehabilitation Act of 1973.

The underlying premise of this title is that persons with disabilities should not be excluded from job opportunities unless they are actually unable to do the job. The requirement that job criteria actually measure skills required by the job is a critical protection, because stereotypes and misconceptions about the abilities and inabilities of persons with disabilities continue to be pervasive. Discrimination occurs against persons with disabilities because of stereotypes, discomfort, misconceptions, and fears about increased costs and decreased productivity.

In order to assure a match between job criteria and an applicant's actual ability to do the job, the bill contains the following provisions:

the requirement that persons with disabilities not be disqualified because of the inability to perform non-essential or marginal functions of the job [Section 101(7)];

the requirement that any selection criteria that screen out or tend to screen out people with disabilities be job-related and consistent with business necessity [Section 102(b)(6)]; and .

the requirement to provide reasonable accommodation to assist persons with disabilities to meet legitimate job criteria [Section 102(b)(5)].

These requirements work together to eliminate the pervasive bias against employing persons with disabilities.

If a person with a disability applies for a job and meets all selection criteria except one that he or she cannot meet because of a

12 42 U.S.C. 2000e et seq.
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. 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 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." For example, many employers require driver's licenses for a variety of jobs which do not require driving or where driving is inciden-

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