

IN THE MATTER
OF A PUBLIC SAFETY
INVESTIGATION

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IN THE 38th JUDICIAL
DISTRICT COURT OF
UVALDE COUNTY, TEXAS

**STATE'S APPLICATION FOR COURT ORDER TO RETRIEVE RECORDED
AUTOMOBILE INFORMATION**

COMES NOW, the State of Texas, by and through the undersigned District Attorney of Uvalde County, and requests that this Court issue an Order authorizing the Texas Department of Public Safety (DPS) to go to 1804 North Getty Street in Uvalde, Uvalde County, Texas, and to locate there a recording device, as defined in Section 547.615(a)(2) of the Texas Transportation Code, that was installed in a 2007 Dodge Ram 3500 pickup with VIN 3D7MX48C77G734648 for the purpose of retrieving data, of the type described by Section 547.615(a)(2)(A)-(F) of the Texas Transportation Code, from said recording device, and that DPS shall then retrieve said data. In support of this Motion and for good cause, the State would show the following:

I. Background

The Department of Public Safety State Crash Reconstruction Team is investigating a two vehicle crash that occurred on US 83 south of PR 29 in Uvalde County, Texas. The vehicle involved in this crash was the above-mentioned 2007 Dodge Ram 3500 pickup with VIN 3D7MX48C77G734648. This vehicle is registered through the Texas Department of Motor Vehicles to Joseph Benjamin Young, PO Box 1909, Leakey, TX, 78873. The registered owner was not the driver. The driver of the Dodge pickup was Jack Dillon Young with date of birth 08/31/1996.

II. Data Sought

The investigating officers from the State Crash Reconstruction Team have determined that the 2007 Dodge pickup referenced above is equipped with a recording device, which was installed by the automobile manufacturer, designed to retrieve and preserve certain information from the vehicle after an accident involving the vehicle, including but not limited to:

- (1) The speed of the vehicle prior to the collision;
- (2) Air bag status information;
- (3) The vehicle's steering performance;
- (4) The vehicle's braking performance, including information as to whether the vehicle's brakes were applied before or during the crash;
- (5) The driver's safety belt status; or
- (6) Which transmitted information concerning the collision to a central communications system when the collision occurred.

III. Public Safety Concerns

The circumstances of the traffic crash involving the 2007 Dodge pickup, as described in the Affidavit of DPS Trooper Scott Hewitt, attached as Exhibit A and incorporated herein, demonstrate the information recorded and preserved by the recording device installed in the vehicle is essential for the DPS State Crash Reconstruction Team to garner the clearest understanding of the particulars of this crash. Further, said recorded information is critical to the preservation of public safety in that it will: assist with the investigation of this crash; aid the education of officers about crash avoidance and investigation; and may yield important data and insight related to possible crash-deterrent procedures, barriers, and/or road conditions to be instituted or used by peace officers and the Texas Department of Transportation, or other governmental agencies or bodies.

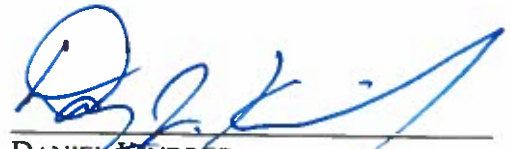
IV. Conclusion

The above-describe recorded vehicle data sought by the DPS State Crash Reconstruction Team is essential for conclusion of its investigation of this fatal traffic incident. Further, said information may prove vital to help all law enforcement and government agencies prevent these types of collisions and fatalities in the future. Accordingly, this data would serve a very important public safety function. However, the only way for this vehicle data to be of any use to anyone is if it can be lawfully retrieved. Thus, an order from this Court directing the collection of this data without any further, undue delay is of paramount importance to DPS and the safety of the general public.

V. Prayer

In consideration of the information detailed above and in the attached Affidavit, the State prays this Court will issue an order to DPS to retrieve the described recorded automobile data for the 2007 Dodge pickup at issue.

