

Specific Search Examples

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

SSE #13: House/crime scene: physical evidence (Format A)

On CD as: #60

Type of warrant: Search warrant only: "Evidentiary search"

Authority for search: CCP Article 18.02(a)(10)

Place to be searched: Single family dwelling

Controlled by: Suspect in underlying offense

Thing to be seized: Weapons used in offense; clothing; damaged or displaced furniture; blood, hair, human tissue, or other trace evidence consistent with assault resulting in traumatic injuries

Offense charged: None in this warrant; homicide investigation

Probable cause source: Investigation by affiant

Other features: Format A; out-of-county removal of evidence requested in affidavit, ordered in warrant; place to be searched is scene of crime; suspect not in custody, not charged with the offense under investigation and which the evidence sought with warrant tends to prove

Forms used: Affidavit: #s 10, 39; Search Warrant: #s 13, 40; Return and Inventory: #14

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 # 6788

COUNTY OF ATASCOSA

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COURT: Atascosa County Court at Law

AFFIDAVIT FOR SEARCH WARRANT
{Article 18.02(a)(10), 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 Eric Blanchard and I am commissioned as a peace officer by the City of Jourdanton.

1. There is in Atascosa County, Texas, a suspected place and premises described and located as follows: In the City of Jourdanton, 121 Fletcher Street. Said suspected place is a single family residence with white painted brick veneer exterior. The windows are aluminum framed with blue shutters; the eaves are also blue. The roof is gray composition shingle. The front of the house is the north side and the front and only door on the north side has an aluminum screen. To the left of the door as one enters the house, a black mailbox is mounted on the exterior wall and above it are the numbers "121," also in black. A curved sidewalk leads from the front of the premises to the front porch and door. On the east side of the front porch is a brick planter box from which two blue porch-roof support posts extend. There is an attached double car garage in the rear of the house that is not visible from Fletcher Street; a paved driveway enters

the west side of the premises from Fletcher Street and goes back to the garage. A mesquite tree is located in the east side of the front yard; two large, shrub-type untrimmed trees obscure the windows on the west front side of the residence.

The location of the suspected place is found by proceeding eastward in said City on Fletcher Street from its intersection with Ash Street into the 100 block of Fletcher Street, the suspected place being the sixth house on the south side of Fletcher Street, and being otherwise known as "121 Fletcher 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.

Below follows a photograph illustrating the appearance 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: Annabelle Barganski, an Anglo female, approximately 5 ft.4 in. in height, approximately 150 lbs. in weight, with brown hair and being 50-55 years of age. I believe that Annabelle Barganski lives alone at the suspected place and does 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:

- Blood in the form of spatter, splatter, droplets, smears, and pools and other residue constituting evidence of bleeding injuries or other violent trauma, including if necessary for collection and seizure, the substance or surface on which said blood evidence is found.
- Bludgeons, clubs, and other club-like instruments or devices capable of use as a weapon for infliction of bleeding injuries or other violent trauma.
- A blue denim shirt with apparent spot stains
- A pair of blue denim jeans
- A black pair of athletic shoes, color and size unknown

Said property constitutes evidence that the offense described in Paragraph 4, below, was committed and that said suspected party committed the offense described.

4. I have probable cause for said belief by reason of the following facts and circumstances:

On the evening of December 31, 2013, the Jourdanton Police Department received a 911 call from the above-described suspected place. The caller, later identified as suspected party, reported that her husband had fallen in the shower and the resulting injury had rendered him unconscious. An ambulance was dispatched to the suspected place along with emergency medical technicians, and a patrolman for the Jourdanton Police Department, Joseph Tamez, accompanied them to assist if necessary. At the suspected place, the emergency response personnel found Eldridge Franco wet, nude, and dead in a bathtub. Franco is described as a white male, 5 ft. 11 in. in height, 180 lbs. in weight, and 41 years of age. Apparent head wounds were or had been bleeding but very little blood was on the body or in the bathtub. Suspected party advised Tamez and the EMT's that she had heard Franco fall while taking a shower and that it sounded

as though he had fallen twice.

I was on duty as the criminal investigator on-call, but at my home for the evening meal at the time of the emergency response. Patrolman Tamez asked the dispatcher to inform me of the situation and request my presence at the suspected place; I arrived while the EMTs were still at the scene. Tamez and EMT Denton DeBakey met me as I arrived and advised me they had seen blood and other evidence of injury outside the bathroom where Franco's body was found. Upon entering the premises, I observed Franco's body in the bathtub, received the confirmation of death from the EMT personnel, and called the dispatcher to request a magistrate for an inquest.

