



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: March 8, 2018

SUBJECT: IA 2017-09, Firefighter Jack Richards, Volusia County Fire Rescue

References:

1. Miscellaneous memos.
2. Seminole County Sheriff's Office case number 201700008172 (Dated October 18, 2017).
3. Seminole County Sheriff's Office video(s) relating to case number 201700008172.
4. Court records.
5. DHSMV Records.
6. Firefighter Jack Richards subject interview (Dated March 1, 2018).

A handwritten signature or set of initials in blue ink, located in the bottom right corner of the page.

Complaint:

On Wednesday October 18, 2017 at approximately 2101 hours, Firefighter Jack Richards was arrested by the Seminole County Sheriff's Office and charged with Driving under the influence (FSS 316.193). He was transported to the John E. Polk Correctional Facility with a \$500 bond.

Background:

On October 19, 2017, at approximately 1453 hours, FF Richards contacted Deputy Fire Chief Noble Taylor and advised him of his arrest. At the time of this conversation, FF Richards did not know the status of his driver's license and was granted personal leave for his next two shifts on October 20th and 23rd, 2017. At 2209 hours, FF Richards sent Chief Smith an email notifying him of his arrest in accordance with VCFR guidelines. A summary of DFC Taylor's conversation and email notification were added to the case file under Item 1.

On Monday October 23, 2017 I received FF Richards arrest report from SCSO. The report indicates that FF Richards drove his personal truck in the wrong direction on the Interstate 4 East exit ramp to CR46A. The report states the Deputies activated their emergency lights and sirens while FF Richards travelled against the flow of traffic. It was also stated in the report that "Several vehicles had to swerve out of the way of the Silverado." Once FF Richards reached the interstate, he pulled into traffic going the correct direction on eastbound I4. He eventually stopped for the deputies at the CR46A overpass. The report states the following:

At this time I approached the vehicle and made contact with the driver Jack Richards. I notified Jack the reason for the stop and asked why he was driving the wrong way down the ramp. He stated "I don't know, I'm just trying to go home." While speaking with Jack I detected the smell of alcoholic beverages emanating from his person. Jack seemed disoriented with bloodshot and glazed eyes, he could not locate his vehicle registration to provide to me when it was located directly in front of him, as well as having slurred, slow speech while answering questions.

FF Richards refused to perform field sobriety exercises and was arrested for DUI. Once at the correctional facility, the report indicates that FF Richards "hit himself in the head and repeatedly requested that we notify his wife. Jack could not provide an accurate number to reach his wife." While at the facility, FF Richards again refused field sobriety exercises and refused to submit to a breath test.

FF Richards' driver's license was originally suspended for refusing a breath test. When his license was checked on October 24, 2017, his license was valid for "business purposes" until October 17, 2018.

The report and driver's license information was provided to Fire Chief Smith who subsequently requested and internal investigation on October 25, 2017.

On October 30, 2017 I received the in car and processing room video related to this case from SCSO. The video confirms the observations made by the deputy in his report. In addition, the front facing in car camera shows one of the deputies telling FF Richards to hold on to the truck so he doesn't fall down. FF Richards denies that he was driving the wrong direction on the ramp when questioned by deputies. The camera located in the rear of the patrol car shows FF Richards unable to remember his wife's phone number. The deputy asks if she can retrieve the number for his wife from his phone. FF Richards agrees but is unable to tell the deputy his phone's password. When given his phone to retrieve his wife's number, FF Richards is unable to gain access to his personal phone.



On February 14, 2018, I was directed to conclude this administrative case. FF Richards was served notice of this internal affairs case on February 22, 2018.

Firefighter Jack Richards:

I conducted a sworn interview with FF Richards on March 1, 2018 at VCFR Administration. Also present for this interview was Inv. Jennifer Raulerson and FF Richards' Union representative Lt. John Bryant.

FF Richards lives in Deland and advised that he went to Liam Fitzpatrick's restaurant/bar in Lake Mary at approximately 1700 hours on Wednesday, October 18, 2017. He advised that he was there by himself and did not meet any friends or co-workers at the bar. He told us he did not eat at the establishment but estimated he consumed two beers per hour until he left at approximately 2045 hours. He added he had a couple beers at the Oyster Bar in Orange City earlier in the day. After leaving Liam Fitzpatrick's, he stopped by McDonald's to get something to eat and then started to head home via I4 East. He made a wrong turn at the stop light at CR46A and I4. FF Richards told us he turned down the I4 East off ramp and explained he was unfamiliar with the area. While travelling the wrong direction down the ramp he did not initially notice the SCSO Deputy behind him with lights and siren activated. He advised this was due to very dark tint in his vehicle. Once he realized the deputy was behind him, he drove onto I4 East, going the proper direction, and pulled over in what he thought was a safe location prior to reaching the CR46A overpass. He initially told me he realized he was travelling the wrong direction while still on the ramp but after watching the in car video, FF Richards retracted this statement.