Respectfully submitted,



DANIEL KINDRED
District Attorney
38th Judicial District, Texas
3102 Avenue G
Hondo, TX, 78861

THE STATE OF TEXAS

COUNTY OF UVALDE

**AFFIDAVIT FOR APPLICATION FOR COURT ORDER TO RETRIEVE
RECORDED AUTOMOBILE INFORMATION
[TEX. TRANSP. CODE § 547.615]**

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:

1. My name is Scott Hewitt and I am a certified peace officer employed with the Texas Department of Public Safety State Crash Reconstruction Team.
2. There is in Uvalde County, Texas, at 1804 North Getty Street in Uvalde, Uvalde County, Texas, a white 2007 Dodge Ram 3500 pickup with VIN 3D7MX48C77G734648, an Electronic Data Recording (EDR) device which was installed by the manufacturer. The EDR device is inside the vehicle in its originally installed location.
3. Said vehicle is registered through the Texas Department of Motor Vehicles to Joseph Benjamin Young, PO Box 1909, Leakey, TX, 78873.
4. Said vehicle is equipped with an EDR device which was installed by the automobile's manufacturer and is designed to retrieve and preserve certain information from the vehicle after an accident involving the vehicle, including but not limited to:
 - a. The speed of the vehicle prior to the collision;
 - b. Air bag status information;
 - c. The vehicle's steering performance;
 - d. The vehicle's braking performance, including information as to whether the vehicle's brakes were applied before or during the crash;
 - e. The driver's safety belt status; or
 - f. That such recording device transmitted information concerning the collision to a central communications system when the collision occurred.
5. Affiant has reasonable and good cause to believe that the recorded vehicle data described above is vital to the protection of public safety and would show the following facts and circumstances in support thereof:
 - a. On March 29, 2017, at approximately 12:30 PM, a two vehicle crash occurred in Uvalde County, Texas, on US 83 south of PR 29. A white 2007 Dodge pickup crossed

the double yellow centerline onto the wrong side of the road and struck a 2004 Ford passenger bus head-on. The crash resulted in the death of 13 individuals riding in the Ford passenger bus. Another passenger in the Ford passenger bus sustained serious injuries.

- b. The crash occurred on US 83 where a double yellow center stripe is the traffic control device. Witnesses to the crash and physical evidence at the scene indicate the 2007 Dodge pickup drove onto the wrong side of the roadway at the time of the crash.
6. Affiant is a Trooper with the Texas Department of Public Safety (DPS) and has been employed with DPS for approximately eleven and a half (11 1/2) years to date. He has completed all five (5) levels of crash investigation and reconstruction schools offered by the Department (Levels I thru V).
7. Affiant has played a role investigating the facts and circumstances of this crash. From the facts and evidence accessible to Affiant, the following information has been revealed about the collision:
 - a. Pre-Crash: The 2007 Dodge pickup was traveling north on US 83 in Uvalde County. Witnesses behind the Dodge pickup stated the vehicle failed to drive in a single lane and was weaving all over the roadway, including into oncoming traffic and off the paved portion of the roadway. The witness followed the Dodge pickup for approximately 14 ½ minutes prior to the crash. The Dodge pickup exhibited a failure to drive in a single lane extensively during that 14 ½ minutes.
 - b. Crash: The Dodge pickup was traveling through a curve to the right and crossed over the solid double yellow center stripes onto the wrong side of the roadway. The Dodge pickup struck a 2004 Ford passenger bus head-on in the southbound lane of US 83. The vehicles rotated counterclockwise and came to rest near the area of impact.
 - c. Post-Crash: There were 14 people inside the Ford passenger bus. 13 of the 14 people in the Ford bus died from injuries sustained in the crash. The 14th person was transported to University Medical Center in San Antonio, TX for treatment. The driver of the Dodge pickup was also transported to University Medical Center in San Antonio, TX.
8. Given the nature and circumstances of this collision, Affiant has good cause to believe that the data contained in the EDR inside the Dodge pickup is needed for the furtherance of the investigation.
9. Affiant has good cause to believe that the information contained in the EDR will provide valuable insight as to the operating conditions of the Dodge pickup before, during, and after the impact with the Ford bus. This information would be important to verify the data and calculations gathered and used in the investigation. Further, said data will shed further light on

the details of this crash and may help law enforcement officers prevent such crashes in the future. Accordingly, Affiant believes that access to the data contained within the EDR in the Toyota Tundra may be imperative to the preservation and protection of the general public safety.

Respectfully submitted,



TROOPER SCOTT HEWITT, Affiant
Texas Department of Public Safety

SWORN TO AND SUBSCRIBED before me by said Affiant, on this the 30 day of March, 2017 at 7:08 P.M.



HON. CAMILE DUBOSE
Presiding Judge
38th Judicial District Court
Uvalde County, Texas

THE STATE OF TEXAS §
COUNTY OF UVALDE §

17-03-30 E

AFFIDAVIT FOR SEARCH WARRANT AND MAGISTRATION

I. AFFIANT

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

My name is Scott Hewitt . I am a peace officer employed by the Texas Department of Public Safety. 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 and:

I have formed opinions on intoxication on many occasions and have had my suspicions confirmed by breath, blood, or urine samples that were administered after I performed my law enforcement duties relating to the detection of intoxicated drivers.

