

AFFIDAVIT FOR SEARCH WARRANT

THE STATE OF TEXAS

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COUNTY OF **Williamson**

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The undersigned Affiant, being a peace officer under the laws of Texas and being duly sworn, on oath makes the following statements and accusations:

My name is **Test Tester**. I am a peace officer employed by the following law enforcement

agency: **TMPA Test Police Department**

I have successfully completed the State-mandated requirements to become a peace officer. Additionally, I have successfully completed courses and/or training in the field of alcohol detection and intoxication-related offenses. I have seen intoxicated persons in the past and, during the course of my employment, I have observed numerous people who are under the influence of alcohol or other substances.

Officer Certifications:

SFST Trained

ARIDE Trained

Certified Breath Test Operator

ARIDE Instructor

Certified SFST Instructor

Certified MSEO (Marine Safety Enforcement Officer)

Certified DRE

Seated FST Trained

Certified DRE Instructor

1. There is in Williamson County, Texas a suspected person ("suspect") described as follows:

Defendant: **Sample Test Grubbs** Age: **51**

Race: **White** Sex: **M** DOB: **3/25/1966** Ethnicity: **Non-Hispanic**

Hair Color: **Brown** Eye Color: **Blue** Weight: **160** Height: **5' 9"**

Social Security # : **123-45-6789**

DL # : **101111234** State: **TX** Type/Class: **C** Year Expires: **2018**

Scars, marks, tattoos, amputations: **Tattoo of horse on right leg**

Place of Birth (city/state): **Dallas, Tx** Alias Name:

Address: **100 Defendant Address** City: **Defendant city** State: **TX** Zip Code: **78634**

Phone # : **(123) 456-7890**

2. Suspect is presently in custody of a law enforcement agency, namely the TMPA Test Police Department which will present the suspect to execute the warrant requested herein.

3. Affiant knows from previous experience and training that qualified laboratory personnel such as those employed by the Texas Department of Public Safety, Crime Laboratory, can through testing, determine the alcohol concentration or other drugs present in individuals by testing a sample of that individual's blood. The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph 4 below.

4. On or about the 15 day of JULY, 2017 at approximately 01:00, the suspect did then and there operate a motor vehicle or watercraft in a public place in Williamson County, Texas while intoxicated by not having the normal use of mental or physical faculties by reason of the introduction of alcohol, controlled substance, drug, or a dangerous drug in the suspect's body.

5. The suspect was operating a motor vehicle or watercraft in a public place in Williamson County, Texas on the above date based on the following facts:

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Probable Cause

On 8/30/09 at around 0127 hours, I Sergeant B. Grubbs was traveling south on FM 685 around the 600 block when I observed a yellow jeep pass me traveling north. I observed that the jeep was driving on the solid white line on the right side of the road. I then turned around to catch up to the jeep as it was approaching HWY 79 while traveling north on FM 685. As the jeep arrived at the intersection, it did not signal its turn prior to 100 feet and did not stop at the red light. The jeep then turned right traveling east on HWY 79 W and continued to weave within its lane. I then stopped the vehicle around the 300 block of HWY 79 W in the city of Hutto, county of Williamson, Texas. The vehicle was identified by TX LP 838XGN as a 2000 Yellow Jeep.

I then made contact with the driver and he identified himself by TX DL#19351385 as Carl Nelson Foster W/M DOB 12/10/72. During my initial contact with Foster I observed his that his eyes were glassy and his faced was flushed. He then stated to me that he had a couple of drinks. I could also detect the strong odor of alcohol and breath mints on his breath from the other side of the vehicle.

When Foster exited the vehicle, I noticed that his steps appeared slowed, shuffled and he swayed when he stood and walked. Foster stated he was coming from a friends house and had a couple of beers. He stated that his first beer was around 9 PM and his last beer was at 10 PM. He later stated he had more to drink then changed his story again to only having a couple of beers. He stated he was watching the UFC fight at a friends house in Round Rock and nursed two beers all night. He also stated that he was a "cheap date" and hadn't drank in a few weeks so it was affecting him. While speaking with him, many of his statements didn't make sense and were not appropriate to the questions that were asked.

I then observed 6 of 6 clues of HGN in his eyes and he performed poorly on other SFST's. Foster then stated that he didn't call a ride home because he didn't want to inconvenience anyone. After observing Foster's driving, detecting the strong odor of alcohol on his breath, his statements about drinking, him changing his statements about how much he drank, his strange responses to my questions, his swaying, unsteadiness, 6 clues of HGN, poor performance on SFST's and his overall intoxicated state, I believed that he had lost his normal, physical and mental faculties to operate a vehicle safely and was intoxicated due to consuming alcohol. In my opinion, Foster was intoxicated and I then placed him into custody for DWI.

The above vehicle was impounded. Foster was then transported to Williamson County Jail without incident. Upon arrival at the jail, I read the DIC-24 and he refused to provide a breath specimen.

