



Department of Public Protection

Report of Incident

TO: Terry Sanders, Director
Department of Public Protection

FROM: David Vanis, Captain
Public Protection Administration
Internal Affairs

DATE: July 30, 2018

SUBJECT: IA 2018-08, Officer Anthony Contino, Volusia County Beach Safety

References:

1. Florida Department of Law Enforcement Arrest notification (Dated July 6, 2018).
2. Ormond Beach Police Department report case number OB180700096 (Dated July 6, 2018).
3. Surveillance video from Pirana Grille (Dated July 5, 2018).
4. Officer Anthony Contino interview video with OBPD Detective Benita Hamilton.

Complaint:

On July 6, 2018, Ofc. Anthony Contino was arrested by the Ormond Beach Police Department (OBPD) and charged with burglary of a conveyance [FSS 810.02(4)(B)] and petit theft [FSS 812.014(2)(E)]. Beach Safety Captain Michael Berard responded to Ofc. Contino's residence at the time of his arrest to retrieve Ofc. Contino's division issued weapons and identification. Capt. Berard also advised Ofc. Contino he would be on administrative leave pending further investigation into his arrest. Ofc. Contino posted \$3,000 bond on July 6, 2018 and was released from the Volusia County Branch Jail at 1047 hours. I served Ofc. Contino notice of this internal investigation and administrative leave notice on July 11, 2018 at Beach Safety Headquarters.

Background:

On July 5, 2018 at 2300 hours, Ormond Beach Police were dispatched to the Pirana Grille located at 241 North US1, Ormond Beach regarding a car break that had just occurred. Upon their arrival, the victim, Samantha Markwis, told officers her vehicle had been broken into and a beach umbrella and approximately \$170.00 was taken from within. Ms. Markwis gave a physical description of a male subject she had observed inside her vehicle and a license plate number of the black pick-up the subject drove away from the scene of the burglary. In a sworn statement, Ms. Markwis advised she heard her vehicle alarm sounding and observed a man inside her vehicle. Ms. Markwis approached the man and asked him what he was doing. The man jumped out of her vehicle and ran to a black Nissan pick-up and attempted to start the truck. She advised the truck was having difficulty starting and she advised the male that she had his license plate number and wanted her belongings returned. The truck finally started and the male drove away in the truck.

OBPD Officers reviewed video surveillance from the Pirana Grille during the time of the burglary with the restaurant's manager. At 2208 hours, the video shows the rear tailgate of Ms. Markwis's vehicle open in the parking lot. At 2221 hours, Ofc. Contino's vehicle enters the parking lot. At 2222, Ofc. Contino approaches Ms. Markwis's vehicle but does not remove anything. At 2223 hours, Ofc. Contino enters the outside bar at the restaurant. At 2237, Ofc. Contino enters the interior bar. At 2239, Ofc. Contino exits the building. At 2241 hours, Ofc. Contino returns to Ms. Markwis's vehicle, removes an umbrella from the rear hatch, and places it in his truck. At 2242 hours, Ofc. Contino enters the vehicle through the rear hatch. At 2243 hours, the alarm activates on the vehicle and Ofc. Contino retreats back to his truck. At 2245 hours, Ofc. Contino returns to the vehicle and continues to rummage through Ms. Markwis's vehicle. At 2248, Ms. Markwis confronts Ofc. Contino at her vehicle and again at his vehicle. Ofc. Contino leaves the area in his truck. The charging affidavit states "Kaleb Starr, the owner of Pirana Grille was present during the overview of surveillance footage. While reviewing the footage, Starr spontaneously uttered "That's Anthony," positively identifying him as a regular bar patron."

The license plate number she provided the officers came back to a black Nissan pickup belonging to Ofc. Contino. Upon OBPD's request, Volusia County Sheriff's deputies located Ofc. Contino's vehicle parked at his residence in Holly Hill, FL. Officers and deputies on scene with the vehicle indicate the hood was still warm to the touch suggesting the vehicle had been used recently. The officers contacted Ofc. Contino's girlfriend at the residence who advised he had been driving the vehicle earlier that evening. OBPD Ofc. Kavanaugh contacted Ofc. Contino by phone. Ofc. Contino advised he had been at the Pirana Grille earlier to drink a beer. Ofc. Contino provided his location so he could discuss the incident with Ofc. Kavanaugh in person. Upon contact with Ofc. Contino at the San Marco Apartments in Ormond Beach, he was secured in handcuffs and placed under arrest. Ofc. Contino agreed to speak with the officers after

he was advised of his Miranda Rights. Ofc. Contino denied any knowledge of the incident when asked to locate the missing items from Ms. Markwis's vehicle.