II. SUSPECT & CRIME

A. The suspected person ["suspect"] is described as follows:

Name: Jack Dillon Young		
TX DL/ID # 36630471		
Race: White	Sex: Male	DOB: 08/31/1996
Height: 6'00"	Weight: 200	Hair Color: Black

B. The suspect is presently receiving treatment at University Medical Center in San Antonio, Texas, which will present the suspect to execute the warrant requested herein;

C. The University Medical Center in San Antonio, TX, has in its possession, a tube of blood drawn on the suspect's admission or around the time of admission to the

hospital. The tube is a grey top blood tube or the equivalent of a gray top blood tube;

- D. I have good reason to believe that on the 29th day of March, 2017, the suspect did then and there operate a motor vehicle in a public place in Uvalde County, Texas, while intoxicated by not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, or a combination thereof, into the suspect's body.

III. REASON FOR CONTACT / EVIDENCE OF OPERATING

- A. My belief that the suspect committed the offense described in paragraph D above is based on the following facts:
1. On the date specified in paragraph D above, at approximately 12:30 o'clock, P.M., the suspect was operating a motor vehicle in a public place in Uvalde County, Texas, namely at the following location: US 83 near mile post 552, approximately 6.5 miles north of Concan, TX;
 2. Additionally, the following information influenced my reasonable-suspicion consideration:

The suspect was the operator of a 2007 Dodge pickup involved in a major fatality crash with a 2004 Ford church bus. Following the crash, the suspect was entrapped in the vehicle and had to be extricated by first responders. Numerous witnesses and first responders observed the suspect in the driver's seat of the Dodge pickup following the crash. Evidence at the scene and witness statements indicate the suspect's vehicle traveled across the double solid yellow lines onto the wrong side of the roadway and struck the Ford church bus head-on. The Dodge pickup was traveling northbound on US 83 and crossed into the southbound lane. The crash occurred in the southbound lane.

WITNESSES: One or more witnesses, Jody Allen Kuchler and Thania Sanchez, conveyed information to me about observing the suspect's actions and/or motor-vehicle operation. The details of the conveyed information included, but were not limited to: The witnesses were in another vehicle following the suspect's Dodge pickup northbound on US 83. They followed the pickup for approximately 14 minutes. During this time, they observed the suspect's vehicle weaving heavily and failing to maintain its lane. They observed the vehicle traveling out of its lane to the right, over the improved shoulder, and onto the grassy shoulder multiple times. The also observed the vehicle traveling onto the wrong side of the road into oncoming traffic several times. They stated the suspect was almost involved in multiple crashes during the 14 minutes they

were following him. They made a cell phone video recording of the suspect's driving behavior because they felt a crash was imminent. They called local law enforcement to report the suspect's driving behavior. They recorded for approximately 14 minutes and stopped recording just prior to the crash. They also observed the suspect occupying the driver's area of the vehicle following the crash. They stated the suspect crossed the double yellow center lines and struck the Ford church bus head-on.

B. ORAL ADMISSION RE: OPERATION: Trooper Alexander Robertson told me the suspect admitted to responding officers that the suspect had been operating a motor vehicle in a public place in Uvalde County, Texas just a short time prior to my arrival: YES

B. INTOXICATION EVIDENCE:

1. GENERAL OBSERVATIONS: I conducted interviews with witnesses Jody Allen Kuchler and Thania Sanchez. They provided the 14 minute video they created prior to the crash for my review. I watched the video and observed a white Dodge pickup traveling northbound on US 83. The pickup appeared to be the white Dodge pickup operated by the suspect at the time of the crash with the Ford church van. I reviewed all 14 minutes of the video and observed the white Dodge pickup's driving behavior. Based on my training and experience the driving behavior I observed on the video is consistent with a driver who is impaired and has lost the normal use of his mental or physical faculties. I observed the vehicle failed to maintain its lane of travel on numerous occasions. At various times it traveled entirely off the paved portion of the highway with its right side tires after traveling over the improved shoulder. I also observed the vehicle cross onto the wrong side of the road over double yellow lines numerous times, and at one time crossed onto the wrong side of the road and entirely onto the shoulder on the wrong side of the road. I observed the Dodge pickup almost strike other vehicles. The video stopped when the Dodge pickup was entering the curve where the crash occurred. It appears the crash occurred approximately 10 seconds after the video stopped. The witnesses confirmed that the video recording stopped just prior to the crash.