After Foster was arrested and during a criminal history check, he showed to have the following: DWI Conviction 11/9/2011 in Travis County Court #5, DWI Conviction 2/25/2002 in Williamson County Court #3 and previous arrest in Williamson County 8/13/2014.

Field Sobriety Tests

I requested performance of field sobriety tests by the suspect and recorded the results and my observations of the suspect's performance of field sobriety tests and signs of intoxication in the attached SFST SCORING SHEET, which is attached hereto and incorporated for all purposes.

Field Sobriety Tests

Were Field Sobriety Tests given?

Yes No

Defendant refused tests

Physical Injuries

Defendant was more than 65 years of age or appeared to be more than 50 pounds overweight

Field Sobriety Testing Comments:

Horizontal Gaze Nystagmus

Was HGN Given:

Yes No

Clues

Lack of Smooth Pursuit

Left Right

Distinct & Sustained Nystagmus @ Maximum Deviation

Left Right

Onset of Nystagmus prior to 45 degrees

Left Right

Estimated angle of onset of nystagmus: 35 degrees

Vertical Nystagmus

Yes No

Total HGN Clues: (Decision Point 4; Max: 6)

6

Comments or Other Observations during HGN:

Swaying and smiling at me during the test.

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Walk and Turn

Was Walk and Turn Given

Yes

No

Defendant was unable to perform test or test was stopped for defendants safety:

Yes

No

Subject Stated Understood Walk and Turn Instructions:

Yes

No

Clues

Cannot Keep Balance during instructions

Starts Too Soon

Stops While Walking

Misses Heel to Toe

Steps Off Line

Uses Arms to Balance

Turned Improperly

Wrong Number of Steps

Total Walk and Turn Clues: (Decision Point 2; Max: 8)

7

Comments or Other Observations during Walk and Turn:

Comments

Stepped on his front foot 4 times during the instructions.

After being told not to begin until told to do and stating he understood, he started to walk. He stated, I already know how to do this

After his first set of 9 steps, he stopped, looked at me and asked if he was supposed to turn now.

after his 4th step on his first set of 9 steps, he missed heel to toe on every step.

He stepped off the line on his 6th step to the right. He then stepped off again on his 1, 4, 5, and 7th steps on the second set of 9 steps.

Once he started the test, he used his arms for balance during the whole test.

He stopped looked at me, asked if he should turn, then spun around losing his balance. He did not take a series of small steps as instructed.

He kept asking me to repeat the instructions after I told him to let me finish. He was not able focus on my instructions and stand as instructed.

One Leg Stand

Was One Leg Stand Given

Yes

No

Defendant was unable to perform test or test was stopped for defendants safety:

Yes

No

Subject Stated Understood One Leg Stand Instructions:

Yes

No

Foot Subject Stood On:

Left

Right

Foot Subject Raised:

Left

Right

Type of Footwear Worn:

Tennis Shoes

Clues

Sways while balancing

Uses Arms to Balance

Hops

Puts Foot Down

Total One Leg Stand Clues: (Decision Point 2; Max: 4)

3

Comments or Other Observations during One Leg Stand:

Comments

Swayed side to side during the whole test. A few times he swayed so much he lost his balance.

After a few seconds, he used his arms for balance then said, "look at me, I'm doing good."

On his count of 10 I told him to look at his foot then he put his foot his foot down on his count of 11. After that he was not able to keep his foot up to get past 12 and put his foot down another 5 times till I stopped the test at 30 seconds.

Stated he understood instructions then asked me what to do.

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Vehicle Information

Vehicle Make: **Lexus**

Model: **IS300**

Body Style: **Hardtop, 2-door**

Observations

I made the following observations about the suspect:

Clothing

- Disorderly
 Soiled
 Stained
 Torn
 Orderly

Balance

- Swaying
 Unsteady
 Needed support
 Falling down
 Normal

Walking

- Staggering
 Falling
 Swaying
 Heavy Footed
 Normal

Speech

- Slurred
 Incoherent
 Thick-tongued
 Slow/Mumbled
 Normal

Eyes

- Red
 Watering
 Dilated
 Droopy eyelids
 Normal

Odor of Alcoholic Beverage on breath:

- None Slight Moderate Strong

Attitude: Cooperative Combative Indifferent Cocky Apologetic Uncooperative

Unusual actions observed: **At times appeared overly polite and didn't seem surprised when he was placed under arrest. During my initial contact with him, I had to ask him four times for his insurance. He kept telling me he gave it to me but he only provided me his DL.**

Suspected impairment caused by: Alcohol only Drug only Alcohol & Drug

Drug Group suspected: CNS Depressant Hallucinogen Narcotic Analgesic Cannabis
 CNS Stimulants Dissociative Anesthetics Inhalant

6. Based upon my experiences, my training in intoxication-related offenses, and my observations of the suspect during my contact with him/her, I believe that the suspect is intoxicated by reason of the introduction of alcohol, a controlled substance, a dangerous drug, or a combination thereof, and that the suspect lost the normal use of his/her mental or physical faculties by reason of the introduction of alcohol or one of the other aforementioned substances, or a combination thereof, into his/her body. Sample Test Grubbs was then placed under arrest for the offense of Driving While Intoxicated PC 49.04.
7. REFUSAL EVIDENCE: After placing the suspect under arrest for Driving While Intoxicated, a sample was requested of the suspect's breath and/or blood, which the suspect refused to provide a sample in violation of the Texas Implied Consent law. This is an indication to me that suspect is attempting to hide evidence of his/her intoxication.

