



**Volusia County  
FLORIDA**

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**Department of Public Protection**

TO: George Recktenwald, Director  
Department of Public Protection

FROM: David Vanis, Captain  
Department of Public Protection  
Internal Affairs

DATE: July 25, 2014

SUBJECT: Internal Affairs case IA2014-322  
Lieutenant Thomas McDonough  
Fire Services

**References:**

1. Notices of Internal Investigation / Interview
2. South Daytona Police Department reports (Dated March 31, 2014).
3. Video obtained from SDPD of field sobriety exercises (Dated March 31, 2014).
4. Lt. McDonough's driver's license histories (Dates 4/2/2014, 4/10/2014, 7/9/2014).
5. CJIS records reference to Case 2014 304586MMDB.
6. Lt. Thomas McDonough interview transcript (Dated July 10, 2014).
7. Letter from David A. Shekter, Esquire to Lt. McDonough explaining the terms of his plea agreement (Dated July 7, 2014).

**Complaint:**

Based upon records obtained through the Division of Corrections, Fire Services Director Smith requested an internal investigation into the events surrounding the arrest of Lt. Thomas McDonough on March 31, 2014. Records indicated that Lt. McDonough was arrested for Driving under the influence by South Daytona Police at 2137 hours on March 31, 2014.

**Information:**

On March 31, 2014 at approximately 2120 hours, Lt. McDonough was the subject of a traffic stop at the intersection of Manor Dr and Beville road in Daytona Beach. Sgt. Chaves, SDPD, initiated the traffic stop after he had observed Lt. McDonough speeding on South Ridgewood Avenue and Beville Road. Sgt. Chaves reports that he detected a strong odor of alcohol and observed bloodshot, watery eyes while in contact with Lt. McDonough. The report also indicates that Lt. McDonough's speech was slurred and that he admitted to Sgt. Chaves that "I had a few." After making these observations, Sgt. Chaves requested that Ofc. Didonato conduct a DUI investigation.

Upon Ofc. Didonato's arrival to the traffic stop, he reported the same observations as Sgt. Chaves in regards to Lt. McDonough's signs of impairment. Lt. McDonough performed a series of field sobriety exercises which are typical for a DUI investigation. The report indicates that during the exercises, Lt. McDonough had difficulty following directions and maintaining balance. Details and video of the

exercises can be found in SDPD's reports (Tabs 2 and 3). Subsequently, Lt. McDonough was arrested by Ofc. Didonato. After being read the implied consent warning, Lt. McDonough refused to submit to a breath test which resulted in a twelve month suspension of his driver's license. Lt. McDonough was charged with DUI and issued a traffic citation for Failure to Obey a Traffic Control Device (Speeding). Lt. McDonough was booked into the Branch Jail and posted a \$500 bond on April 1, 2014.

Director Smith requested that Director Recktenwald open an investigation into this incident on April 1, 2014. On the same date, I was directed to conduct the internal investigation by Director Recktenwald (Tab 1).

On April 4, 2104 I met with Lt. McDonough and provided him with Notice of Internal Investigation (Tab 1). I notified Lt. McDonough that the administrative investigation would be tolled until the completion of the criminal proceedings.

On June 19, 2014, Lt. McDonough entered into a plea agreement with the State. Lt. McDonough pled no contest to a charge of reckless driving. The terms of the agreement resulted in fines, several classes, fifty hours of community service, and a six month probation term.

**Lieutenant Thomas McDonough:**

I conducted a sworn interview with Lt. McDonough at the Fire Services Conference Room on July 10, 2014 at 0900 hours. Lt. McDonough was accompanied by his Union Representative, John Bryant. Prior to the interview, Lt. McDonough and his representative were given an opportunity to review the documentation and video associated with this case.

During the interview, Lt. McDonough explained that he had consumed several drinks prior to his arrest at Maria Bonita's Restaurant in South Daytona. He mistakenly told the SDPD Officers that he was at Roadside Tavern. He admitted to driving faster than the posted speed limit on both South Ridgewood and Beville Roads. Lt. McDonough refused to take a breath test because he knew alcohol was on his breath. He did this knowing that his driver's license would be suspended for twelve months. Lt. McDonough further admitted that he was impaired at the time of this stop.