2. EVIDENCE OF POSSIBLE DRUG/CONTROLLED SUBSTANCE USE:

Statements made by the suspect or others indicating possible drug usage:

I reviewed an audio recording of an interview with the suspect by Uvalde District Attorney Investigator Monica Cervera. The suspect told Investigator

Cervera that he picked up prescription medication at Walgreens prior to the crash. He stated he had taken Ambien and Lexapro prior to the crash. I spoke with Texas DPS Trooper Alexander Robertson. Trooper Robertson spoke with the suspect at the crash scene. The suspect told Trooper Robertson he took two Clonazepam pills about an hour prior to the crash. He told Trooper Robertson that the Clonazepam pills make him sleepy.

At the crash scene, I observed the following medications in prescription bottles in the front seat of the suspect's Dodge pickup: Zolpidem (29 pills in the bottle), Escitalopram (30 pills in the bottle), Clonazepam (empty bottle), Prazosin (empty bottle).

I spoke with a pharmacist, Jeremy Meehan, about the four medications listed in the above paragraph. He stated Zolpidem is the generic form of Ambien and Escitalopram is the generic form of Lexapro. These are the two substances the suspect told DA Investigator Monica Cervera he was taking prior to the crash.

During my conversation with the pharmacist, he told me that two of the four substances could easily cause impairment of a person's physical or mental faculties: Zolpidem and Clonazepam. The pharmacist also told me that Zolpidem is a sleep aid and its purpose is to cause drowsiness and sleep. I heard the suspect tell DA investigator Cervera on a recorded statement that he took Zolpidem prior to the crash. I learned from the pharmacist I spoke with that Clonazepam is a depressant with an effect similar to alcohol on the human body. Trooper Robertson told me that the suspect told him he took two Clonazepam pills prior to the crash. The pharmacist also stated that Escitalopram (Lexapro) could contribute to impairment, especially if combined with the other drugs we discussed.

I spoke with DPS Trooper Rae Shel Lee. Trooper Lee told me that during an inventory and inspection of the suspect's Dodge pickup following the crash, she found two full marijuana cigarettes and five partially smoked marijuana cigarettes in the center console of the Dodge pickup. In my training and experience, marijuana use can cause impairment of a person's mental and physical faculties.

3. FIELD SOBRIETY TESTS IN GENERAL:

The suspect did not perform standardized field sobriety tests due to the injuries he sustained in the crash and his need for ongoing medical care at the hospital.

4. **ADDITIONAL OBSERVATIONS/FACTORS:** Additional facts leading me to believe that the suspect may have been intoxicated while operating a motor vehicle in a public place include:

My observation of the suspect's driving behavior in the video recorded prior to the crash is consistent with driving behavior I have observed by impaired drivers. His inability to maintain a single lane was persistent and continued for an extended period of time. It did not appear to be the driving behavior of someone who was temporarily distracted. When the vehicle left its lane of travel, it did so gradually. When the vehicle corrected back into its lane, the correction was also gradual and slow.

5. **SUSPECT'S ORAL STATEMENTS:** The suspect made the following statements:
The suspect admitted to consuming several prescription medications prior to the crash: Clonazepam, Ambien, and Lexapro. The suspect also stated that he was distracted by his cellphone at the time of the crash.

6. **OPEN CONTAINER EVIDENCE:**

Open container found: NO

7. **SUMMARY:** Based upon my experiences, my training in intoxication-related offenses, my observations of the evidence at the crash scene, and my observations of the suspect's driving behavior prior to the crash, 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.

8. I know from my training and experience that alcohol and other intoxicating substances are absorbed into the bloodstream of an intoxicated person and that the blood of such person can be analyzed for the presence of alcohol and other intoxicating substances.

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 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.

Scott Hewitt

Affiant

Subscribed and sworn to before me on this the 30th day of March, 2017, by an official authorized to administer and authorize this oath pursuant to TEX. GOV'T CODE §602.002.

Camille G. Dubose

Judge / Peace Officer / Notary

CAMILE G. DUBOSE

Official's Printed Name & Title

JUDGE , 38th JUDICIAL DIST.