FF Richards told me he had three different registrations in his car due to tag transfers. This was why he was unable to provide the registration to the deputy. FF Richards admitted he had been drinking but does not know how intoxicated he was. He told me alcohol was a contributing factor to his poor driving.

FF Richards told me he didn't recall much of the details of the incident because he had been drinking. He admitted he wasn't able to recall his wife's phone number that evening. After watching the video, FF Richards admitted he doesn't know how much or what he had to drink that night. He told me that the video "looks worse than he recalls it being." He told us "I drank some alcoholic beverages and got behind the wheel of a vehicle."

FF Richards refused all sobriety tests because "I didn't see the need to do it because I was already arrested." He added he was scared and under a lot of stress and pressure when he made the decision to refuse the sobriety tests. FF Richards assumed he was told that his license would be suspended but didn't specifically recall the deputies reading his implied consent warning. The next morning, FF Richards was bonded out of jail by his mother. FF Richards was able to have his driver's license reinstated with restrictions through the DHSMV administrative process after consulting with his attorney. This process required him to attend DUI classes and receive alcohol treatment. Since then he has been proceeding through the criminal court process with his attorney.

FF Richards expressed remorse for this incident throughout the interview. During a concluding statement, FF Richards apologized to his coworkers, Fire Administration, and Public Protection as a whole. He told us the reason this happened was because he made bad decisions. When asked by his representative if he has made any changes to his lifestyle since this incident, FF Richards replied his goal is to not drink anymore and is working with his church leadership to attain this goal. The only classes or treatment he has attended have been required by DHSMV or the court.



Conclusion:

Based upon the video evidence obtained during this investigation and FF Richards' admissions, he was driving under the influence of alcohol when he was stopped by the Seminole County Sheriff's Office on October 17, 2017.

Findings:

This case was presented to Director Sanders, Deputy Director Bythwood, Deputy Director Swanson, and Chief Smith. 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.*

- (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules.*
- (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.*

VCFS Standard Operating Guidelines

100.001 All members of the Department shall adhere to the rules and regulations of the Department and of all laws and ordinances of Volusia County. Failure to do so shall make members subject to disciplinary action.

100.041 Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.

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."

 3/8/18
Date

 03/22/18
Date
Approved
Director Terry Sanders



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: Jack Richards, Firefighter
Division of Fire Services

DATE: March 27, 2018

FROM: Terry Sanders, Director
Department of Public Protection

FILE NO: DPP18-047

SUBJECT: Notice of Dismissal

REFERENCE: DPP18-039 Notice of
Intent to Dismiss

Purpose: The purpose of this memorandum is to provide notice of your dismissal. The effective date of this action is March 27, 2018. This action is the result of your violations of Volusia County Merit System Rules and Regulations and Fire Rescue Guidelines.

Your received my notice of intent to dismiss memorandum on Tuesday, March 20, 2018. On March 20, 2018, at 3:43 p.m., you sent me an email requesting to meet with me in regards to the notice of intent to dismiss. On Friday, March 23, 2018 at 8:30 pm, you and I met in the Public Protection Administration conference room. Also in this meeting were Deputy Director Mark Swanson, Human Resources Assistant Director Joe Pozzo, Division Director Jeff Smith and your union representative Justin Hughes.

In the meeting you requested consideration of a lesser action and to keep your position with Volusia County Fire Rescue. You did not however, provide any substantive information that would alter my decision. Therefore, I am continuing the intended action of your dismissal.

Background: On October 18, 2017, you were arrested in Seminole County, Florida and charged with driving under the influence-alcohol or drugs. The information in the report as written by the arresting Deputy clearly provides a descriptive account of the level of inebriation and lack of physical control you had at the time you were attempting to operate your vehicle. At the time of arrest you were using an exit ramp to gain access onto I-4. Had it not been for the Seminole County Deputy following directly behind you, and utilizing the patrol car emergency lights you could have caused a serious crash.

On October 19, 2017, at approximately 1453 hours, you contacted Deputy Fire Chief (DFC) Noble Taylor and advised him of your arrest. At the time of your conversation with DFC Taylor, you did not know the status of your driver's license, a job requirement for your position as a Volusia County Firefighter. You were placed on personal leave for your next two shifts, October 20, 2017 and October 23, 2017, to address that matter. This unscheduled time off created an adverse impact on the Fire Services Division, as the vacancy you created due to this unscheduled leave, required staffing your position with an overtime person.

You were able to obtain a for "business purposes" license valid until October 17, 2018.

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In accordance with VCFR guidelines, you notified Fire Chief Jeff Smith in writing on October 19, 2017 of your arrest. As a result of your infraction, Chief Smith requested an Internal Investigation be conducted under the authority of Public Protection Director Terry Sanders.

