

Specific Search Examples

(Includes affidavit, search warrant, and return and inventory)

SSE #9: House/not crime scene: murder weapon (Format A)

On CD as: #56

Type of warrant: Implements/instruments search warrant

Authority for search: CCP Article 18.02(a)(9)

Place to be searched: Single family dwelling

Controlled by: Suspect in underlying offense

Thing to be seized: Weapon used in offense

Offense charged: None in this warrant; homicide investigation; suspect charged with murder in previous complaint

Probable cause source: Statement of suspect and investigation by affiant

Other features: Place to be searched not scene of crime; suspect in custody, charged with the offense under investigation, and that the evidence sought with warrant tends to prove

Forms used: Affidavit: #s 5, 39; Search Warrant: #s 8, 40; Return and Inventory: #9

CAUTION:

Always read thoroughly and carefully every word of any affidavit and requested warrant submitted to a magistrate. Use of a form inapplicable to the specific circumstances of the case may invalidate results of the investigation and possibly expose affiant and others to criminal penalties and civil liabilities.

READ IT BEFORE YOU SUBMIT IT!

THE STATE OF TEXAS

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DOCKET # 6789

COUNTY OF ATASCOSA

COURT: J.P. Precinct 5

AFFIDAVIT FOR SEARCH WARRANT

{Article 18.02(a)(1-9), Texas Code of Criminal Procedure}

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN, A PEACE OFFICER UNDER THE LAWS OF TEXAS, WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS:

My name is Jay Briones and I am commissioned as a peace officer by the 156th District Attorney's Office as an Investigator.

1. There is in Atascosa County, Texas, a suspected place and premises described and located as follows:

In the City of Pleasanton, 603 Ellison Street. Said suspected place is a single family residence with cream-colored brick veneer exterior and a double detached garage on the east side of the premises. A paved driveway from Ellison Street to the garage enters the premises on the east side. The roof is gray with asbestos shingles and the wood trim on the house is white, as are the garage doors. The front entrance to the house is onto a porch covered by an overhang of the roof; the overhang is supported by two round, white wooden columns. The front entrance door is black and as one enters the door, a black mailbox is on the outside wall to the left, or east side, of the door. A large pecan tree is located in the front yard, approximately 15-20 feet from the front of the house and midway between the driveway and a walkway from the sidewalk to the front door.

The location of the suspected place is found by proceeding eastward in said City on Ellison Street from its intersection with Oak Street into the 600 block of Ellison Street, the suspected place being the second house on the south side of Ellison Street, and being otherwise known as "603 Ellison Street."

Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places and vehicles on said premises and within the curtilage, if said premises is a residence, that are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein.

Attached hereto as Exhibit A, to be considered as part of this affidavit as if written herein, is a diagram illustrating the relative location of the place to be searched.

2. Said suspected place is in the charge of and controlled by each of the following named and/or described suspected parties (hereafter called "suspected party," whether one or more), to wit: Arnold Berman, described as an Anglo male, approximate age 40-45 years, height 6', weight 200-210 pounds, with brown hair, clean shaven, and usually wearing gold-colored wire-rimmed glasses.

I believe that Arnold Berman lives alone at the suspected place and I do not anticipate the presence of others at the time of the search requested herein.

3. It is my belief that said suspected party has possession of and is concealing at said suspected place the following property:

- A handgun, most likely a revolver, in .38 Special or .357 magnum caliber
- .38 Special caliber ammunition

Said items of property were implements or instruments used in the commission of the crime described in Paragraph 4., below.

4. I have probable cause for said belief by reason of the following facts and circumstances: On the 31st day of December, 2013, in the City of Pleasanton, Texas, a fatal shooting occurred in a tavern known as Boo's Bar. The tavern is located at 315 Ellison Street in the City of Pleasanton. Witnesses at the scene have told me in sworn statements that suspected party had been inside the premises for at least an hour when he approached three men sitting at a table. Seating at the table was in a booth configuration whereby the table was secured to the wall and two bench-style seats approximately five feet wide extended from the wall on two sides of the table. Suspected party momentarily sat on one of the benches alongside an individual named Charles Don Evans. Witnesses said that Evans immediately shoved suspected party off the seat causing him to fall onto the dance floor alongside the table. There were two couples dancing at the time and suspected party fell against the legs of a woman dancing nearby. Suspected party was holding a bottle of beer when he fell, and he dropped the beer bottle on the dance floor, causing it to shatter and spill its contents on the floor. The dancing ceased until the floor could be dried. Suspected party was reportedly embarrassed and departed hurriedly.

