

STATE OF TEXAS

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COUNTY OF JEFFERSON

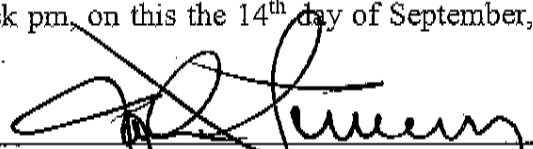
THE STATE OF TEXAS to the Sheriff or any Peace Officer of Jefferson County, Texas, or any Peace Officer of the State of Texas,

GREETINGS:

WHEREAS, the Affiant whose signature is affixed to 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 by this reference incorporated herein for all purposes), 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 establishes the existence of proper grounds for the issuance of this warrant:

NOW, THEREFORE, you are commanded to enter the suspected place and premises described in said Affidavit and to seize the items requested to be searched and bring it before me. Herein fail not, but have you then and there this Warrant within three days, exclusive of the day of its execution, with your return thereon, showing how you have executed the same.

ISSUED at 12:49 o'clock pm, on this the 14<sup>th</sup> day of September, 2017, to certify which witness my hand this day.



JUDGE J. STEVENS CRIMINAL DISTRICT COURT JUDGE  
JEFFERSON COUNTY, TEXAS

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**\*\* AFFIDAVIT FOR SEARCH WARRANT \*\***

STATE OF TEXAS

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COUNTY OF JEFFERSON

THE UNDERSIGNED AFFLIANT, BEING A PEACE OFFICER UNDER THE LAWS OF TEXAS, AND BEING DULY SWORN, ON OATH MAKES THE FOLLOWING STATEMENT AND ACCUSATIONS:

1. THERE IS IN JEFFERSON COUNTY, TEXAS, A SUSPECTED PLACE DESCRIBED AND LOCATED AS FOLLOWS: A commercial business building that has the assigned address as 4225 Lake Arthur Drive Port Arthur, Jefferson County Texas, 77642. The name of the business is Lake Arthur Place Nursing and Rehabilitation. The building has a reddish orange brick exterior in color with white trim. The address numbers is located above the covered drop off area in front of the main doors. The commercial building sits on the north side of the Lake Arthur Drive.

2. THERE IS AT SAID SUSPECTED PLACE AND PREMISES, PROPERTY CONCEALED AND KEPT IN VIOLATION OF THE LAWS OF THE STATE OF TEXAS AND DESCRIBED AS FOLLOWS: any and all evidence related to the following violation of Texas Penal Code 22.04:

*(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:*

*(1) serious bodily injury;*

*(2) serious mental deficiency, impairment, or injury; or*

*(3) bodily injury.*

**Specific evidence affiant is searching for is as follows:**

**All waste management containers currently on the property for remediation purposes**

3. **Any computer system and/or computer server located at Lake Arthur Place;**

4. **Medical records of patients housed at said facility**

5. **Any communications, including but not limited to text messages and email communications between Jeff Rosetta and the corporate office of Senior Care Centers and/or Senior Care Center Management from August 18 to present regarding Respondents evacuation plan for its residents;**

6. **All photographs and/or video tapes of the rescue of patients and scene where the incident occurred**

7. **All witness statements of any witness to the occurrence whether signed or not**

8. **All accident and/or investigative reports which refer to or relate to this incident**

9. **The cell phone of JEFF ROSETTA so that the cellular data and items can be examined and that are commonly run on IOS, Android, Blackberry, Windows, BADA, Palm, Garnet, Open Web, Maemo, Open Source, Nokda, Samsung, Meego, Verdict, Firefox, Sailfish, Tizen or Symbian operating systems:**

- a. **Call history and call logs;**
- b. **Email messages and attachments, whether "draft", "read", or "unread"**
- c. **Internet, Worldwide Web (www) browser files including, but not limited to browser history, browser cache, stored cookies, browser favorites and auto complete form history**
- d. **Global positioning system (GPS) data including, but not limited to, coordinates, waypoints and tracks;**
- e. **Data that is commonly called "deleted files", which can contain any of the above stated descriptions of data**
- f. **Any account information, settings and saved usage information for any and all installed applications known as "apps" on the device including social media sites, third party applications and messages to include kik, text plus, Snapchat, Google messaging and on other messaging applications installed on the cellular device or accessed through said device;**
- g. **Cell phone Cloud accounts to include Apple, Google Store, and Windows Cloud accessed through a cell phone device**
- h. **Wi Fi and routing network information; to include- said - (network name) and GPS information of the network, GPS directions and cell tower data, calendar information, including sync counters, internet history and usage to include websites visited, search terms and cookies, used dictionary words, network service provider data, Cloud storage attached to device settings and applications, data collected during the maintenance, analysis, logical acquisition, file system acquisition, physical acquisition via device interface, physical acquisition via jtag, and physical acquisition via chip off extraction.**

