

1 going on and off and not working properly.

2 Q. And when you approached the vehicle, were you able to
3 see the headlights from where you were standing?

4 A. No, I was not.

5 Q. So you could not confirm or deny that the headlights
6 were still on or off at that time?

7 A. I don't recall if they were on or off at that point.

8 Q. So it's your testimony that when Mr. Johnson exited
9 Huntington, his headlights were off; is that correct?

10 A. That's correct.

11 Q. And in speaking with Mr. Johnson, did you advise him
12 of anything else to the -- as to the reason for the
13 stop?

14 A. I just inquired where he was coming from and about the
15 headlights.

16 Q. Okay. And in speaking with him, did you notice
17 anything else?

18 A. In speaking with him, I noticed his eyes were a little
19 glassy and bloodshot and watery and then I detected a
20 slight odor of alcohol coming from his breath.

21 Q. I'm sorry -- did you say glassy and watery?

22 A. Correct.

23 Q. Okay. And you said a slight odor of alcohol coming
24 from his breath; is that correct?

25 A. That's correct.

1 Q. Based on your training and experience, what, if
2 anything, did this indicate to you?

3 A. It indicated that he was possibly under the influence
4 of alcohol.

5 Q. What did you do with this information?

6 A. I asked him to exit the vehicle to perform field
7 sobriety tests.

8 Q. Initially, when you asked him to step out of the
9 vehicle, did you tell him why?

10 A. I did not initially.

11 Q. Why not?

12 A. Some -- because at that point he was starting to get
13 argumentive and was not answering some of the
14 questions, so I was going to have him exit the vehicle
15 so I could talk to him a little further outside the
16 vehicle.

17 Q. And did Mr. Johnson eventually get out of the vehicle?

18 A. He did after several minutes.

19 Q. And during those several minutes, did you at any point
20 advise Mr. Johnson why you wanted him to exit the
21 vehicle?

22 A. Yes, I did.

23 Q. And what -- specifically wanted to do field sobriety
24 tests?

25 A. That's correct.

1 Q. Okay. And do you see a pool of yellow light sitting
2 on the ground in front of the Tahoe?

3 A. Yes, I do.

4 Q. Okay. I'm resuming play at 9 minutes and 32 seconds.

5 [Playing body-worn camera video]

6 MS. O'CONNOR: Then I'm just going to rewind a
7 little bit starting at 9 minutes and 28 seconds.

8 [Playing body-worn camera video]

9 BY MS. O'CONNOR:

10 Q. Deputy Hagen, can you clearly see the image that is
11 paused on the screen?

12 A. Yes, I can.

13 Q. Okay. And in that image, that's Mr. Johnson's face.
14 Do you have a clear view of his face?

15 A. I do.

16 Q. Okay. And we can see that he's wearing glasses and
17 has a hat with a brim on it and is sitting in front of
18 him -- or sitting inside of his darkened car. Is that
19 accurate?

20 A. Correct.

21 Q. Okay. But you're using your flashlight and sort of
22 shining it slightly below his face, so we can see his
23 face. Is that accurate?

24 A. Correct.

25 Q. All right. We see that he is -- he's got a cigarette

1 in his mouth and he's looking -- he's facing toward
2 you. So you can -- you have a clear look at his eyes.
3 Is that correct?

4 A. Correct.

5 Q. Okay. And we can actually see the whites of his eyes
6 in this is video right now; can you see that?

7 A. Yes.

8 Q. Okay. And we don't see that they are obviously red?

9 A. You can't see something like that in this video;
10 there's not enough detail.

11 Q. And in this body-worn camera, the purpose that you
12 have it is to record your interactions; is that right?

13 A. Correct.

14 Q. So you can rely on them in court and maybe when you're
15 completing records; is that correct?

16 A. That's correct.

17 Q. And you stated on direct examination that this video
18 is true and it's accurate -- a true and accurate
19 depiction of what happened; is that right?

20 A. Correct.

21 Q. Okay, but we can't see that Mr. Johnson eyes are
22 bloodshot from this is point of view, correct?

23 A. Correct.

24 Q. Okay. We can see that he's smoking a cigarette, and
25 you actually described in your police report that he



Exhibit
3

DRIVER AND VEHICLE SERVICES
DRIVER EVALUATION UNIT
445 MINNESOTA STREET, SUITE 170
ST. PAUL, MINNESOTA 55101
PHONE:(651)296-2025 FAX:(651)282-2463
Internet: www.dps.state.mn.us/dvs

LE Case#/ICR: 20011268

Peace Officer's Certificate

I certify to the Commissioner of Public Safety, State of Minnesota, that:

1. I am a "peace officer" within the meaning of Minnesota Statutes section 169A.03, subdivision 18.
2. On 09/06/2020, I had probable cause to believe that the person named below had been driving, operating or physically controlling a motor vehicle in violation of Minnesota Statutes section 169A.20 within the State of Minnesota on 73rd Ave in the City or Township of Brooklyn Park in Hennepin County.