Informations: On March 1, 2018, Captain David Vanis conducted a sworn interview with you. Also present in the interview was Investigator Jennifer Raulerson and your Union representative, Lt. John Bryant. In the interview, you provided an overview of your actions that evening. You advised that you went to Liam Fitzpatrick's restaurant/bar in Lake Mary at approximately 1700 hours on Wednesday, October 18, 2017. You stated you did not eat at this establishment and estimated that you consumed two beers per hour until you left at approximately 2045. You also added you had a couple beers at the Oyster Bar in Orange City earlier that day.

On your way home from Liam Fitzpatrick's, you stopped by McDonalds to get something to eat and then started to head home via I-4 East. You stated you made a wrong turn at the stop light of CR-46A and I-4 and turned down the I-4 East off ramp and explained you were unfamiliar with the area. You initially stated in your interview that you realized you were traveling in the wrong direction while on the ramp but after watching the in car video provided by the Seminole County Sheriff's office, you retracted your statement.

Further in the interview you stated that you didn't recall much of the details of the incident because you had been drinking. After watching the video, you admitted you did not know how much or what you had to drink that night. You refused all sobriety tests because "*I didn't see the need to do it because I was already arrested.*" You added you were scared and under a lot of pressure when you made that decision.

Your actions on October 18, 2017, violated the following County of Volusia Merit Rules and Regulations and Division of Fire Rescue Services Operating Guidelines:

Volusia County Merit System Rules and Regulations Section 86-43 Conduct of employees; Sec 86-453 Reasons for Disciplinary Action (2), (8), (13), and (21);

Sec. 86-43:

- (a): *Code of conduct. Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.*

Sec 86-453:

- (2) *Disregard of county ordinances, departmental policies and regulations, including safety rules;*
- (8) *Criminal, conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*

(Continued)

(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 Division of Fire Services-Standard Operating Guidelines-I-102.001 under General Rules 100.001:

100.001 All members of the Department shall adhere to the rules and regulations of the Department and of all laws and ordinances of Volusia County. Failure to do so shall make members subject to disciplinary actions.

100.041 Members shall not conduct themselves in an immoral, indecent, lewd or disorderly manner. They shall not be guilty of misconduct, conduct unbecoming an officer, or acts that tend to discredit the Department, even though such conduct is not specifically set forth in these rules.

Conclusion: Accordingly, and based on close review of the video evidence obtained during the internal investigation and your admission that you were driving under the influence of alcohol when stopped by the Seminole County Sheriff's Deputy on October 18, 2017, and as you have not brought forth any substantive information to alter my decision, I am issuing you this letter of dismissal effective the date of this memorandum, March 27, 2018. Your actions on the evening of October 18, 2017, revealed you have a lack of self-control and freely chose to place innocent people in harm's way, actions that could have easily resulted in loss of life including your own had the Seminole Deputy not been following directly behind you. Conduct of this nature is contrary to the standards of professionalism expected from Fire Services personnel. This action unfavorably reflects on the Division of Fire Rescue and Volusia County Government.

Action: In accordance with the Agreement between the County of Volusia and the International Association of Firefighters (IAFF) Local No. 3574, Firefighters, you may choose to grieve this action through the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, or the grievance and appeal procedure as set forth in the Volusia County Merit System Rules and Regulations.

If you choose the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, you will have ten (10) calendar days from receipt of this notification to grieve this action.

Should you decide to exercise your right to appeal through the Volusia County Merit System Rules and Regulations, you must submit your written request to the County Human Resources Office, 230 N. Woodland Blvd., Suite 262, DeLand, FL 32720 within ten (10) working days of receipt of this notice. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

In either case, if you do not file your written grievance or appeal by the time indicated, it will be assumed that you have waived this right.

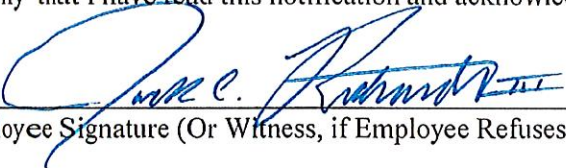
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Within seven (7) calendar days of receipt of this memorandum, you are to return all County of Volusia property that was previously issued to you by Volusia County Fire Rescue. Attached is a current inventory list that was provided to me from Tammy Scott, Fire Rescue Logistics.

Dismissals that are appealed through the Volusia County Merit System Rules and Regulations or grieved through the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF are considered non-final administrative action. If you file a notice of appeal through the Volusia County Merit System Rules and Regulations, you will be placed in a leave of absence without pay, pending the final decision of the County Manager at the conclusion of the appeal process. If you file a grievance through the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, you will be placed in a leave of absence without pay, pending the outcome of that process.

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)

3/27/18
(Date of Signature)

TS/tab

- cc: ___ Pat Bythwood, Public Protection Deputy Director
___ Mark Swanson, Public Protection Deputy Director
___ Jeff Smith, Fire Chief/Division Director
___ Michael Moore, Assistant County Attorney
___ Tom Motes, Human Resources Director
___ Joseph Pozzo, Human Resources Assistant. Director
___ Tammy King, EEO Coordinator