10. a list of employees at said facility and their work schedule to determine who to interview as witnesses

3. SAID SUSPECTED PLACE AND PREMISES ARE UNDER THE CHARGE OF AND CONTROLLED BY EACH OF THE FOLLOWING DESCRIBED PERSONS: Jeff Rosetta, administrative director of Lake Arthur Place Nursing and Rehabilitation

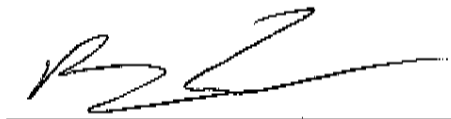
4. IT IS THE AFFIANT'S BELIEF AND HE HEREBY CHARGES AND ACCUSES, THAT: Jeff Rosetta violated Texas Penal Code 22.04 which the details and facts will be laid out in the Probable Cause section of this affidavit:

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

- (1) serious bodily injury;
- (2) serious mental deficiency, impairment, or injury; or
- (3) bodily injury.

5. AFFIANT HAS PROBABLE CAUSE FOR SAID BELIEF BY REASON OF THE FOLLOWING FACTS: See "Attachment A" which for all purposes becomes a part of this affidavit.

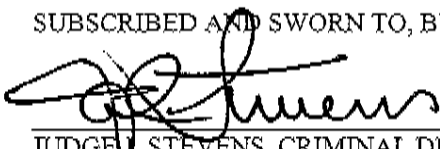
WHEREFORE, AFFIANT REQUESTS ISSUANCE OF A WARRANT AUTHORIZING THE SEARCH OF AFORESAID PREMISES FOR SAID PROPERTY AND SEIZURE OF SAME AND TO ARREST OF SAID DESCRIBED AND ACCUSED PERSON.



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AFFIANT

SUBSCRIBED AND SWORN TO, BEFORE ME THIS THE 14<sup>th</sup> DAY OF September, 2017.



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JUDGE J. STEVENS, CRIMINAL DISTRICT COURT JUDGE  
JEFFERSON COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF JEFFERSON

ATTACHMENT A

LOCATION:

The Affiant, Detective Fanette, is a certified peace officer in the State of Texas. The affiant is employed by the Port Arthur Police Department and has been so employed for the past 18 years. The affiant is currently assigned to the Criminal Investigations Division.

Hurricane Harvey made landfall in Texas on Friday night, August 25, 2017 as the strongest hurricane to hit the U.S. in more than a decade. By Saturday morning, August 26, 2017 it had dumped 18 inches (half a meter) of rain on some areas, and **forecasters urgently warned that it could cause catastrophic flooding in the coming days.**

Here is a timeline of key moments in the storm's development based upon news service reports by television, radio, newspaper and internet.

**Aug. 17, 4 p.m.**, Tropical Storm Harvey is named, six hours after the National Hurricane Center in Miami issues a potential tropical cyclone for several small Caribbean islands.

**Aug. 19, 4 p.m.**, Moving westward between the northern coast of South America and the larger Caribbean islands, Harvey is downgraded to a tropical depression, with maximum sustained winds of 35 mph (56 kph). Six hours later, it is further downgraded to a tropical wave.

**August 23, Wednesday, 10 a.m.**, Harvey regenerates into a tropical depression about 535 miles (860 kilometers) southeast of Port O'Connor, Texas, with maximum sustained winds of 35 mph (56 kph).

**August 24, Thursday, 1 p.m.**, after quickly strengthening over the course of a day, Harvey becomes a hurricane, with maximum sustained winds of 85 mph (140 kph). It is about 325 miles (525 kilometers) southeast of Port O'Connor, and Texas coastal communities in its path are urged to complete their preparations. By midnight, it is upgraded to a Category 2 hurricane and is 220 miles from Port O'Connor, with sustained maximum winds of 100 mph (160 kph).

**August 25, Friday, 2 p.m.**, Harvey is upgraded to a Category 3 hurricane, with sustained maximum winds of 120 mph (195 kph). It is centered about 75 miles (120 kilometers) southeast of Corpus Christi. By 6 p.m., Harvey is a Category 4 storm just 45 miles from the city, with maximum sustained winds of 130 mph (215 kph).

**Friday, 10 p.m.**, Harvey makes landfall as a Category 4 hurricane when the eye of the storm comes ashore between Port Aransas and Port O'Connor, two communities just off the coast of mainland Texas near Corpus Christi.

**August 26, Saturday, 2 a.m.**, Harvey is centered about 15 miles inland and is weakening as it slowly passes over land. It has been downgraded to a Category 3, with maximum sustained winds of 115 mph (185 kph). Two hours later, it is downgraded further to a Category 2.

**Saturday, 5 a.m.**, With maximum sustained winds of 90 mph (150 kph), Harvey is downgraded to a Category 1 storm. Forecasters warn of potentially catastrophic flooding in the coming days.

