

[Faint signature]



Ben F. Johnson
VOLUSIA COUNTY SHERIFF'S OFFICE
123 W. Indiana Avenue
P.O. Box 569
DeLand, FL 32721-0569

July 24, 2014

Sergeant Kenneth Vickery #2493
Volusia County Sheriff's Office
Law Enforcement Services Division
District IV-Patrol

**Intent to Terminate
Suspension With Pay
(Amended)**

Sergeant Kenneth Vickery:

Volusia County Sheriff's Office Directive 26.2.34 requires that all "Employees shall adhere to all official Directives and/or orders, and shall faithfully execute all the duties and responsibilities of their assigned position." Internal Affairs investigation IA-14-012 has tentatively concluded. As a result of your actions documented in this investigation, I have tentatively determined you violated the following Sheriff's Office Standards Directive:

Volusia County Merit System Rules and Regulations 86-453 (13). Any conduct, on or off duty that reflects unfavorably on the County as an employer. *This violation 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.*

To Wit:

On April 23, 2014, after completing your scheduled twelve (12) hour shift that ended at 0300 hours, you met a female friend at the boat ramp on Dunlawton Ave in Port Orange, FL. You met her at approximately 0600 hours. You were on the boat all day when the female received a phone call about her father's passing. You loaded your boat on the trailer and drove your truck, with boat in tow, toward your residence. The female was upset with the phone calls and text messages she was receiving and threw her cell phone out the passenger window of your truck. You pulled over to the side of the road in order to search for the discarded cell phone. While on the side of the road, you came in contact with a sergeant and patrol officer for the Port Orange Police Department. During your

KEV 7/24/2014

conversation with the sergeant, it was clear to him that you had consumed alcoholic beverages and were too intoxicated to drive your truck any further.

The sergeant told investigators that he could smell the odor of an alcoholic beverage being emitted from your breath and person. He also observed that you had slightly slurred speech and your eyes were red, glassy and watery. The sergeant stated you were too intoxicated to operate your vehicle. This sergeant has made approximately one hundred (100) DUI arrests in his career and can recognize the signs of impairment. The sergeant instructed you to find someone to come and drive your truck. You advised that there was nobody available to drive it. The sergeant, who did not see you behind the wheel upon initial contact, decided to drive your truck to your residence only a few blocks away with your consent. You and the female rode in the back seat of the patrol officer's police car to your residence. The patrol officer also detected the odor of an alcoholic beverage emitting from your breath once you were in the back of his vehicle. Upon arriving at your residence, you were instructed by the sergeant, once again, not to operate your vehicle.

This encounter with the Port Orange Police Department was captured on the sergeant's audio digital recorder and provided to Internal Affairs Investigators as part of their investigation. On the audio recording, the sergeant can clearly be heard telling you not to operate your vehicle because you had too much to drink. When the sergeant asked you how much you had to drink you responded, *"Who me?"* and then said *"No, I'm good."* The sergeant replied, *"You're not good. Alright, luckily for you I didn't see you driving, so you're ok, but you need to call somebody else to come drive you, OK?"* You could also be heard on the audio recording agreeing to the sergeant's suggestion to come back tomorrow during the day when you were sober.

You disobeyed the order from the sergeant not to operate your vehicle and drove the female to her residence in Debary, FL. Members of the Volusia County Sheriff's Office were at the female's residence investigating the death of her father. While on scene, you were holding a can of Busch Light beer while speaking with deputies and investigators. One of the investigators described you as being unsteady on your feet, slurred speech and he could smell the odor of an alcoholic beverage on your breath.

On July 13, 2014, you provided a sworn recorded statement to Internal Affairs Investigators regarding your actions and behavior on April 23, 2014. You told investigators you were on Disappearing Island in Ponce Inlet, FL for approximately 11 hours before the female received the phone call about her father's passing. You said during the 11 hours you were on the boat, you had only consumed two or three 12 ounce Redd's Apple Ale alcoholic beverages. You said you had no other alcoholic beverages while on the boat. You told investigators that when you had contact with the Port Orange Police officers you were exhausted from not sleeping for approximately 30 hours. You denied being intoxicated and said you did not want to argue with the officers because of a similar incident involving alcohol in 2008; when you were stopped by the Ponce Inlet Police under the suspicion of driving under the influence.