Ofc. Contino was transported to the Ormond Beach Police Department and interviewed by OBPD Detective Benita Hamilton. Det. Hamilton read Ofc. Contino his Miranda Rights and Ofc. Contino agreed to speak with her. Ofc. Contino confirmed he had been at Piranas Grille and recalled seeing a vehicle with the rear hatch open in the parking lot. He initially denied entering the vehicle but when confronted with the video surveillance from the incident, Ofc. Contino admitted that he entered the vehicle and removed the umbrella and currency from the victim's apron. He reluctantly told Det. Hamilton the currency was located on a table in his garage and he had tossed the umbrella over his fence into a neighbor's yard.

OBPD Officers returned to Ofc. Contino's residence in Holly Hill and retrieved the umbrella. Ofc. Contino's girlfriend retrieved the \$142 from the location described by Ofc. Contino.

Conclusion:

Based upon the video surveillance retrieved from Piranas Grille and his own admission, Ofc. Contino committed the third degree felony offense burglary of a conveyance [FSS 810.02(4)(B)] and the first degree misdemeanor offense of petit theft [FSS 812.014(2)(E)].

Findings:

This case was presented to Director Sanders, Deputy Director Bythwood, Deputy Director Swanson, and Division Director Manchester. Director Sanders determined that the allegations listed below are

sustained:

Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action. Any of the following violations may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation. These offenses are illustrative and not all-inclusive.

(8) Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.

(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

(21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Volusia County Beach Safety Division Policies and Procedures:

11.01.121 Misdemeanor Injurious to the Division. *Division personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Division or otherwise impairs the operation and efficiency of the Beach Safety Division and/or which is likely to impair the ability of personnel concerned to perform assigned duties.*

11.01.122 Commission of Felony. *Division personnel shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not.*

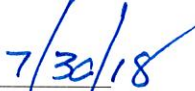
Concluding Statement:

Unless otherwise directed, this investigation is considered closed, and is submitted for review and action as deemed appropriate. The original attachments of interviews and other documents pertaining to this investigation remain on file with the Internal Affairs Unit.

“I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss.112.532 and 112.533, Florida Statute.”



Captain David Vanis



Date



Approved



Date



INTER-OFFICE MEMORANDUM

Department of Public Protection
Administration
125 W. New York Avenue, Suite 183
DeLand, Florida 32720
386-740-5120 – FAX 386-626-6618

TO: Anthony Contino, Sr. Lifeguard
Division of Beach Safety

DATE: August 1, 2018

FROM: Terry Sanders, Director
Department of Public Protection

FILE NO: DPP18-095

SUBJECT: Removal during probation period

Purpose: The purpose of this memorandum is to notify you that your probation is being revoked and you are hereby removed from employment with Volusia County effective the date of this memorandum. This action is being taken as the result of Internal Affairs Investigation #2018-08.

Background: On July 6, 2018, you were arrested by the Ormond Beach Police Department (OBPD) and charged with burglary of a conveyance [FSS 810.02(4)(B)] and petit theft [FSS 812.014(2)(E)]. Beach Safety Captain Michael Berard responded to your residence at the time you were arrested to retrieve your division issued weapons and identification. Captain Berard verbally advised you that you would be on administrative leave pending further investigation into your arrest. On July 11, 2018, Captain Dave Vanis formally served you with notice of your internal investigation and administrative leave with pay memorandums at Beach Safety Headquarters.

Information: On July 5, 2018 at 2300 hours, Ormond Beach Police were dispatched to the Pirana Grille located at 241 North US1, Ormond Beach regarding a car break in that had just occurred. Upon their arrival, the victim told officers her vehicle had been broken into and a beach umbrella and approximately \$170.00 was taken from within. The victim gave a physical description of a male subject she had observed inside her vehicle and a license plate number of the black pick-up truck the subject drove away from the scene of the burglary. In the sworn statement, the victim advised hearing the vehicle alarm sounding and observed a man entering the victim's vehicle. The victim approached the man and asked him what he was doing. The man jumped out of the victim's vehicle and ran to a black Nissan pick-up and attempted to start the truck. She advised the male was having difficulty starting his truck. She advised the male that she had his license plate number and wanted her belongings returned. The male's truck finally started and he drove away in the truck without returning the victim's items.

Ormond Beach Police Department (OBPD) Officers reviewed video surveillance from the Pirana Grille during the time of the burglary with the restaurant's manager. At 2208 hours, the video shows the rear tailgate of the victim's vehicle open in the parking lot. At 2221 hours, your vehicle (black pick-up truck) enters the parking lot. At 2222, you approached the victim's vehicle but you do not remove anything. At 2223 hours, the video shows you entering the outside bar at the Pirana Grille restaurant. At 2237, you enter the interior bar. At 2239, you exit the building and at 2241 hours, you return to the victim's vehicle. The video shows you removing an umbrella from the rear hatch, and placing it in your truck. At 2242

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hours, the video shows you entering the vehicle through the rear hatch. At 2243 hours, the alarm activates on the vehicle and you are seen retreating back to your truck. At 2245 hours, the video shows you returning to the victim's vehicle and you continue to rummage through the interior of her vehicle. At 2248, the victim confronts you at her vehicle and again at your vehicle. The video shows you leaving the area in your truck. The charging affidavit states "Kaleb Starr, the owner of Pirana Grille was present during the overview of surveillance footage. While reviewing the footage, Starr spontaneously uttered "That's Anthony," positively identifying you as a regular bar patron."

