

AFFIDAVIT FOR SEARCH WARRANT: DNA SAMPLE
{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 Otto Cabrera; I am a peace officer under the laws of the State of Texas and I am currently commissioned as a peace officer under the title of Texas Department of Public Safety Criminal Investigations Division Special Agent. I have been assigned to the Criminal Investigations Division for the past four (4) years and have been a commissioned peace officer under DPS for the past fourteen (14) years.

1. **There is** within Travis County, Texas, a suspected person named and described as follows:

ALFONSO NEVAREZ JR., AKA "PONCHO", who is:
a white male, DOB [REDACTED]
and has been issued SS # [REDACTED]
and [REDACTED] Driver License # [REDACTED]

Attached hereto below this paragraph is a photograph of the suspected person described in paragraph 1 further identifying the said suspected person to be searched; it is to be considered as part of this affidavit as if written herein.



Filed on
Tuesday, October 29, 2019
Travis County District Clerk
Velva L. Price AR



2. **It is** the belief of Affiant, and Affiant hereby charges and accuses that said suspected party has possession of and is concealing within him the following described personal property and evidence, to wit:

Biological bodily fluids/buccal cells and/or saliva containing deoxyribonucleic acid (DNA) of the suspected person. This evidence will be collected and is believed will constitute evidence possibly confirming said suspected person's involvement in violation of the laws of the State of Texas: Possession of Substance in Penalty Group 1 (Cocaine) $\geq 1G < 4G$ [Texas Health and Safety Code 481.115(c)], 3rd Degree Felony, which is believed to have occurred on or about September 6TH, 2019, Travis County, Texas. Your Affiant further asks your permission to collect the specimen of the suspected person's DNA as he

AFFIDAVIT FOR SEARCH WARRANT

sees fit; whether it be saliva or blood, or both saliva and blood. Your Affiant asks your permission to collect the suspected person's DNA in the form of oral buccal swabs and / or blood collection vial.

3. **Affiant has probable cause** to believe and does believe the crime of Possession of Substance in Penalty Group 1 (Cocaine) $\geq 1\text{G} < 4\text{G}$ [Texas Health and Safety Code 481.115(c)] has been committed, based on the following and foregoing facts:

On 09/06/2019 at approximately 1:40 PM, I personally went to the Texas Department of Transportation (TXDOT) Flight Services, located at 10335 Golf Course Road, Austin, Travis County, Texas 78719. My assistance was requested by DPS Texas Highway Patrol (THP) regarding a substance that was found by a TXDOT employee.

I responded to the scene and was met by THP Trooper William Larrimore, who stated that, earlier in the day, four (4) small clear plastic baggies containing a white powder-like substance were found inside a sealed envelope outside the entrance of the TXDOT Flight Services. The baggies were found by two (2) TXDOT employees.

I observed the white envelope had a letterhead that was from the "Office the State of Texas House of Representatives Member Poncho Nevarez". Trooper Larrimore (wearing protective gloves) showed SA Cabrera the contents inside of the envelope. The contents consisted of four (4) small clear plastic baggies containing a white powder-like substance, labeled Exhibit #S2.P1. I took custody of Exhibit #S2.P1.

While reviewing the surveillance footage from the same day, from approximately 10:30 AM, I observed a white or Hispanic male, wearing a burnt orange shirt, later identified as ALFONSO NEVAREZ JR (current Member of the Texas House of Representatives), exit the front entrance of TXDOT Flight Services and walk to an awaiting black sport utility vehicle (SUV). An open source search of "PONCHO NEVAREZ" resulted in multiple images which confirmed that NEVAREZ was the subject walking through the hallway at TXDOT Flight Services, getting into the black SUV. Representative (Rep.) NEVAREZ was observed (on surveillance footage) dropping a white paper object (Exhibit #S2.P1) from Rep. NEVAREZ' person as Rep. NEVAREZ was getting into the front passenger seat of the black SUV. Rep. NEVAREZ closed the door and the SUV pulled away.

I continued to review the surveillance footage and observed that numerous individuals walked by Exhibit #S2.P1, never disturbing Exhibit #S2.P1. Exhibit #S2.P1 remained on the ground, until TXDOT employee Edward Ricke picked up Exhibit #S2.P1.