I had the opportunity to listen to the audio recording of your encounter with the Port Orange Police officers. It is clear to me that you were intoxicated when speaking with the officers. Your statement to Internal Affairs Investigators greatly concerns me as it appears you had consumed more than two or three alcoholic beverages prior to dealing with the Port Orange police officers. By your own admission, you drove your truck to Debary shortly after being told not to by the Port Orange sergeant. Upon arriving in Debary, you were witnessed exiting your truck by Sheriff's Office personnel at the female's residence.

Sergeant Vickery, this is the third documented incident involving alcohol while off duty. During the first incident, documented in Internal Affairs investigation IA-08-16, you were stopped by Ponce Inlet Police and suspected of driving while impaired and ultimately got into a verbal altercation with the officer. As a result of that investigation, you received a suspension without pay for forty (40) hours. During the second incident documented in Internal Affairs investigation IA-13-009, you were off duty on your boat after working a twelve (12) hour shift. You were involved in a disturbance with a female after consuming alcoholic beverages. As a result of the disturbance, the Daytona Beach Police Department was notified; however, you left the scene prior to their arrival. As a result of that investigation, you received a suspension without pay for one hundred sixty (160) hours.

Your denial of violating department policy during your internal affairs interview causes me great consternation. As a supervisor you are held to a higher standard. Your actions and dishonesty during this investigation have brought embarrassment to yourself and this agency. You have clearly violated the trust that I have placed in you once again. These actions cannot and will not be tolerated.

You have previously been the subject of the following disciplinary action:

11/02/2008	Volusia County Merit Rules and Regulations	40 hour suspension
05/30/2013	Misuse of Sick Benefits	160 hour suspension
	Leaving Assigned Work Area	
	Failure to Report for Duty Due to Conduct	

Due to the egregiousness and serious nature of these violations, your lack of judgment and your continued failure to comply with the Department Standards/Directives; it leaves me with no choice but to **terminate your employment** as a Deputy Sheriff of Volusia County, Florida. Upon receipt of this letter, you are hereby **suspended immediately (with pay)** until this matter is resolved.

While on suspension with pay, you are hereby directed to be at your residence between 0800-1600 hours, Monday through Friday. You are to be available by phone. During the period of suspension you are instructed not to drive a department vehicle, nor act in any capacity as a Deputy Sheriff. You may leave your residence during these hours only for a doctor appointment or to meet with your attorney regarding

KRV 7/24/2014

this case. Additionally, prior to leaving your residence for an authorized reason, you will notify the Internal Affairs Supervisor. You will also notify the Internal Affairs Supervisor upon your return from the appointment.

If there are any concerns or questions troubling you that I am not aware of, please advise me so that I will have the opportunity to assist you in correcting this problem.

Pursuant to the Volusia County Merit System Rules, Section 86-455, the Volusia County Legal Department and Personnel Director have reviewed and concur with this intended action.

This notice of intent is an intervening action and is not a final decision. If you wish to refute my intention in this matter, you may do so by responding either orally and/or in writing within three (3) days of receipt of this notification with any information in law or fact showing that the intended decision is improper. This three-day period is part of the pre-disciplinary investigation. This investigation will be concluded and a final disciplinary decision will be rendered upon the expiration of the three-day period.

Any subsequent activity of a similar nature will result in more severe administrative action, up to and including dismissal. Take due care and govern yourself accordingly. Be especially aware of **Progressive Discipline 26.1.1**.

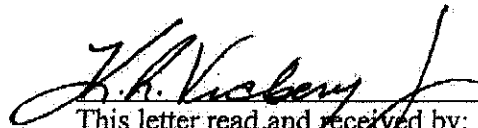
If you wish to refute my decision in this matter, you may do so by responding either orally and/or in writing within three calendar days of receipt of this notification with any information you wish me to consider before taking final action in this matter. If you elect to respond, it must be no later than **July 25, 2014, at 1600 hours**. If you fail to respond or your response is inadequate, I will proceed with the aforementioned discipline.

Sincerely,



BEN F. JOHNSON
SHERIFF

cc: County Personnel
County Legal
Internal Affairs



This letter read and received by:
Sergeant Kenneth Vickery #2493

Date: 7/24/2014

Time: 10:00 AM.

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