AFFIDAVIT FOR SEARCH WARRANT

WHEREFORE, based upon this affidavit and Beeman v. State, 86 S.W.3d 613 (Tex. Crim. App. 2002), Affiant asks for a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above and seize the same as evidence that the offense described was committed and that the suspect committed the said offense.

Further Affiant asks for issuance of an order to appropriate third parties directing them to assist Affiant in the execution of said warrant.

Affiant

Subscribed and sworn to before me on this _____ day of _____, 20_____.

Magistrate/Notary / Peace officer, State of Texas

SEARCH WARRANT FOR BLOOD

The State of Texas to the Sheriff or any Peace Officer of WILLIAMSON County, Texas:

GREETINGS

WHEREAS an affidavit in writing, under oath, has been made before me by _____ Test Tester _____ [affiant], which said affidavit is attached hereto and expressly incorporated herein and made a part hereof, and said affidavit and the attachments thereto having stated facts and information in my opinion sufficient to establish probable cause for issuance of this warrant for seizure of BLOOD from the person of _____ Sample T. Grubbs _____ [defendant] described in the affidavit for issuance of this warrant and that _____ Sample T. Grubbs _____ [defendant] committed the offense of Driving While Intoxicated PC 49.04.

YOU ARE THEREFORE, COMMANDED to forthwith seize the person of the said _____ Sample T. Grubbs _____ [defendant], taking of blood from the human body and the said physician, registered nurse, qualified technician or medical laboratory technician shall take samples of the BLOOD from the person of the said _____ Sample T. Grubbs _____ [defendant] in the presence of a law enforcement officer and deliver the said samples to the said law enforcement officer.

This court grants you leave and authority to remove such seized property from this county if and only if such removal is necessary for the safekeeping of such seized property by you or if such removal is otherwise authorized by the provisions of Article 18.10, Texas Code of Criminal Procedure.

HEREIN FAIL NOT, but have you then and there this warrant within three days, exclusive of the day of its issuance and execution, with your return thereon, showing how you have executed the same.

Issued at _____ [time], _____ .m., on this the _____ day of _____, 20____, to certify which witness my hand this day.

Signature of Magistrate/Judge

Printed or Typed Name of Magistrate/Judge

Court
WILLIAMSON County, Texas

STATE OF TEXAS
COUNTY OF WILLIAMSON

Docket No.: _____
Court: _____

RETURN AND INVENTORY

The undersigned Affiant, being a Peace Officer under the laws of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the _____ day of _____, 20____, by making the search directed therein and seizing during such search the following described property:

A specimen of _____ Sample T. Grubbs _____ (defendant's) blood.

Affiant

SUBSCRIBED AND SWORN to before me, the undersigned authority on this _____ day of _____, 20____.

- _____
 Peace Officer, State of Texas
 Magistrate, WILLIAMSON County, Texas

ORDER FOR ASSISTANCE IN EXECUTION OF SEARCH WARRANT

To any physician, nurse, medical technician, or phlebotomist, licensed by the State of Texas or other person qualified in the intravenous removal of human blood:

Whereas, the affiant whose name appears on the affidavit attached hereto is a peace officer under the laws of Texas and did heretofore this day subscribe and swear to said affidavit before me (which said affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this Order), and whereas I find that the verified facts stated by affiant in said Affidavit show that affiant has probable cause for the belief he/she expresses herein and established existence of proper grounds for issuance of a search warrant;

And whereas, this court has issued a warrant to search for and seize blood from the suspect name and described in the Affidavit, to-wit:

Name: Sample T. Grubbs
Race: White Sex: Male DOB: 3/25/1966 TDL: 101111234
Height: 5 ft., 9 in. Weight: 160 lbs. Hair Color: Brown

Therefore you are hereby ordered and commanded to cooperate with any peace officer requesting your professional assistance in the execution of this warrant.

Herein fail not, as this order is directed to any individual whose aid and assistance is requested by the officer bearing the accompanying search warrant, is authorized by the full authority of this Court to issue warrants and orders to enforce the laws of the State of Texas, and Article 18.08 of the Texas Code of Criminal Procedure. Any individual who fails to comply with this Order when requested shall be liable for contempt of this Court and subject to all penalties authorized by law.

Ordered this the _____ day of _____, 20____ at _____ o'clock P.M. / A.M.
to certify which witness my hand this day.

Magistrate, WILLIAMSON County, Texas