



License and Variance Board Meeting - Final

June 14, 2023
10:00 AM

-
- A. 2023-139** Show Cause Hearing – Alcohol Beverage Violation – Jim N Nicks Atlanta LLC
dba Jim N Nicks Bar-B-Q – 4574 S Cobb Drive SE – Michael La Vogne Clark, Agent



City of Smyrna

Issue Sheet

A Max Bacon City Hall
2800 King Street
Smyrna, GA 30080

File Number: 2023-139

Agenda Date: 06/14/2023

In Control: License and Variance Board

File Type: General ID

Agenda Section:
Formal Business

Agenda Number: A.

Department: Police Department

Agenda Title:

Show Cause Hearing – Alcohol Beverage Violation – Jim N Nicks Atlanta LLC dba Jim N Nicks Bar-B-Q
– 4574 S Cobb Drive SE – Michael La Vogne Clark, Agent

Ward 7 Councilmember – Kathy Young

ISSUE AND BACKGROUND:

The Smyrna Police Department Special Operations Unit conducted compliance checks throughout the City on March 3, 2023 and this business failed the compliance check by selling alcohol to a minor.

As per the Incident Report at approximately 1924 Show Cause Hearing – Alcohol Beverage Violation – Jim N Nicks Atlanta LLC dba Jim N Nicks Bar-B-Q – 4574 S Cobb Drive SE – Michael La Vogne Clark, Agent an underage agent acting on behalf of the Smyrna Police Department entered Jim N' Nicks BBQ (4574 South Cobb Drive SE, Smyrna) in an attempt to purchase alcohol.

The agent entered the restaurant, selected the product then proceeded to the bar area. Demitria Graham allowed the agent to purchase the product without requiring a show of identification. The agent purchased the product using cash in official City of Smyrna funds and was given \$15.00 in change and exited the store with the product. Officer Colburn and Major Defense entered the store and made contact with the employee and issued citation #ME0727134 for FURNISH/SELL ALCOHOL TO PERSON UNDER 21.

Body worn camera was activated during the investigation.

RECOMMENDATION / REQUESTED ACTION:

Show Cause Hearing – Alcohol Beverage Violation – Jim N Nicks Atlanta LLC dba Jim N Nicks Bar-B-Q
– 4574 S Cobb Drive SE – Michael La Vogne Clark, Agent

I N C I D E N T D A T A	Agency Name <i>Smyrna Police Department</i>							INCIDENT/INVESTIGATION REPORT								Case# <i>23-030064</i>																				
	ORI <i>GA 0330400</i>							JIM N NICKS												Date / Time Reported <i>03/03/2023 19:24 Fri</i>																
	Location of Incident <i>4574 S COBB DR SE, Smyrna GA 30082</i>							Gang Relat NO		Premise Type <i>Restaurant</i>				Beat/Tract D		Last Known Secure <i>03/03/2023 19:24 Fri</i>																				
															At Found <i>03/03/2023 19:24 Fri</i>																					
	#1	Crime Incident(s) <i>Furnis/sell Alcohol To Person Under 21 99004</i>						(Com)	Weapon / Tools							Activity																				
								M	Entry			Exit			Security																					
M O	#2	Crime Incident						()	Weapon / Tools							Activity																				
									Entry			Exit			Security																					
	#3	Crime Incident						()	Weapon / Tools							Activity																				
									Entry			Exit			Security																					
V I C T I M	# of Victims		<i>1</i>		Type:				SOCIETY/PUBLIC				Injury:				None				Domestic:				NO											
	V1	Victim/Business Name (Last, First, Middle)						Victim of Crime #		DOB		Race	Sex	Relationship To Offender	Resident Status		Military Branch/Status																			
		<i>State Of Georgia</i>						<i>I,</i>		Age																										
	Home Address						Email						Home Phone																							
	Employer Name/Address						Business Phone						Mobile Phone																							
	VYR	Make	Model	Style	Color	Lic/Lis	VIN																													
O T H E R I N V O L V E D	CODES: V- Victim (Denote V2, V3) WI = Witness IO = Involved Other RP = Reporting Person (if other than victim)																																			
	Type:																		Injury:																	
	Code	Name (Last, First, Middle)						Victim of Crime #		DOB		Race	Sex	Relationship To Offender	Resident Status		Military Branch/Status																			
										Age																										
	Home Address						Email						Home Phone																							
	Employer Name/Address						Business Phone						Mobile Phone																							
P R O P E R T Y	Type:	Injury:																																		
	Code	Name (Last, First, Middle)						Victim of Crime #		DOB		Race	Sex	Relationship To Offender	Resident Status		Military Branch/Status																			
										Age																										
	Home Address						Email						Home Phone																							
	Employer Name/Address						Business Phone						Mobile Phone																							
	1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown ("OJ" = Recovered for Other Jurisdiction)																																			
P R O P E R T Y	VI #	Code	Status FmnTo	Value	OJ	QTY	Property Description					Make/Model					Serial Number																			
	1	20	EVID	\$15.00		1	MONEY																													
	1	48	EVID	\$0.00		1	RECEIPT																													
Officer/ID# COLBURN, P. D. (60756)																																				
Invest ID# (0)										Supervisor DEFENSE, L. (24433)																										
Status	Complainant Signature				Case Status Released On Copy 03/03/2023				Case Disposition:				Page 1																							
R_CS1IBR Printed By: KCHASE, 7099 Sys#: 304410 03/06/2023 09:00																																				