Subject HENRY JAMES JOHNSON Jr		Date of Birth 05/10/1972	
Address 8409 TOLEDO AVE N		City, State, Zip BROOKLYN PARK, Minnesota 55443-2285	
Driver License Number L182109959311	DL State of Issue MN	License Plate or Registration Number EZJ140	State of Issue MN

3. Reason for initial contact:

- ☒ Vehicle stopped by officer because: No headlights
☐ Accident
☐ Vehicle already stopped:
☐ Other:

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 alcoholic beverage
☒ Bloodshot eyes
☐ Watery eyes
☒ Slurred speech
☐ Poor balance
☐ Admission
☐ Other:

6. Check at least one of the following:

- ☒ DWI arrest
☐ Accident
☐ Refused PBT
☒ PBT with AC of .08 or more

7. Other pertinent information:

8. This person was requested to submit to a breath test pursuant to Minnesota Statutes 169A.50-53 and was read the Breath Test Advisory, or was informed, pursuant to MN Statute 171.177, that refusal to submit to a blood or urine test is a crime by: Officer Name: Matthew Hagen Agency: Hennepin County Sheriff

9. The person:

- ☒ Refused to provide a test sample to determine the presence of alcohol or controlled substance or its metabolite.
☐ Provided a sample which indicated an alcohol concentration of .08 or more.
☐ Provided a sample blood or urine which indicated the presence of a schedule I or II controlled substance or its metabolite, other than marijuana or THC.
☐ None of the above applies.

Breath Test Operator	Agency
Address	City, State, Zip
Sample Identification Number (Blood or Urine Tests Only)	Expiration Date

Signature of Peace Officer Electronically Signed by: Matthew Hagen	
Badge Identifier 453	Enforcement Agency Hennepin County Sheriff
Business Telephone Number (612) 348-4480	Date/Time Signed 09/10/2020 11:21 AM



Exhibit
3 continued

DRIVER AND VEHICLE SERVICES
DRIVER EVALUATION UNIT
445 MINNESOTA STREET, SUITE 170
ST. PAUL, MINNESOTA 55101
PHONE:(651)296-2025 FAX:(651)282-2463
Internet: www.dps.state.mn.us/dvs

LE Case#/ICR: 20011268

Breath Test Advisory

Time Started: 9/6/2020 5:23 AM Location Read: HC ESD HQ

HENRY JAMES JOHNSON JR, I believe you have been driving, operating or controlling a motor vehicle in violation of Minnesota's D.W.I. laws and you have been placed under arrest for this offense.

- ☒ 1. Minnesota law requires you to take a test to determine if you are under the influence of alcohol.
Times Read: 1 Notes: "I want a blood test"
- ☒ 2. Refusal to take a breath test is a crime.
Times Read: 1 Notes: "I want a blood test"
- ☒ 3. Before making your decision about testing, you have the right to consult with an attorney. If you wish to do so, a telephone and directories 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.
Times Read: 1 Notes:
- ☒ 4. If the test is unreasonably delayed or if you refuse to make a decision, you will be considered to have refused the test.
Times Read: 1 Notes: "I want a blood test"

Do you understand what I have just explained?

Times Read: 2 Notes:

☐ Yes ☒ No

Do you wish to consult with an attorney?

Times Read: 7 Notes: See notes page.

☒ Yes ☐ No

Time telephone made available: Start: 5:25 AM Stopped: 5:29 AM

Notes: See notes page.

Will you take the Breath test?

Times Read: 4 Notes: "I wanna take a blood test"

☐ Yes ☒ No

(If refused) What is your reason for refusing?