THE STATE OF TEXAS

§

DOCKET # 17-04-05

COUNTY OF UVALDE

§

COURT: 38th DISTRICT

AFFIDAVIT FOR SEARCH WARRANT
{Article 18.02(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 AND ACCUSATIONS:

My name is Eric Morgan and I am commissioned as a peace officer with the Texas Department of Public Safety. I have over 17 years' experience in law enforcement and am currently a Trooper III in the Texas Highway Patrol. I have credible information and personally participated in this investigation and am familiar with the information contained in this affidavit, either through personal information and/or through evidence that a criminal offense has occurred.

1. This offense was committed in relation to a motor vehicle crash in rural Uvalde County, Texas. The offense occurred on US 83 approximately 6.5 miles north of Concan and involved a 2007 Dodge truck driven by Jack Dillon Young and a 2004 Turtle Top Bus/Van. I took possession of a mobile phone belonging to Jack Dillon Young (offender) as evidence of the crime while at the crash scene.

2. There is suspected, in this mobile phone, items constituting evidence of an offense and evidence that a particular person committed the offense of Manslaughter as codified in Chapter 19.04 Penal Code of the State of Texas, and described as: LG mobile phone, model M1V, serial number 609CYGW577919, any and all content pertaining to electronic communication by means of text messages, photographs, call log and voice messages, and included but not limited social network programs applications containing communication through chat messages, messages and profile status, which is relevant to the crime offense.

3. It is the belief of the Affiant that evidence obtained from this phone will have an affirmative link to the calls, text messages, and other media between the driver of a vehicle, involved in a fatality motor vehicle crash, and other parties.

4. Affiant has good reason to believe, does believe and hereby charges and accuses that on or about March 29, 2017 at approximately 12:30 PM, in rural Uvalde County Texas, Jack Dillon Young (DOB 8/31/1996), Texas Driver's License Number 36630471, committed the offense of against the laws of the State of Texas, to-wit; Manslaughter.

5. Affiant has probable cause for said belief by reason of the following facts and circumstances: On or about March 29, 2017 at approximately 1230 hours, the actor (Jack Dillon Young) was involved in a motor vehicle crash that resulted in multiple fatalities. Affiant spoke with Sergeant Juan Maldonado who told me that he had talked with several individuals who told him they had witnessed the white Dodge truck driving in an erratic manner from Uvalde to the crash scene. Sergeant Maldonado told me these witnesses told him the truck was weaving and driving into the oncoming lane of traffic. Affiant also spoke with Trooper Alexander Robertson who told me that he spoke with the driver of the truck, Jack Dillon Young at the crash scene, who told him he was checking for text messages on his phone at the time the crash occurred.

6. Affiant has viewed cell phone video, shot by a witness to the driving behaviors exhibited by Jack Dillon Young. This video shows the truck, driven by Jack Dillon Young, having several close calls (near crashes) with other vehicles and floating from the northbound lanes of US83 into the southbound lanes. Affiant's training and experience indicate this driving behavior to be consistent with distracted driving.

This Affiant believes that the search of the above-described mobile phone LG mobile phone, model M1V, serial number 609CYGW577919 for the above-described items of evidence will constitute evidence that the criminal offense of Manslaughter Texas Penal Code 19.04.


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 and completion of any investigation or proceedings related to the activities described in this affidavit.

THEREFORE, your Affiant respectfully requests the issuance of a search warrant that will authorize Affiant and other Peace Officers access of the said mobile phone: LG mobile phone, model M1V, serial number 609CYGW577919 to / for search and seizure of the described evidentiary items.



Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY SAID AFFIANT ON THIS
THE 5 DAY OF April, 2017.



Judge 38 JUD. DIST.

Uvalde County, Texas

THE STATE OF TEXAS

§ DOCKET # 17-04-05

COUNTY OF UVALDE

§ COURT: 38TH DISTRICT

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

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


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, and whereas I find that the verified facts stated by Affiant in said affidavit show that Affiant has probable cause for the belief she expresses herein and establishes existence of proper grounds for issuance of this search warrant;

Now, therefore, you are commanded access to: LG mobile phone, model M1V, serial number 609CYGW577919 for any and all content pertaining to electronic communication by means of text messages, photographs, call log and voice messages, and included but not limited to social network programs applications containing communication through chat messages, messages and profile status, which is relevant to the crime offense.

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 purpose 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 search warrant within three days, exclusive of the day of its execution, with your return thereon, showing how you have executed same.

Issued this the 5 day of April 2017 at 9:11 o'clock A. M., to certify which witness my hand this day.


Judge 38TH JUD. DIST.

Uvalde County, Texas