CIDENT/INVESTIGATION REP

Smyrna Police Department

Case # 23-030064

Status Codes 1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown

D R U G S	IBR	Status	Quantity	Type Measure	Suspected Type	

Assisting Officers
DEFENSE, L. (24433)

Suspect Hate / Bias Motivated: NONE (NO BIAS)

NARRATIVE

REPORTING OFFICER NARRATIVE*Smyrna Police Department*

OCA

23-030064

Victim

Society

Offense

FURNIS/SELL ALCOHOL TO PERSON UNDER

Date / Time Reported

Fri 03/03/2023 19:24

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

On Friday March 3rd, 2023 at approximately 1924 at the business of Jim 'N Nicks (4574 South Cobb Dr SE) an alcohol compliance check was conducted.

A 20 year old undercover agent acting on behalf of the Smyrna Police Department entered the restaurant and attempted to purchase alcohol. The undercover agent was sold alcohol by Demetria Graham and exited the restaurant. At this time myself and Maj Defense entered the restaurant and made contact with Demetria Graham. I issued Demetria Graham Citation #E727134 for FURNIS/SELL ALCOHOL TO PERSON UNDER 21. A receipt was collected and placed into evidence at the Smyrna Police Department.

The change from the transaction was \$15, which was placed into evidence at the Smyrna Police Department for safekeeping.

During this investigation my department issued body worn camera was activated.

Incident Report Suspect List

Smyrna Police Department

OCA: 23-030064

1	Name (Last, First, Middle) <i>GRAHAM, DEMETRIA DENISE</i>					Also Known As					Home Address [REDACTED] <i>MABLETON, GA 30126</i>																																													
	Business Address <i>JIM N NICKS</i> <i>770-434-3040, BARTENDER, 4574 S COBB DR SE</i>										[REDACTED]																																													
	DOB [REDACTED] 1964	Age 58	Race B	Sex F	Eth N	Hgt 503	Wgt 164	Hair BLK	Eye BRO	Skin MBR	Driver's License / State [REDACTED] GA																																													
Scars, Marks, Tattoos, or other distinguishing features																																																								
<table border="1"> <tr> <td colspan="2"><i>Reported Suspect Detail</i></td> <td colspan="2">Suspect Age</td> <td>Race</td> <td>Sex</td> <td>Eth</td> <td colspan="2">Height</td> <td colspan="2">Weight</td> <td colspan="3">SSN</td> </tr> <tr> <td colspan="2">Weapon, Type</td> <td colspan="2">Feature</td> <td colspan="2">Make</td> <td colspan="2">Model</td> <td colspan="2">Color</td> <td>Caliber</td> <td colspan="3">Dir of Travel Mode of Travel</td> </tr> <tr> <td colspan="4">Veh Yr / Make / Model</td> <td>Drs</td> <td colspan="2">Style</td> <td colspan="2">Color</td> <td colspan="3">Lic Plate / State</td> <td colspan="2">VIN</td> </tr> </table>															<i>Reported Suspect Detail</i>		Suspect Age		Race	Sex	Eth	Height		Weight		SSN			Weapon, Type		Feature		Make		Model		Color		Caliber	Dir of Travel Mode of Travel			Veh Yr / Make / Model				Drs	Style		Color		Lic Plate / State			VIN	
<i>Reported Suspect Detail</i>		Suspect Age		Race	Sex	Eth	Height		Weight		SSN																																													
Weapon, Type		Feature		Make		Model		Color		Caliber	Dir of Travel Mode of Travel																																													
Veh Yr / Make / Model				Drs	Style		Color		Lic Plate / State			VIN																																												
Notes							Physical Char																																																	

Incident Report Related Property List

Smyrna Police Department

OCA: 23-030064

1	Property Description MONEY				Make		Model		Caliber		
Color Green		Serial No.		Value \$15.00		Qty 1.000		Unit XX		Jurisdiction Locally	
Status Evidence		Date 03/03/2023		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race Sex	

Notes

Submitted as Safekeepig.