SA Cabrera learned that, at approximately 10:24 AM, Rep. NEVAREZ arrived at the Austin Bergstrom International Airport (ABIA) in a Cessna T206, Tail #N11345, owned by the Nevarez Law Group, from the Texas/Mexico border near Piedras Negras. The pilot of N11345 was later identified as Arthur William Richardson IV, nicknamed Griff. Pilot Richardson completed the TXDOT Flight Services Transient Aircraft Contact Sheet, which indicated that on 09/06/2019, Pilot Richardson piloted N11345 with passenger ALFONSO NEVAREZ, and parked N11345 at the TXDOT Flight Services Ramp. Pilot Richardson handed the contact sheet to Edward Ricke.

At approximately 10:30 AM, Rep. NEVAREZ exited the front entrance of TXDOT Flight Services to an awaiting black SUV. The black SUV was later identified as a Range Rover Evoque, [REDACTED] License Plate [REDACTED], owned by Carlos Edward De La Pena. Through the course of the

AFFIDAVIT FOR SEARCH WARRANT

investigation and a non-custodial interview of De La Pena, I learned that De La Pena is Representative NEVAREZ' Chief of Staff and I confirmed that De La Pena was driving the Land Rover Range Rover Evoque on 09/06/2019 at the time NEVAREZ was picked up from TXDOT Flight Services. Rep. NEVAREZ was observed dropping a white paper object (Exhibit #S2.P1) from Rep. NEVAREZ' person as Rep. NEVAREZ was getting into the front passenger seat of the black SUV.

At approximately 12:13 PM, TXDOT employees Edward Ricke and Travis Zachary exited the main entrance and stood outside, having a conversation, both seen on video surveillance until approximately 12:20 PM.

Between 12:20 PM and 12:27 PM, Edward Ricke, while still talking to Travis Zachary, Edward Ricke picked up Exhibit #S2.P1, described as a sealed white envelope with Texas House of Rep. NEVAREZ' official seal in the top left corner. As Travis Zachary and Edward Ricke were walking, Edward Ricke opened the envelope and observed the contents, described as four (4) clear plastic baggies containing a white powdery substance.

At approximately 12:27 PM, Edward Ricke and Travis Zachary walked back through the main entrance of TXDOT Flight Services.

At approximately 12:38 PM, DPS Aviation Division Lieutenant (Lt.) Victor LaRocca met Edward Ricke and observed Exhibit #S2.P1, a white envelope containing four (4) small clear plastic baggies containing a white powder-like substance.

At approximately 12:48 PM, Lt. LaRocca requested the assistance of a Trooper.

At approximately 1:25 PM, Trooper Larrimore arrived on scene and was briefed by Lt. LaRocca. Trooper Larrimore took custody of Exhibit #S2.P1 and placed Exhibit #S2.P1 in a clear plastic bag until I arrived.

At approximately 2:30 PM, I arrived at TXDOT Flight Services, was briefed by Trooper Larrimore, and immediately took custody of Exhibit #S2.P1. I released custody of Exhibit #S2.P1 to the DPS Crime Lab in Austin, in person, for analysis, latent prints and DNA testing, assigned LAB #AUS-1909-23553. The results indicated that Exhibit #S2.P1 tested positive for the presence of cocaine, weighing over one (1) gram but less than four (4) grams (approximate total net weight is 2.10 grams).

In regards to the DNA testing, I was informed by the DPS Crime Lab that a DNA profile was successfully obtained from the Exhibit #S2.P1. The Crime Lab is awaiting a DNA sample to compare it to Exhibit #S2.P1.

On 10/15/2019, Special Agent Michael Guerra and I interviewed Chief of Staff De La Pena regarding Exhibit #S2.P1. De La Pena stated that he keeps his vehicle clean and organized when he picks up NEVAREZ from the airport. De La Pena was shown a photo of Exhibit #S2.P1 (front of envelope depicting letterhead of Office the State of Texas House of Representatives Member Poncho Nevarez). De La Pena stated that he does not keep those

AFFIDAVIT FOR SEARCH WARRANT

"work related" official envelopes, documents, or supplies on his person or in his vehicle, and added that all work related documents remain at the office. De La Pena denied ever seeing or possessing Exhibit #S2.P1 on the day he picked up NEVAREZ, specifically 09/06/2019.

Through training and experience, I have learned that individuals involved in the possession of narcotics would like to remain discreet and typically conceal the narcotics as best they can. Therefore, it is reasonable to believe that Rep. NEVAREZ, using his own letterhead envelope, licked and sealed the envelope that contained the cocaine in order to keep it concealed.

I believe that there is probable cause to believe that the DNA profile obtained from Exhibit #S2.P1 could possibly belong to Rep. NEVAREZ. Rep. NEVAREZ is suspected of violating Texas Health and Safety Code 481.115(c) Possession of Controlled Substance in PG 1 \geq 1 gram > 4 grams.