The license plate number the victim provided the officers came back to a black Nissan pickup truck belonging to you. Upon OBPD's request, Volusia County Sheriff's deputies located your vehicle parked at your residence in Holly Hill, FL. Officers and deputies on scene with the vehicle indicate the hood of your vehicle was still warm to the touch indicating the vehicle had been recently used. The officers contacted your girlfriend at your residence in Holly Hill, FL who advised you had been driving your vehicle earlier that evening. OBPD Ofc. Kavanaugh then contacted you by phone. You advised the officer that you had been at the Pirana Grille earlier to drink a beer. You provided your current location so you could discuss the incident with Ofc. Kavanaugh in person. Upon contact with you at the San Marco Apartments in Ormond Beach, you were secured in handcuffs and placed under arrest. You agreed to speak with the officers after you were advised of your Miranda Rights. You denied any knowledge of the incident when asked to locate the missing items from the victim's vehicle.

You were transported to the Ormond Beach Police Department and interviewed by OBPD Detective Benita Hamilton. Det. Hamilton read you your Miranda Rights and you agreed to speak with her. You confirmed you had been at Piranas Grille and recalled seeing a vehicle with the rear hatch open in the parking lot. You initially denied entering the vehicle but when confronted with the video surveillance from the incident, **you admitted that you entered the vehicle and removed the umbrella and currency from the victim's apron, which was inside the victim's car.** You reluctantly told Det. Hamilton the currency was located on a table in your garage at your residence in Holly Hill, FL, and stated you had tossed the umbrella over the fence into a neighbor's yard.

OBPD Officers returned to your residence in Holly Hill, FL and retrieved the umbrella. Your girlfriend retrieved the \$142 from the location in the garage as described by you.

Based upon the video surveillance retrieved from Piranas Grille and by your own admission, you committed the third degree felony offense burglary of a conveyance [FSS 810.02(4)(B)] and the first degree misdemeanor offense of petit theft [FSS 812.014(2)(E)].

Your actions on July 5, 2018, violated the following County of Volusia Merit Rules and Regulations and the Beach Safety Division Policies and Procedures:

**Volusia County Merit System Rules and Regulations—Division 13 Disciplinary Actions Sec. 86-453
Reasons for disciplinary action (8), (13), and (21):**

Sec 86-453:

- (8) *Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*
- (13) *Any conduct, on or off duty that reflects unfavorably on the county as an employer;*

(21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Volusia County Beach Safety Departmental Standards Directive, Standards of Conduct, Sec. 11.01.121 and 11.01.122:

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11.01.121 Misdemeanor Injurious to the Division. Division personnel shall adhere to all federal, state and local laws and shall not commit any act or crime defined as a misdemeanor, first or second degree, whether chargeable or not, which brings discredit upon the Division or otherwise impairs the operation and efficiency of the Beach Safety Division and/or which is likely to impair the ability of personnel concerned to perform assigned duties. (Violation subject to dismissal.)


11.01.122 Commission of Felony – Division personnel shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not. (Violation subject to dismissal.)

Conclusion: Accordingly, and based on close review of the video evidence obtained during the internal investigation and by your own admission, I am removing you from employment from Volusia County during your probationary period in accordance with Sec. 86-337 of the Volusia County Merit System Rules and Regulations. Your current actions on the July 5, 2018, undermine the credibility that the Division of Beach Safety has worked so very hard to maintain. Conduct of this nature is contrary to the standards of professionalism expected from Beach Safety personnel and Volusia County Government employees.

Pursuant to Sec. 86-339(1) of the Volusia County Merit System Rules and Regulations, this decision to revoke your original entrance probationary period is not appealable and is a final action.

Pursuant to section 86-455, Volusia County Code, the Volusia County Legal Department and the Human Resources Director have reviewed this notice and concur with the proposed action.

I certify that I have read this notification and acknowledge receipt of the original copy.



Employee Signature (Or Witness, if Employee Refuses to Sign)

8/1/18

(Date of Signature)

TS/tab

cc: ___ Pat Bythwood, Public Protection Deputy Director
___ Mark Swanson, Public Protection Deputy Director
___ Raymond Manchester, Beach Safety Division Director
___ Michael Moore, Assistant County Attorney
___ Tom Motes, Human Resources Director
___ Joseph Pozzo, Human Resources Assistant. Director
___ Tammy King, EEO Coordinator