2	Property Description RECEIPT				Make		Model		Caliber		
Color		Serial No.		Value \$0.00		Qty 1.000		Unit XX		Jurisdiction Locally	
Status Evidence		Date 03/03/2023		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race Sex	

Notes

**GEORGIA
UNIFORM TRAFFIC CITATION, SUMMONS, ACCUSATION**

GA0330400

E727134

Court Case Number

NCIC No

Citation Number

CITY OF SMYRNA POLICE DEPARTMENT

Upon Month **March** (Day) **3** (Year) **2023** at **07:30** ☐ AM ☒ PM

Operator License No. _____

License Class or Type **C** State **GA** Endorsements _____ Expires _____

Name **GRAHAM** **DEMETRIA** **DENISE**

Address _____ (First) (Middle)

City **MABLETON** State **GA** Zip Code **30126**

DOB **1964** Hair **BLK** Hgt **5'03** Wgt **164** Sex **F** Eyes **BRO**

Veh. Yr. _____ Make _____ Style _____ Color _____

Registration No. _____ Yr. _____ State _____

CDL ☐ YES ☒ NO ACCIDENT ☐ YES ☒ NO INJURIES ☐ YES ☒ NO FATALITIES ☐ YES ☒ NO

☐ 2-LANE ROAD ☐ DRIVER REQUESTED ACCURACY CHECK ☐ VASCAR ☐ LASER ☐ RADAR

Within the State of Georgia, did commit the following offense: ☒ SPEEDING - Clocks by ☐ PATROL VEHICLE ☐ OTHER

(Serial # _____ Calibration/Check _____) at _____ MPH in a _____ zone

☐ DUI (Test Administered) ☐ BLOOD ☐ BREATH ☐ URINE ☐ OTHER) DUI Test Results _____

TEST ADMINISTERED BY (If Applicable): _____

OFFENSE (Other than above) **FURNIS/SELL ALCOHOL TO PERSON UNDER 21**

In Violation of Code Section **T3-3-23A1** of ☒ State Law ☐ Local Ordinance

REMARKS **Said accused sold alcohol to an underage UC.**

WEATHER	(A) ROAD	(B)	TRAFFIC	LIGHTING	COMMERCIAL VEHICLE INFORMATION
<input type="checkbox"/> Clear	<input type="checkbox"/> Dry	<input type="checkbox"/> Concrete	<input type="checkbox"/> Light	<input type="checkbox"/> Daylight	<input type="checkbox"/> 16+ Passengers
<input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet	<input type="checkbox"/> Blacktop	<input type="checkbox"/> Medium	<input type="checkbox"/> Darkness	<input type="checkbox"/> Commercial Vehicle Violation
<input type="checkbox"/> Raining	<input type="checkbox"/> Ice	<input type="checkbox"/> Dirt	<input type="checkbox"/> Heavy	<input type="checkbox"/> Other	<input type="checkbox"/> Hazardous Material Violation
<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Other			

County of **COBB** and _____ miles _____ of (city) **SMYRNA**
on **4574 S COBB DR SE** at or near _____ mile post _____ or within (city) **SMYRNA**

at/on (secondary location) _____
OFFICER (Print) **COLBURN, P.** Badge # **1422** Div **UNIF**

You are hereby ordered to appear in Court to answer to this charge on the **23** day of **May**
2023 at **10:00** ☒ AM ☐ PM in the **Smyrna Municipal Court** Court
at **2800 King Street**

City **Smyrna, GA 30080** Phone **770-431-2804**

NOTICE: This citation shall constitute official notice to you that failure to appear in Court at the date and time stated on this citation to dispose of the cited charges against you may cause the designated Court to forward your driver's license number to the Department of Driver Services, and your driver's license may be suspended. (Georgia Code 17-6-11 and 40-5-56)
The suspension may remain in effect until such time as there is a satisfactory disposition in this matter or the Court notifies the Department of Driver Services.

LICENSE DISPLAYED IN LIEU OF BAIL ☒ YES ☐ NO RELEASED TO _____ COPY

SIGNATURE ACKNOWLEDGES SERVICE OF THIS SUMMONS AND RECEIPT OF COPY OF SAME

SIGNATURE _____

ARRESTING OFFICER'S CERTIFICATION

The undersigned has just and reasonable grounds to believe, and does believe, that the person named herein has committed the offense set forth, contrary to law.