Lt. McDonough notified his chain of command on the incident shortly after bonding out of jail.

Lt. McDonough advised that he believes he will be issues a temporary driving permit, for business purposes only, on August 18, 2014 through communications with DHSMV. He advised that he plead "no contest" to the charge of Reckless Driving as a condition of his plea agreement. He has already paid the required fines and taken all of the required classes. At the time of this interview, still needs to complete fifty hours of community service as part of the agreement.

I asked Lt. McDonough if he believed that he violated the policies and merit rules alleged in this case. The following are his responses:

**Yes. Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (8):** Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.

**Yes. Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (13):** Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

**Yes.** *Volusia County Division of Fire Services Standard Operating Guidelines 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.*

**Yes.** *Volusia County Division of Fire Services Standard Operating Guidelines 102.02 Fire Station Privacy, Decorum, and Conduct H. Conduct: It is the responsibility and obligation of each employee/member to follow all local, state, and federal laws and to comply with all County rules, regulations, directives, policies, etc. In addition, each employee/member shall respect the privacy of every other employee/member and conduct themselves in a proper and professional manner.*

At the end of the interview, I asked Lt. McDonough if he had anything that he would like to add to the record. He apologized for his actions and expressed that he hopes that others will learn from his mistake.

**Findings:**

The following allegations against Lt. Thomas McDonough are **sustained**:

*Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (8): Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*

*Volusia County Merit Rules and Regulations. Sec. 86-453. Reasons for disciplinary action (13): Any conduct, on or off duty, that reflects unfavorably on the county as an employer.*


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**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."

 7/23/14  
\_\_\_\_\_  
Captain David Vanis                      Date





County of Volusia

SEP 22 REC'D

Dept. of Public Protection

**INTER-OFFICE MEMORANDUM**

Department of Public Protection  
125 W. New York Ave., Suite 183  
DeLand, FL 32720  
386-740-5120 – FAX 386-740-5283

**TO:** Thomas McDonough, Lieutenant/PM  
Division of Fire Services

**DATE:** September 22, 2014

**FROM:** George Recktenwald, Director  
Department of Public Protection

**FILE NO:** DPP14-098

**SUBJECT:** Notice of Suspension Without Pay

**REFERENCE:** DPP14-091 NOIS

**Purpose:** The purpose of this memorandum is to provide you with notice of suspension without pay for two (2) shifts; forty-eight (48) hours. The dates of your suspension without pay are Friday, October 10, 2014 and Monday, October 13, 2014. You will return to work at 0700 hours on Thursday, October 16, 2014.

Your received my notice of intent to suspend you without pay on September 3, 2014. On September 4, 2014, you sent my administrative assistant, Terry Boczkus, an email requesting to meet. Later that same day, you sent me an email stating the language in my memo, which you did not agree with, was clarified in your meeting with Chief Smith and you no longer needed to meet with me.

Therefore, as you have no further information to provide to me regarding this matter, I am proceeding with the intended action. The suspension days are to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in these pay periods to make up the time.

**Background:** On Monday, March 31, 2014, you were arrested by the South Daytona Police Department under the allegation of driving under the influence (DUI). On June 19, 2014, you entered a plea of "No Contest" and were adjudicating "Guilty" for reckless driving and were placed on six (6) months of probation under the supervision of the Volusia County probation vendor, along with restitution of court cost.

**Information:** On Monday, March 31, 2014, you were arrested by the South Daytona Police Department under the allegation of driving under the influence (DUI). On April 1, 2014, you were scheduled to work and you had someone call in for you to advise the lieutenant on duty that you would not be reporting to your assigned duty station. It was not known at that time that you had been arrested. On April 2, 2014, you contacted Chief Smith by email to advise him of your arrest on March 31, 2014, and of your release on April 1, 2014. Chief Smith contacted you by phone on April 2, 2014, to follow up with you in regard to your work status. He advised you that you would remain at your normal duty station 35, C shift with restrictions to not operate or drive any Volusia County

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Fire Services' apparatus until further notice. This was done based on the confirmation that you had received a ten (10) day Temporary Driving Permit and that your arraignment was scheduled for May 7, 2014. It was confirmed on May 21, 2014, that your driving permit had expired at midnight on May 20, 2014 and that you were not issued an extension.

