



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

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

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

Assisting Officers
DEFENSE, L. (24433)

Suspect Hate / Bias Motivated: *NONE (NO BIAS)*

NARRATIVE

REPORTING OFFICER NARRATIVE

Smyrna Police Department

OCA 23-030064
Date / Time Reported Fri 03/03/2023 19:24

Victim

Society

Offense

FURNIS/SELL ALCOHOL TO PERSON UNDER

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>											
DOB	Age	Race	Sex	Eth	Hgt	Wgt	Hair	Eye	Skin	Driver's License / State		
[REDACTED] 1964	58	B	F	N	503	164	BLK	BRO	MBR	[REDACTED]	GA	
Scars, Marks, Tattoos, or other distinguishing features												
Reported Suspect Detail												
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 NICIC No Citation Number

CITY OF SMYRNA POLICE DEPARTMENT

Upon Month March (Day) 3 (Year) 2023 at 07:30 AM

Operator License No License Class or Type C State GA Endorsements Expires

Name GRAHAM DEMETRIA DENISE

Address 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 - Clocked 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)

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.

Table with columns: WEATHER, ROAD, TRAFFIC, LIGHTING, COMMERCIAL VEHICLE INFORMATION

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 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.

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 Krugman 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 Mocerri / 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

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Sincerely,

Heather K. Peacon-Corn
City Clerk

7016 0340 0000 7965 8169

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)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input checked="" type="checkbox"/> Certified Mail Restricted Delivery	\$
<input checked="" type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> 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

Mayor – Derek Norton
Mayor Pro Tem – Tim Gould
City Council: Ward 1 – Glenn Pickens / Ward 2 – Latonia P. Hines / Ward 3 – Travis Lindley
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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
DRIV-LIC: 059707003 GA

JUDGMENT: 1000.00

PAYMENT: 1000.00

REFUND: 0.00

BALANCE: 0.00

VIOLATION-DATE:03/03/2023

PLEA: GUILTY

FINDING: GUILTY AS CHARGED

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)
)
vs.)
)
DEMETRIA DENISE GRAHAM,)
Defendant.)

MAR - 9 2023

Case No(s): E727134

BY: [Signature]

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 ALCHOLIC 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