SIGNATURE _____ Signature of Arresting Officer _____ Badge # **1422**

AUTHORIZED AND APPROVED PURSUANT TO:
CODE 40-13-1 - D.D.S. REG. 375-3-4-01

COURT COPY

DATE _____ COURT ACTION AND OTHER ORDERS

The within complaint has been examined and there is probable cause for filing the same. Leave is hereby granted to file the complaint.

Complaint filed _____

Bail fixed at \$ _____ or cash deposit of \$ _____

Signature of person taking bail

Signature of person giving bail

Fine in the amount of \$ _____ received as required by court schedule

Signature of Clerk

Continuance to _____ Reason _____

Continuance to _____ Reason _____

Warrant issued _____ Warrant Served _____

Waives Trial by Jury _____

ON ARRAIGNMENT, THE DEFENDANT PLEADS _____

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, _____ have been advised that I am being charged with _____ and that the maximum punishment that I can receive is _____ mos. imprisonment and/or a \$ _____ fine.

I have been advised of my rights to be represented by counsel and have counsel appointed to represent me if I am indigent; plead not guilty and be tried by a jury or a judge, confront the witnesses against me, and, not give incriminating evidence against myself. I hereby waive these rights, state that I have not been induced by any threat or promise to enter this plea and do freely and voluntarily enter my plea of Guilty.

This _____ day of _____

Accused _____

I, _____ have advised the above-named accused as indicated above of his/her rights, the nature of the case against him/her and the possible consequences of the plea as entered. I am satisfied that there is a factual basis for the guilty plea which the accused has entered and that it was entered freely and voluntarily with understanding of the nature of the charge and the consequences of the plea.

_____, JUDGE

DISPOSITION AND SENTENCE

Court _____ City _____

Defendant Pleads: ☐ (3) Guilty ☐ Not Guilty ☐ (4) Nolo Cont'd

Trial: ☐ Jury ☐ Court Adjudicated ☐ (1) Guilty ☐ Not Guilty

Other Action: ☐ (2) Bond Forfeiture ☐ Nolle Prossed ☐ No Bill ☐ No Record

Sentence: Amount Fine/Forfeiture \$ _____

_____ Days (Months) in jail _____ Traffic School _____ Days (Months) probation

Community Service _____ Hrs/Days _____ Other Order _____

Appeal Bond of \$ _____ filed (for _____)

Appeal to _____ Court

As provided by law, I hereby certify that the information on this ticket is a true abstract of the record of this court or bureau in this case.

DISPOSITION DATE _____

Signature of Judge or Clerk

City of Smyrna
A Max Bacon City Hall
2800 King Street
Smyrna, Georgia 30080



www.SmyrnaGa.com
www.twitter.com/SmyrnaNews
www.facebook.com/CityofSmyrnaGA
PH 770-434-6600

March 23, 2023
Michael Lavonge Clark
Lindsey Pourciau, Accounting
Jim N' Nicks / J&N Atlanta I LLC
4574 South Cobb Drive
Smyrna, GA 30080
205-847-3026

SENT VIA CERTIFIED MAIL / IN PERSON DELIVERY

RE: License and Variance Board Show Cause Hearing

Greetings:

This is to advise that a show cause hearing with the City of Smyrna License and Variance Board has been scheduled for Wednesday, June 14, 2023 at 10:00AM to consider the suspension or revocation of the alcoholic beverage license for TJim N' Nicks / J&N Atlanta I, LLC. This date can be moved to an earlier meeting if your citation is settled with the Court prior to your scheduled court date of May 23, 2023. This hearing has been scheduled pursuant to Section 6-163 of the alcoholic beverage ordinance for the violation of selling or offering to sell alcoholic beverages to an underage person.

You are hereby ordered to be and appear at the City Hall, H.R. Training Room, 2800 King Street, Smyrna, Ga. 30080 on the above stated date and time as a witness / representative of the business for this meeting.

Sincerely,

Heather K. Peacon-Corn
City Clerk

RECVD BY:

Samantha Ingram DATE: 3/23/23 TIME: 3:35pm
PRINTED NAME

SERVED BY OFFICER: C. Whitlock BADGE # 1365

Mayor – Derek Norton
Mayor Pro Tem – Tim Gould

City Council: Ward 1 – Glenn Pickens / Ward 2 – Latonia P. Hines / Ward 3 – Travis Lindley
Ward 4 – Charles (Corkey) Welch / Ward 5 – Susan Wilkinson / Ward 6 – Tim Gould / Ward 7 – Lewis Wheaton