**August 26, Saturday**, Hurricane Harvey moved into the Houston-area bringing thunderstorms and tornadoes that caused severe damage in some areas.

Harvey brought a second wave of severe weather as it slowly began to circle back into the Gulf and regained some strength.

**August 27** Harvey stationed itself over the **Houston-area bringing extreme flooding and over 50 inches of rain in some spots.**

**August 29** As Harvey prepares for its second landfall, Southeast Texas floods. **Jefferson County received 26.03-inches of rain this day alone, according to the National Weather Service**

Harvey makes landfall for the second time around 10 p.m. on August 29, 2017 near Sabine Pass.

The storm officially brought 47.47" of rain to Jefferson County alone in a five-day period - more than half of that occurring in just one day.

Based upon the above mentioned facts Jeff Rosetta, administrative director of Lake Arthur Place Nursing and Rehabilitation located at 4225 Lake Arthur Drive Port Arthur, Jefferson County, TX 77642, with criminal negligence, and/or recklessness, and/or knowledge caused injury to elderly individuals as defined by Texas Penal Code 22.04 (c) (2), by failing to provide adequate care and safety of numerous elderly individuals that were in the care, custody and control of the said facility. Medical documents will show some of the individuals sustained injury as a direct result of the catastrophic flooding and the evacuation finally orchestrated at the last minute by citizens.

The timeline above was laid out to show there were several days of warning, and several days to prepare a plan and have the resources in place to execute the evacuation or execute any plan that would have provided adequate safety and living conditions for those elderly individuals who rely on the care of Lake Arthur Place Nursing and Rehabilitation. Nonetheless, appropriate action by Rosetta did not timely occur.

Det. Mike Hebert has informed affiant of what he witnessed himself as he assisted in the evacuation of Lake Arthur Place Nursing and Rehabilitation. On September 30, 2017 around noon time Det. Mike Hebert accessed Lake Arthur Place Nursing and Rehabilitation by means of boat because of the flooded conditions. The director of nursing at the facility told Det. Hebert the person in charge of the facility was Jeff Rosetta. The director of nursing brought Det. Hebert to Rosetta. Det. Hebert identified himself to Rosetta as a police officer with Port Arthur Police Department. Det. Hebert noted that at this time the water was about 10-12 inches deep throughout the entire facility. He also noted the strong odor of human feces and urine throughout the facility. Det. Hebert noticed that some of the patients were still in their rooms. Some were in hallways that were lying in beds or sitting in wheel chairs. The ones in wheel chairs had their lower extremities submerged in the flood waters. Det. Hebert said it was obvious that the patients needed immediate assistance to evacuate and be placed out of harm's way.

Even though Det. Hebert was in full patrol style uniform, Rosetta questioned the validity of Det. Hebert's official capacity. Rosetta told Det. Hebert his badge appeared to be fake and he was a fake cop. Rosetta became argumentative telling Det. Hebert to get out of his office and "get out of my building". Det. Hebert then turned to the director of nursing he had originally encountered and told her he need to quickly execute a plan to evacuate the patients.


Det. Hebert and Det. T. Cater, also of the Port Arthur Police Department, reentered Rosetta's office and made a second attempt to have him assist with the evacuation. Rosetta is still not cooperating and came out from behind his desk. Rosetta observed a patient being wheel chaired past his office and made the comment "you cannot take anyone out of this facility". Det. Hebert was standing in the doorway of Rosetta's office. Rosetta, by using his hands, pushed Det. Hebert out of the way in an attempt to get to the patient being wheeled to safety by his office.

Det. Hebert and Det. T. Cater had to physically restrain Rosetta with handcuffs so Rosetta could not prevent the necessary evacuation of the patients. Rosetta had made it clear he was not willing to allow the patients to leave or assist the Port Arthur Police Department to find a solution to bring the patients to safety. Rosetta would repeatedly accuse Det. T. Cater of "being a fake cop".

There were also persons who arrived by boat to assist in the evacuation and were told by Rosetta that they could not evacuate anyone and that "the National Guard was on the way". Det. Hebert had no knowledge of the National Guard being deployed to the location.

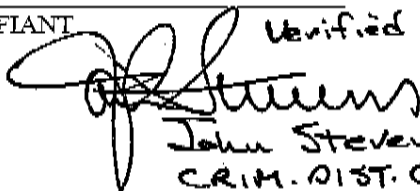
Rosetta's actions towards police personnel and his omission to act in the prior days leading to this event, as well as his actions on August 30, 2017 resulted in the injury of patients under the care of his facility.

Affiant believes that evidence to the Injury to Elderly is contained within above mentioned facility. Affiant also believes the facts laid out in this affidavit and the evidence to be located will show that Rosetta committed Injury to the Elderly with criminal negligence and/or recklessness, and/or knowledge by omission.



AFFIANT

Verified by:



John Stevens  
CRIM. DIST. CT. JUDGE  
Jefferson Co., Tx