Witnesses say that suspected party returned within a half-hour carrying a handgun, walked up to the booth where Charles Don Evans was sitting, and said, "See how that feels, asshole," and promptly fired three or four rounds at Evans. At least two of the rounds struck Evans in the chest and one went into the upholstered bench on which Evans was seated. Evans was determined to be dead at the scene by the

emergency medical technicians who responded to an immediate "911" call. I removed the spent round from the bench seat and found it to be intact and not substantially deformed from striking the seat. Based on my experience and training, I believe it to be .38 Special caliber semi-wadcutter-type bullet. I also know that such rounds are often fired from .38 Special caliber or .357 magnum caliber revolvers.

Witnesses say that suspected party then turned and ran out of the bar. One witness, Fred Guerrero, told me he followed suspected party outside and saw him run away on foot in an easterly direction, carrying the handgun in his right hand. The above described suspected place is the known residence of suspected party and is approximately three blocks east of Boo's Bar tavern.

On the basis of the witnesses' statements and my investigation at the scene, a complaint for murder was filed with this court, Justice of the Peace, Precinct 5, and a felony warrant was obtained. Suspected party was arrested at the suspected place approximately four hours after the shooting. Arresting officers met no resistance from suspected party who promptly came to his doorway, stepped outside without being asked, and was arrested without further incident. A protective sweep of the house did not reveal the location of the murder weapon or any other weapons or ammunition.

I interrogated suspected party at the jail, and after waiving his rights to remain silent, suspected party discussed the circumstances surrounding the shooting. He admitted the killing and that he ran home with the weapon used to shoot Charles Don Evans. When asked where the weapon is, he replied, "It's at home, but I ain't gonna tell you exactly just where."

I believe that the foregoing facts establish probable cause to believe that the offense of murder was committed in Boo's Bar in Atascosa County on or about the 31st day of December, 2013; that a .38 Special caliber or .357 magnum handgun and ammunition for the handgun belonging to suspected party, Arnold Berman, constitutes evidence in the nature of implements and instruments used in the commission of said offense; and that said evidence is likely to be found at the suspected place described above.

I request authority from the Court to transport, remove, or take any property or evidence seized pursuant to the warrant requested herein to any location deemed necessary for purposes of safekeeping and completion of any investigation or proceedings related to the activities described in this Affidavit.

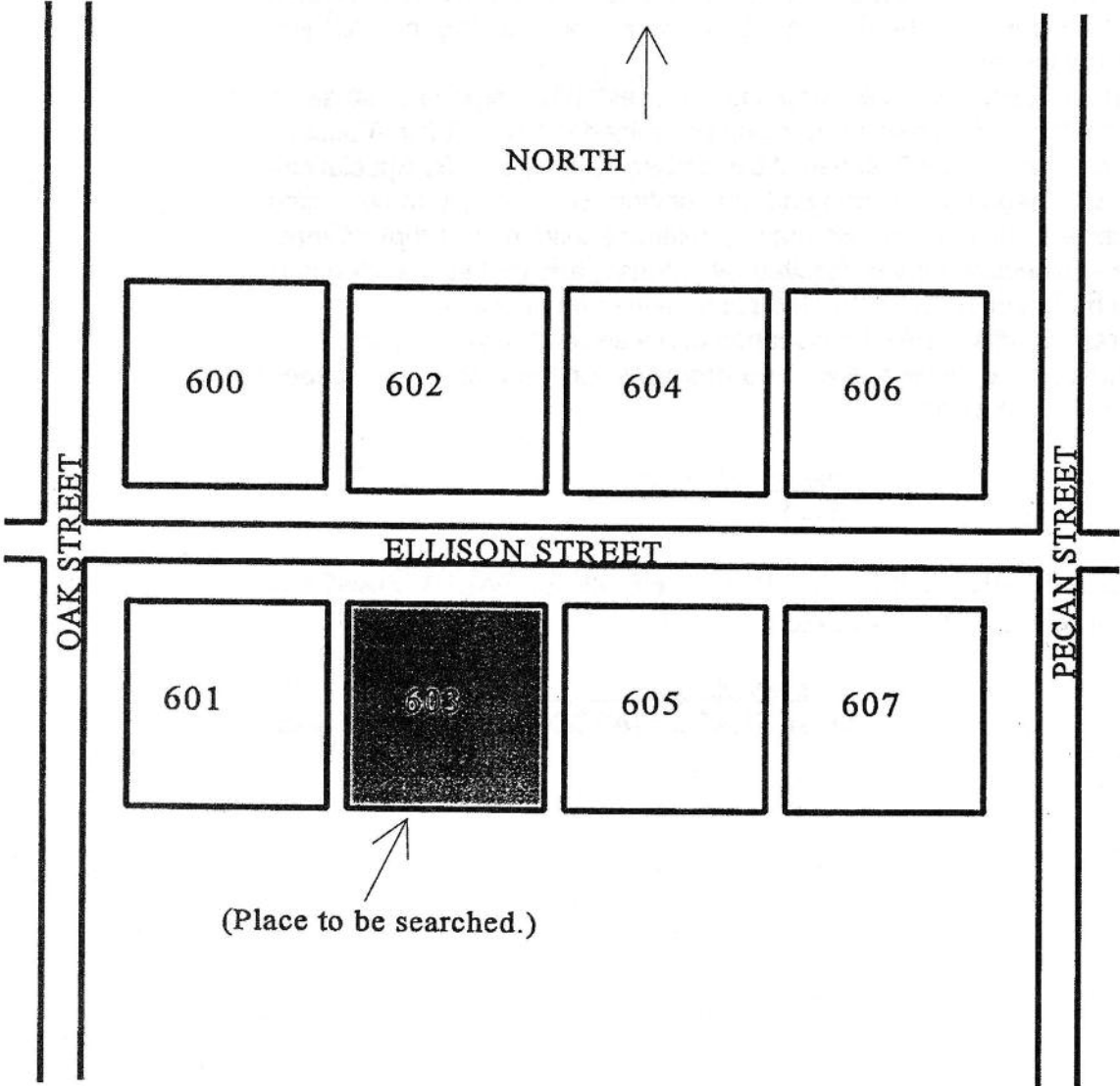
Wherefore, I ask for issuance of a warrant that will authorize me and other peace officers to search said suspected place and premises for the property described above and to seize same.