While awaiting the arrival of the magistrate, I interviewed suspected party in the living room of the house. She said that she and Franco were common law husband and wife; that they had argued about what they were going to do on New Year's Eve, and that Franco was taking a shower in preparation for an evening out. I could see no indication that she had made any preparations to leave the house. She was wearing blue denim, jeans-style pants and a blue denim workshirt-style shirt; her shoes were athletic style, black in color. I could observe small dark spots on the shirt that appeared to be stains, possibly blood. As I escorted the magistrate to the deceased, Patrolman Tamez pointed out apparent blood splatter on the wall of the bedroom that adjoins the bathroom where Franco's body was found. Also readily observable on the frame of the door between the bathroom and bedroom, approximately two feet from the floor, were apparent blood smears. The carpeted floor of the bedroom was strewn with articles of clothing and no apparent blood or other blood-like stains were visible as I stood outside the bathroom waiting for the magistrate to complete his inquest examination. Funeral home personnel were also standing by and after the magistrate released the body, it and all other non-residents promptly left the suspected place.

The magistrate ordered an autopsy. Preliminary findings by the medical examiner reveal that Franco suffered three bleeding wounds to his head, one to the front and two to the rear. The death will be ruled a homicide, with death apparently resulting from a skull fracture from one of the blows to the rear of his head. The medical examiner is of the opinion that these injuries are not consistent with a fall in the bathtub, due to the number and location of the injuries.

I believe that the foregoing facts establish probable cause to believe that a homicide offense was committed in the suspected place; that blood evidence and weapons or items capable of use as weapons are likely to be found at the suspected place; that said blood and weapons constitute evidence of a homicide; and that suspected party committed the offense. If the suspected blood evidence is found in another room other than that where Franco is alleged to have been injured, and if fresh blood stains are found on the clothing of suspected party, it is likely that also on the premises is the weapon or other instrument used to effect the bleeding injuries to the head of the deceased. As of the time of the submission of this affidavit, less than 24 hours have passed since I and emergency response personnel observed the apparent blood evidence. The possible evidence in question is easily removable by suspected party if given sufficient time and motive to do so.

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 to search said suspected place and premises for the property described above and seize same.

/s/ Eric Blanchard
Affiant

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

/s/ Israel M. Fair
Judge, County Court At Law
Atascosa County, Texas

THE STATE OF TEXAS
COUNTY OF ATASCOSA

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DOCKET # 6788
COURT: Atascosa County Court at Law

SEARCH WARRANT
{Article 18.02(a)(10), 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 and premises described in said affidavit, to-wit:

In the City of Jourdanton, 121 Fletcher Street. Said suspected place is a single family residence with white painted brick veneer exterior. The windows are aluminum framed with blue shutters; the eaves are also blue. The roof is gray composition shingle. The front of the house is the north side and the front and only door on the north side has an aluminum screen. To the left of the door as one enters the house, a black mailbox is mounted on the exterior wall and above it are the numbers "121," also in black. A curved sidewalk leads from the front of the property to the front porch and door. On the east side of the front porch is a brick planter box from which two blue porch-roof support posts extend. There is an attached double car garage in the rear of the house; a paved driveway enters the west side of the premises from Fletcher Street and goes back to the garage. A mesquite tree is located in the east side of the front yard; two large, shrub-type untrimmed trees obscure the windows on the west front side of the residence.

The location of the suspected place is found by proceeding eastward in said City on Fletcher Street from its intersection with Ash Street into the 100 block of Fletcher Street, the suspected place being the sixth house on the south side of Fletcher Street, and being otherwise known as "121 Fletcher 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 deposit or secrete property that is the object of the search requested herein.

Below follows a photograph illustrating the appearance of the place to be searched:



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: Annabelle Barganski, an Anglo female, approximately 5 ft.4 in. in height, approximately 150 lbs. in weight, with brown hair and being 50-55 years of age.

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:

- Blood in the form of spatter, splatter, droplets, smears, and pools and other residue constituting evidence of bleeding injuries or other violent trauma, including if necessary for collection and seizure, the substance or surface on which said blood evidence is found.
- Bludgeons, clubs, and other club-like instruments or devices capable of use as a weapon for infliction of bleeding injuries or other violent trauma.
- A blue denim shirt with apparent spot stains
- A pair of blue denim jeans
- A black pair of athletic shoes, size unknown

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 Affidavit 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
Judge, County Court At Law
Atascosa County, Texas

THE STATE OF TEXAS
COUNTY OF ATASCOSA

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DOCKET # 6788
COURT: Atascosa County Court at Law

**RETURN AND INVENTORY
FOR SEARCH WARRANT
{Article 18.02(a)(10), 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 Eric Blanchard and I am commissioned as a peace officer by the City of Jourdanton, Texas.

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:

- 13 blood samples from bedroom wall
- 2 blood samples from bedroom carpet
- 2 blood samples from bathroom door frame
- 1 steel rod ("re-bar" type used for concrete construction), 29 1/2 inches long, 1/2 inch in diameter
- 1 blue denim shirt, men's size medium
- 1 pair of blue denim jeans, ladies' size 8
- 1 pair of athletic shoes, black in color, women's size 7

Executing officers preserved images of the searched premises and the evidence prior to seizure with photographic and video taping devices.

/s/ Eric Blanchard
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME BY SAID PEACE OFFICER WHOSE NAME IS SIGNED ABOVE ON THIS THE 1st DAY OF JANUARY, 2014.

/s/ Israel M. Fair
Judge, County Court At Law
Atascosa County, Texas