City Administrator – Joseph Bennett / Dep. City Administrator – Penny Moceri / Asst. City Administrator Kristin Robinson
City Clerk – Heather K. Peacon-Corn / City Attorney – Scott Cochran
Chief Municipal Court Judge – Phyllis Gingrey Collins / Municipal Court Solicitor – Tim Williams

City of Smyrna
A Max Bacon City Hall
2800 King Street
Smyrna, Georgia 30080



www.SmyrnaGa.com
www.twitter.com/SmyrnaNews
www.facebook.com/CityofSmyrnaGA
PH 770-434-6600

SENT VIA CERTIFIED MAIL 7016 0340 0000 7965 8169
& IN PERSON

March 23, 2023
Michael Lavonge Clark
Lindsey Pourciau, Accounting
Jim N' Nicks / J&N Atlanta I LLC
4574 South Cobb Drive
Smyrna, GA 30080
205-847-3026

RE: License and Variance Board Show Cause Hearing

Greetings:

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☒ Certified Mail Restricted Delivery \$
☒ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$
Postage \$
Total Postage and Fees \$

Postmark Here

Jim N Nicks
4574 South Cobb Drive
Smyrna, Ga. 30080
7016 0340 0000 7965 8169

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Sincerely,

Heather K. Peacon-Corn
City Clerk

Mayor – Derek Norton
Mayor Pro Tem – Tim Gould
City Council: Ward 1 – Glenn Pickens / Ward 2 – Latonia P. Hines / Ward 3 – Travis Lindley
Ward 4 – Charles (Corkey) Welch / Ward 5 – Susan Wilkinson / Ward 6 – Tim Gould / Ward 7 – Lewis Wheaton

City Administrator – Joseph Bennett / Dep. City Administrator – Penny Mocer / Asst. City Administrator Kristin Robinson
City Clerk – Heather K. Peacon-Corn / City Attorney – Scott Cochran
Chief Municipal Court Judge – Phyllis Gingrey Collins / Municipal Court Solicitor – Tim Williams

INQUIRY-PRINT

SMYRNA MUNICIPAL COURT

05/04/2023

11:55:18

GRAHAM, DEMETRIA DENISE

DOB: 12/29/1964

TICKET: ME0727134

VIOLATION: FURNISH/SELL ALCOHOL TO PERSON

JUDGMENT: 1000.00

DRIV-LIC: 059707003 GA

PAYMENT: 1000.00

PLEA: GUILTY

REFUND: 0.00

VIOLATION-DATE:03/03/2023

FINDING: GUILTY AS CHARGED

BALANCE: 0.00

COURT-DATE:04/18/2023

SENTENCE:

DISPOSITION-DATE:04/17/2023

MONTHS: 0

DAYS: 0

PROBATION: NO



IN THE MUNICIPAL COURT OF THE CITY OF SMYRNA
STATE OF GEORGIA

RECEIVED

CITY OF SMYRNA)

MAR - 9 2023

vs.)

Case No(s): E727134

BY: [Signature]

DEMETRIA DENISE GRAHAM,
Defendant.)

ORIGINAL

**FURNISHING TO, PURCHASE OF, OR POSSESSION BY PERSONS UNDER 21
YEARS OF AGE OF ALCOHOLIC BEVERAGES, O.C.G.A. 3-3-23**

The Defendant hereby waives/demands formal arraignment and waives/demands a trial
and pleads Guilty this 17 day of April 2023

[Signature]
(Defendant)

(Defendant's Attorney)

IN THE MUNICIPAL COURT OF THE CITY OF SMYRNA

COUNT 1

I, **TIMOTHY M. WILLIAMS**, the undersigned prosecuting attorney for the Municipal Court of The City of Smyrna, on behalf of the people of the City of Smyrna do hereby charge the above named Defendant with the offense of **FURNISHING, PURCHASE, OR POSSESSION UNDER 21 YEARS OF AGE OF ALCOHOLIC BEVERAGES, O.C.G.A. 3-3-23(a)(1)**, for that the said accused in the City of Smyrna, Cobb County, on or about the 3rd day of March 2023, did knowingly and directly furnish an alcoholic beverage to a 20 year old undercover agent on behalf of the Smyrna Police Department.

Contrary to the Ordinances of the City of Smyrna, the good order, peace, and dignity thereof.

[Signature]
Mr. Timothy M. Williams
Prosecutor/City of Smyrna

This 9th day of March, 2023.



CERTIFICATE OF SERVICE

This is to certify that the undersigned has served upon the Defendant or Defendant's Attorney of Record a copy of this ACCUSATION by Hand delivery in Court.

[Signature] 4-17-2023
Timothy M. Williams, Prosecutor