"I wanna take blood test"

Times Read: 1 Notes:

Signature of Peace Officer Electronically Signed by: Matthew Hagen		
Badge Identifier 453	Enforcement Agency Hennepin County Sheriff	
Business Telephone Number (612) 348-4480	Date/Time Signed 09/10/2020 11:21 AM	Time Completed 9/6/2020 5:32 AM

Exhibit 4A

- a. Deputy Hagen also explained to Defendant that he stopped Defendant because he drove over a block without headlights. Defendant responded "yeah, ok." Ex. 1 at 12:12-12:23.
10. Deputy Garrett Olson arrived to assist Deputy Hagen.
 - a. Deputy Olson has worked as a Hennepin County Sheriff's Deputy for approximately 14 years. He has training in field sobriety and DWI investigation. The Court finds Deputy Olson a credible witness.
11. Deputy Olson approached Defendant's vehicle on the passenger side and opened the passenger side door. As Defendant continued to refuse to exit the vehicle, Deputy Olson reached in to remove the keys from the ignition.
12. Deputy Olson observed the odor of alcohol coming from the Defendant, remarking to Defendant that he smelled of alcohol. Defendant responded admitting that he did smell of alcohol but stating that he was not intoxicated. Ex. 1 at 15:15-15:20.
13. Defendant continued to insist the officers did not have probable cause, that he had an electrical short, and that he only had one beer. Defendant eventually exited the vehicle to perform field sobriety tests. Ex. 1 at 15:31.

CONCLUSIONS OF LAW

1. Deputy Hagen had reasonable, articulable suspicion to initiate the traffic stop.
2. Deputy Hagen had reasonable, articulable suspicion to expand the traffic stop.

ORDER

1. Defendant's Motion to Suppress is DENIED.
2. The attached Memorandum is incorporated herein by reference.

IT IS SO ORDERED:

Dated: April 12, 2022

BY THE COURT:

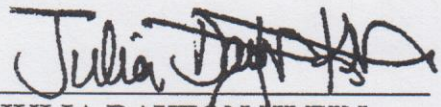

JULIA DAYTON KLEIN
Judge of District Court

Exhibit 4B

cover the odor of alcohol. Deputy Hagen further testified that, in addition to observing Defendant's bloodshot, watery eyes, he could smell the odor of alcohol through the cigarette smoke. Deputy Olson corroborated Deputy Hagen's testimony on this point by also remarking to Defendant that he could smell alcohol on Defendant. Deputy Hagen's observations, corroborated in part by Deputy Olson, support the conclusion that there was reasonable, articulable suspicion to expand the traffic stop.

JDK



Exhibit 5A
HENNEPIN COUNTY SHERIFF'S OFFICE
350 South Fifth Street, Room 6
Minneapolis, MN 55415-1369

Entered
Disc. DB
11/16/04

J. Fallon

Patrick D. McGowan, Sheriff

November 8, 2004

Deputy Matt Hagen
Court Security Division
A-Level
300 South 6th Street
Minneapolis, Minnesota 55415

LETTER OF SUSPENSION

Dear Deputy Hagen;

On July 27, 2004 you were involved in a personal injury watercraft accident on Lake Minnetonka while operating a county owned watercraft. Your operation of the watercraft resulted in your collision with [REDACTED] who was also riding on a county owned personal watercraft. [REDACTED] sustained serious injuries as a result of the collision. The licensed Deputy Sheriff that responded to the scene investigated the accident. You provided a verbal account of the accident to the investigating deputy. Later that evening you completed a Sheriff's Office written report relaying substantially the same information.

During the subsequent 2-3 days, on more than one occasion, you repeated this initial account of the accident. Some of these conversations were with Sheriff's Office supervisors. You repeated this account even though you were well aware that it was not truthful. You had ample opportunity to correct your statement and minimize any resulting damage.

You maintained this account until July 30, 2004 when [REDACTED] stated to you that he was going to come forward with the truth. You then admitted the truth of how the accident occurred to Captain Schilling and later repeated this account to Sheriff's Internal Affairs investigators. You admitted that very shortly after the accident occurred, you collaborated with [REDACTED] to make up the fictitious and untruthful story of how the accident had occurred. You further stated that you did so in an effort to hide the truth and deceive others.

As a result of your conduct, you have violated the following Sheriff's Office Rules and Regulations:

2-A102 Conduct

"Employees of the office shall conduct themselves at all times in a manner that exemplifies high standards of professionalism, integrity, trust, morality and ethical behavior."

Exhibit 5B

2-A105 Judgement.

"Employees shall use good judgement in carrying out their duties and responsibilities. Employees need to weigh the consequences of their actions."

2-A106 Reports

"Employees shall complete and submit all necessary reports, consistent with divisional policy, before going off duty. Reports shall be truthful. No employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information."

2-A110 Keeping Supervisors Informed

"Employees shall keep their supervisors informed of any matter which may affect the well-being of the Sheriff's Office."