/s/ Jay Briones
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY SAID AFFIANT ON THIS THE 1st DAY OF JANUARY, 2014.

/s/ Israel M. Fair
Justice of the Peace, Precinct 5
Atascosa County, Texas

Exhibit A



THE STATE OF TEXAS
COUNTY OF ATASCOSA

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DOCKET # 6789
COURT: J. P. Precinct #5

SEARCH WARRANT
{Article 18.02(a)(1-9), Texas Code of Criminal Procedure}

The State of Texas: To the Sheriff or any Peace Officer of Atascosa County, Texas, or any Peace Officer of the State of Texas:

Whereas I have been presented an affidavit requesting issuance of a search warrant by the affiant therein, 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 therein, and whereas I believe said affidavit properly establishes grounds for issuance of this Warrant;

Now, therefore, you are commanded to enter the suspected place, vehicles, and premises described in said affidavit, to-wit: In Atascosa County, in the city of Pleasanton, 603 Ellison Street. Said suspected place is a single family residence with cream-colored brick veneer exterior and a double detached garage on the east side of the premises. A paved driveway from Ellison Street to the garage enters the premises on the east side. The roof is gray with asbestos shingles and the wood trim on the house is white, as are the garage doors. The front entrance to the house is onto a porch covered by an overhang of the roof; the overhang is supported by two round, white wooden columns. The front entrance door is black and as one enters the door, a black mailbox is on the outside wall to the left, or east side, of the door. A large pecan tree is located in the front yard, approximately 15-20 feet from the front of the house and midway between the driveway and a walkway from the sidewalk to the front door.

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Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places and vehicles on said premises and within the curtilage, if said premises is a residence, that are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein.

Attached hereto as Exhibit A, to be considered as part of this warrant as if written herein, is a diagram illustrating the relative location of the place to be searched.

At said places you shall search for and, if same be found, seize and bring before me the property described in the affidavit, to-wit: A handgun, most likely a revolver, in .38 Special or .357 magnum caliber and .38 Special caliber ammunition.

It is further ordered that any and all property seized by authority of this Warrant or during the execution thereof shall be and remain under the care, custody, and control of any peace officer to whom this Warrant is delivered for execution. Further, said property may be removed and taken to any location as deemed necessary by such peace officer for purposes of safekeeping and completion of any investigation or proceedings related to the activities described in the Af-