On Friday, May 23, 2014, you received my notice on intent to dismiss via involuntary resignation and notice of administrative leave. These memorandums were issued to you as you had violated Volusia County Division of Fire Services Standard Operating Guideline II-108.003 (IV) A.1) Driving Regulations and the County of Volusia job description for a lieutenant state in regards to the possession of a State of Florida driver's license.

That same day you contacted my office requesting to meet in regards to receipt of the Notice of Intent to Dismiss Via Involuntary Resignation memorandum. On Tuesday, May 27, 2014, you and I met along with Fire Chief Jeff Smith and Deputy Director Terry Sanders in the Department of Public Protection conference room. During this discussion, you presented your argument for the Notice Of Intent to Dismiss Via Involuntary Resignation to be withdrawn.

In accordance with the Volusia County Merit System Rule Section 86-423, (3):

*(3) Loss of license or other job requirements. Any employee who is unable to perform his job because of loss of a necessary license or inability to comply with some job requirement, and who cannot be placed in another position or given a leave of absence, shall be separated by involuntary resignation.*

At that time, Volusia County Fire Services had a vacancy in the position of Administrative Coordinator I (Q&A position) at Fire Services Administration. Although you were not directly filling those duties, you were providing ancillary duties in some of those capacities to assist Battalion Commander James Koczan.

That temporary assigned duty was solely based and only available to you due to the vacancy at Fire Administration. You were advised that if Volusia County Fire Services did not have this current need to assist FSI, you would have received the final letter for Notice of Dismissal via Involuntary Resignation.

It is noted that you are currently driving under the premise of a Temporary Driving Permit that was issued to you by the Florida Department of Highway Safety and Motor Vehicles. This Temporary Business Only Driving Permit expires on March 30, 2015. At that time, you will be required to provide proof to my office of the status of your driver's license/permit.

**Violations:**

Your actions on March 31, 2014, violated the following:

Volusia County Division of Fire Services – Standard Operating Guidelines- I-102.001 under General Rules 100.041;

(continued)



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

Volusia County Merit System Rules and Regulations – Division 13 Reasons for Disciplinary Actions  
Sec 86-453 Reasons for Disciplinary Action (8); and (13)

*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.*

**Conclusion:** Accordingly and based on your arrest on March 31, 2014, for DUI and for reckless driving, I am issuing you this letter of suspension without pay for two (2) shifts; forty-eight (48) hours. The dates of your suspension without pay are Friday, October 10, 2014 and Monday, October 13, 2014. You will return to work at 0700 hours on Thursday, October 16, 2014. The suspension days are to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in these pay periods to make up the time.

Continuation of this behavior is detrimental to the standards of professionalism expected from Fire Services personnel. Your conduct is unacceptable, sets an extremely poor example, and unfavorably reflects on the Division of Fire Services and Volusia County Government. You are advised that any continuation of this type of behavior will result in dismissal.

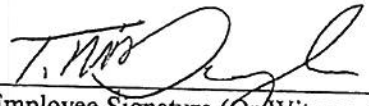
**Action:** In accordance with section 86-485 (a)(3) of the Merit System Rules and Regulations you have ten (10) working days from receipt of this notification (or effective date of the suspension) to appeal this action through the County Personnel Board. Should you decide to exercise your right to appeal, submit your written request to the County Personnel Office, 230 N. Woodland Blvd., Suite 262, DeLand, FL. 32720.

***Pursuant to Merit Rule 86-455, the Legal Department and the Human Resources Director have reviewed this notice and concur with the proposed action.***

GR/tab

cc:      Terry Sanders, Deputy Director, Public Protection           Tom Motes, Human Resources Director  
          Jeff Smith, Director/Fire Chief, Fire Services                   Tammy King, EEO Coordinator  
          County Attorney's Office

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

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

9-22-14  
\_\_\_\_\_  
(Date of Signature)