Your conduct surrounding this matter is unacceptable. You have severely damaged your credibility with your co-workers, supervisors, employer and those you have sworn to protect and serve. Law enforcement officers are expected to be professional, honest and truthful. You displayed none of these qualities. Rather, you made a conscious decision to be deceitful. After making that poor decision, you had ample opportunity to come forward to correct this deceit, however chose not to until [REDACTED] decided to come forward, forcing you also to do so. Your conduct is disappointing, to say the least.

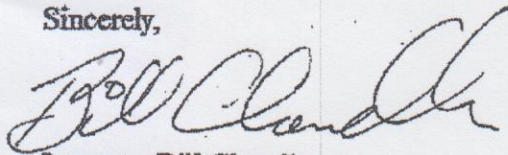
As a result of your violations of the above stated Sheriff's Office Rules and Regulations, you are suspended from duty for a total of 20 days. Your days of suspension shall be served as follows: November 15 through 19, 29 and 30, December 1 through 3, 13 through 17, 2004, and January 10 through 14, 2005.

Further violations of Sheriff's Office policies and/or procedures, rules and regulations will result in further discipline, up to and including dismissal. As a reminder, Sheriff's Office personnel are not allowed to work voluntary overtime while suspended from duty.

You have the right to contest this discipline under Article 8 of the Memorandum of Agreement between the County of Hennepin and the Hennepin County Sheriff's Deputies Association Law Enforcement Unit.

I hope you fully comprehend the seriousness of this matter. My hope is that you will reflect on your conduct matter and learn from this most serious mistake.

Sincerely,



Inspector Bill Chandler
Enforcement Services

Original Message

EXhibit 6A

Message ID	<CAGQb+OZeddN5qSYks-ynbW7YGuocRfHAnNpfNKYKAnnjdBaCtw@mail.gmail.com>
Created at:	Tue, May 31, 2022 at 7:54 AM (Delivered after 0 seconds)
From:	Henry Johnson <henryjamesjr72@gmail.com>
To:	Amanda Grossmann <agrossmann@colichlaw.com>
Subject:	27-CR-20-19990

[Download Original](#)[Copy to clipboard](#)

MIME-Version: 1.0
Date: Tue, 31 May 2022 07:54:14 -0500
Message-ID: <CAGQb+OZeddN5qSYks-ynbW7YGuocRfHAnNpfNKYKAnnjdBaCtw@mail.gmail.com>
Subject: 27-CR-20-19990
From: Henry Johnson <henryjamesjr72@gmail.com>
To: Amanda Grossmann <agrossmann@colichlaw.com>
Content-Type: multipart/alternative;
boundary="0000000000002412eb05e04e45be"

--0000000000002412eb05e04e45be
Content-Type: text/plain; charset="UTF-8"

Good morning. I was just wondering if you would be willing to file perjury charges against Deputy Hagen once I prove in court with incontrovertible and clear cut evidence that he lied at the evidentiary hearing about a particular question? Actually there are several lies that he told but on one I noticed you didn't elicit the question that I was looking for possibly because you knew it was a blatant lie. I'm sure you value your witness and his livelihood as a policeman but he doesn't know there are some terrible times ahead of him that he's surely going to regret moreso

than the suspension he received for filing a false report.

--0000000000002412eb05e04e45be

Content-Type: text/html; charset="UTF-8"

Content-Transfer-Encoding: quoted-printable

<div dir=3D"auto">Good morning.=C2=A0 I was just wondering if you would be = willing to file perjury charges against Deputy Hagen once I prove in court = with incontrovertible and clear cut evidence that he lied at the evidentiary hearing about a particular question? Actually there are several lies that he told but on one I noticed you didn't elicit the question that I was looking for possibly because you knew it was a blatant lie. I'm sure you value your witness and his livelihood as a policeman but he doesn't know there are some terrible times ahead of him that he's surely going to regret more so than the suspension he received for filing a false report.</div>

--0000000000002412eb05e04e45be--

Exhibit 6B



is:starred

99+

Mail

Compose

Chat

Inbox

6,202

27-CR-20-19990

Spaces

Starred

Snoozed

Important

Sent

Meet

Drafts

2

Categories

More

**Henry Johnson** <henryjamesjr72@gmail.com>

to Amanda

Good morning. I was just wondering if you would be willing
several lies that he told but on one I noticed you didn't elicit 1
ahead of him that he's surely going to regret moreso than th

Reply

Forward

Labels

CLFLd

Personal

More

Exhibit 6C