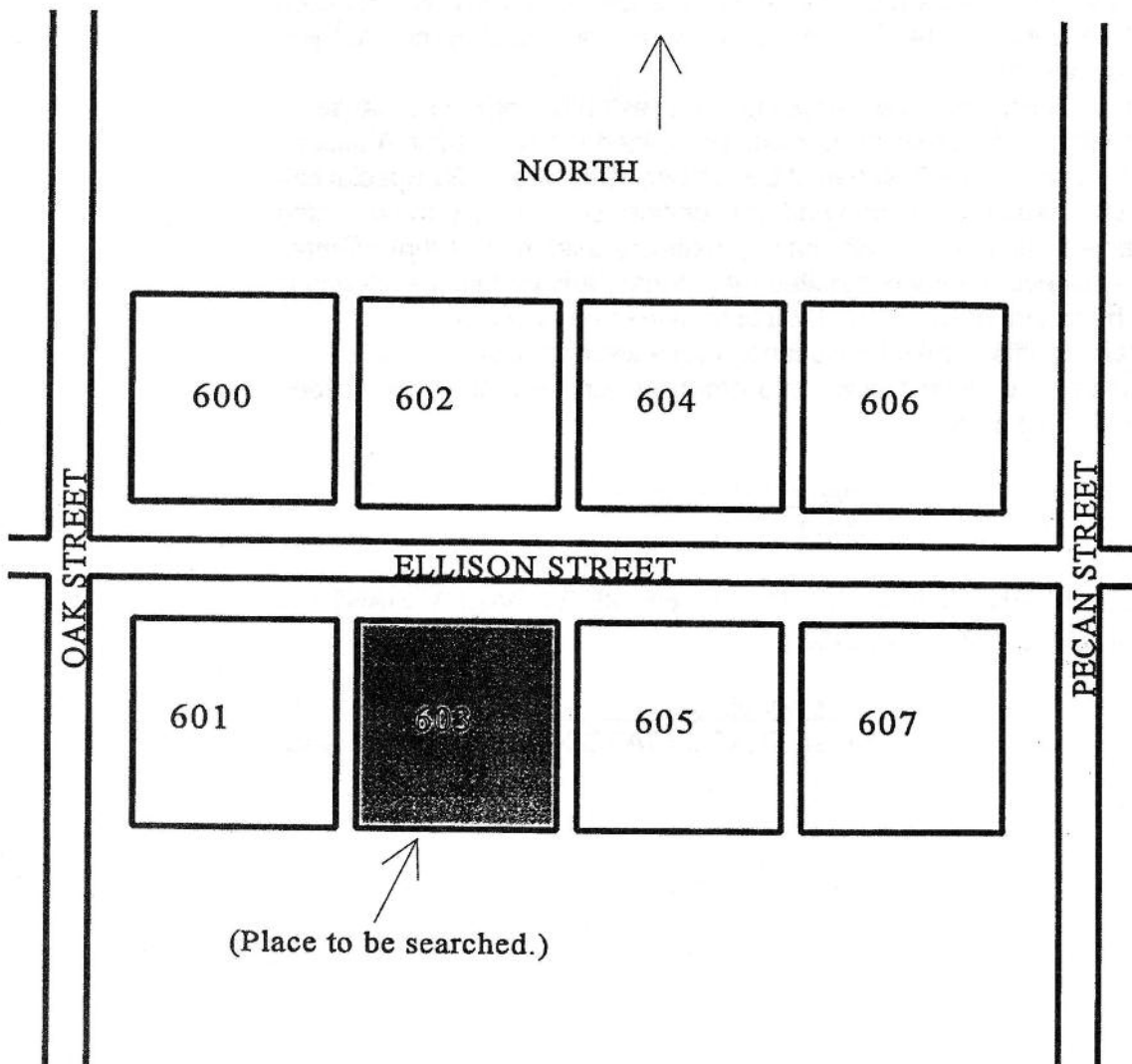
fidavit upon which the foregoing Warrant was issued.

Herein fail not, but have you then and there this Warrant to be executed without delay; and upon compliance with the orders herein, make return forthwith showing how you have executed same within three days of the date shown below, exclusive of said date and the day of its execution.

Issued this the 1st day of January, 2014, at 11:00 o'clock A.M. to certify which witness my hand this day.

/s/ Israel M. Fair
Justice of the Peace, Precinct 5
Atascosa County, Texas

Exhibit A



THE STATE OF TEXAS
COUNTY OF ATASCOSA

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DOCKET # 6789
COURT: J. P. Precinct #5

RETURN AND INVENTORY
{Article 18.02(a)(1-9), Texas Code of Criminal Procedure}

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN, A PEACE OFFICER UNDER THE LAWS OF TEXAS, WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS:

My name is Jay Briones and I am commissioned as a peace officer by the 156th District Attorney's Office as an Investigator.

The attached Search Warrant came to hand on the day it was issued and it was executed on the 1st day of January, 2014, by conducting the search directed therein and by seizing during such search the following described property:

- 1 Smith and Wesson Model 36, .38 Special caliber, bearing serial number 54734
- 18 rounds of Remington brand .38 Special caliber ammunition.

/s/ Jay Briones
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME BY SAID PEACE OFFICER WHOSE NAME IS SIGNED ABOVE ON THIS THE 3rd DAY OF January, 2014.

/s/ Israel M. Fair
Justice of the Peace, Precinct 5
Atascosa County, Texas