Affiant believes that biological bodily fluids which will contain deoxyribonucleic acid (DNA) will be found on and/or within the suspected person. The DNA of ALFONSO "PONCHO" NEVAREZ JR is needed for comparison to the DNA recovered from Exhibit #S2.P1 (white envelope containing four (4) plastic baggies holding a white powdery substance which tested positive (DPS Crime Lab) for the presence of cocaine).

Affiant requests 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, processing, analysis, testing, and completion of any investigation or proceedings related to the activities described in this Affidavit.

Wherefore, Affiant asks for issuance of a warrant that will authorize Affiant and other peace officers to search said suspected person for the property and evidence described above and to seize same.


Otto Cabrera, Special Agent (Affiant)

SWORN TO AND SUBSCRIBED BEFORE ME BY THE SAID AFFIANT ON THIS THE 25th DAY OF October, 2019.

Sign 

Print BRAD URPUTIA

YSDH Judicial District of Texas
Travis County, Texas

THE STATE OF TEXAS

DOCKET #

D1SW19101490

COUNTY OF TRAVIS

COURT: 480th

SEARCH WARRANT: DNA SAMPLE
{Article 18.02(a)(10), Texas Code of Criminal Procedure}

The State of Texas: To any Peace Officer of Travis 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 Otto Cabrera, a peace officer under the laws of the State of Texas, and whereas I find that the verified facts stated by affiant in said affidavit show that affiant has probable cause for the belief he expresses therein, and whereas I believe said affidavit properly establishes grounds for issuance of this Warrant;

Now, therefore, **you are commanded to search forthwith** the person of:

ALFONSO NEVAREZ JR., AKA "PONCHO", who is:
a white male, DOB [REDACTED]
and has been issued SS # [REDACTED]
and [REDACTED] Driver License [REDACTED]

On or within the said person you shall search for and, if same be found, seize and bring before me the property and evidence described in the affidavit, to-wit:

Biological bodily fluids/buccal cells and/or saliva containing deoxyribonucleic acid (DNA) of the suspected person.

You are commanded to collect this evidence; whether it is saliva or blood, or both saliva and blood in the form of oral buccal swab and / or blood collection vial. Which will constitute evidence confirming said persons involvement in violation of the laws of the State of Texas; specifically the offense of: Possession of Substance in Penalty Group 1 (Cocaine) >=1G<4G [Texas Health and Safety Code 481.115(c)], 3rd Degree Felony which is believed to have occurred on or about September 6TH, 2019, in Travis County, Texas.

It is further ordered, pursuant to the provisions of Article 18.10, Texas Code of Criminal Procedure (TCCP), 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, This Court grants you leave and authority that said property may be removed and taken to any location as deemed necessary by such peace officer for purposes of safekeeping, analysis, processing, and completion of any investigation or proceedings related to the activities described in the Affidavit upon which the foregoing Warrant was issued, or as otherwise authorized by the provisions of Article 18.10, TCCP.

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.

You have, fifteen (15) days of the date shown below exclusive of said date and the day of its execution allowed for the execution of this search warrant as provided by Article 18.07, TCCP.

Issued this the 25th day of October, 2019, at 10:26 o'clock A.M. to certify which witness my hand this day.

Sign

Print

[Signature]

BRAD CURTIN

480th Judicial District of Texas
Travis County, Texas



Filed on
Tuesday, October 29, 2019
Travis County District Clerk
Velva L. Price AR

THE STATE OF TEXAS

§

DOCKET # _____

COUNTY OF TRAVIS

D1SW19101490

COURT: 450th

OFFICER'S RETURN AND INVENTORY

{Article 18.02(9) & (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 Otto Cabrera ("Affiant"), and I am commissioned as a peace officer by the Texas Department of Public Safety, Criminal Investigations Division.

The attached Search Warrant came to hand on the day it was issued and it was executed on the 29th day of October, 2019, at approximately 12:10 PM., by conducting the search directed therein of the following property:

- Four oral cotton tipped applicators/swabs containing ALFONSO NEVAREZ JR' DNA. Above evidence was submitted to the DPS Austin Crime Lab for comparison reference Possession of Substance in PG 1.


Affiant

SUBSCRIBED AND SWORN to before me, the undersigned authority, on this the 29 day of October, 2019.


Notary Public, in and for the State of Texas
Peace Officer Cody Sakl



Filed on
Tuesday, October 29, 2019
Travis County District Clerk
Velva L. Price AR