201256

State of Texas

County of Bexar

In the Magistrate Court
Number: CM 069818

Affidavit for Arrest Warrant

The undersigned Affiant, Det. Gilbert Tovar #2368, being a Peace Officer under the laws of the State of Texas and being duly sworn, on oath, makes the following statements and accusations:

- A victim in this case has been identified as
Texas Health and Human Services Commission & Texas Department of Family and Protective Services , hereinafter referred to as the Victim.

- An actor in this case has been identified as Joshua Russell , date of birth [redacted] , hereinafter referred to as Defendant 1. Said Defendant is further identified in SAPD computer files under SID # 1132822

- An actor in this case has been identified as Patrick Roth , date of birth [redacted] , hereinafter referred to as Defendant 2. Said Defendant is further identified in SAPD computer files under SID # 1132820

- It is the belief of your Affiant that the offense of
Hindering Proceedings by Disorderly Conduct
was committed on or about the 13th day of February , 2020 ,in Bexar County, Texas.

- Your Affiant has probable cause for said belief by reason of the following facts:

Your Affiant was assigned to investigate this case. The Defendants arrived at 905 Pleasanton Road, San Antonio, TX, the location for offices belonging to the Texas Health and Human Services Commission (TX HHSC) and the Texas Department of Family and Protective Services (TX DFPS). The Defendants walked into the lobby of this building. Members of the public were waiting in line to apply and seek benefits and or services from these agencies. Members of the public go to this building to apply for services and receive information about such state sponsored programs like Supplemental Nutrition Assistance Program ("food stamps); Child Protective services dealing with children who have been physically, sexually or emotionally abused; Temporary Assistance for Needy Families; Healthy Texas Women's Program; Medicaid and Medicare, to name a few. When people come into the lobby for services, they sign in, take a place in line and wait until they are called to the glass, service windows by one of the agency's employees.

The two Defendants call themselves "First Amendment Auditors" and make video recordings of what they do and then post these videos on their "Youtube" channels.

Defendant 1 (Russell) goes by the "Youtube" handle name, "Nomad".

Defendant 2 (Roth) goes by the "Youtube" handle name, "News Now Patrick".

Following this incident, Defendant 2 posted his video recording of the incident on his "Youtube" channel. I downloaded a copy from Defendant 2's (Roth) "Youtube" channel for this case. Your Affiant made arrangements and downloaded the surveillance video from February 13, 2020, at 905 Pleasanton Road, San Antonio, TX, which clearly shows the two Defendants come through the entrance of 905 Pleasanton Road, San Antonio, TX. The 2 Defendants enter with their cell phones attached to cellphone sticks and appear to be recording their activities.

In the lobby area of 905 Pleasanton Road, San Antonio, TX there are five (5) signs posted throughout which state, "To respect the privacy of others - No photographs, video or audio recordings allowed."

The "Youtube" video of this incident, posted by Defendant 2 (Roth) shows the following:

The two Defendants caused such a disturbance in the offices at 905 Pleasanton Road, San Antonio, TX that at least six staff members (witnesses) were so disturbed and distracted from their normal duties, because of the actions of the two Defendants, that they were unable to continue servicing the clients who were being serviced and who were waiting their turn in line. The disturbance escalated and SAPD had to be called to assist the building's Security Officer to deal with the 2 Defendants and to keep the peace.

Defendant 2 (Roth) bypasses the line where people are waiting to be called up to a service window and asks a clerk, "Can I get a State benefit packet?" The clerk at the window tells Defendant 2 (Roth) that she can give him a 1-800 number to call and request such a packet, since she does not provide such packets. Defendant 2 (Roth) continues to insist that he be given a packet, causing the clerk to have to leave her work station and go to call for help from the building's Security Officer.

Next, Defendant 2 (Roth) sees a Supervisor on her radio and sarcastically says "she's on the radio." When the building's Security Officer arrives Defendant 1 (Russell) says "how are you doing sir, I'm Josh." The Security Officer tells Defendant 1 (Russell) about their policy where there is no photographing and no videotaping, in the building. He then tells them that they need to leave the building. The 2 Defendants become argumentative and refuse to leave the building. Defendant #2 (Roth) walks around the lobby area and records a sign that says, "To respect the privacy of others - No photographs, video or audio recordings allowed."

A Clerk walks up to Defendant 2 (Roth) and politely tells him that he must stop recording or she will have to call the local authorities. In response, Defendant 2 (Roth) zooms in on the clerk's badge, which also has her picture on it. The clerk gets upset that Defendant 2 is video recording her badge. Defendant 2 (Roth) then walks to another window and continues to record all of the employees and their work stations in the area. One clerk stops what she's doing and attempts to turn her computer monitor away so that Defendant 2 cannot video record what is written on it. The same clerk, visibly upset, then turns around and tells the other employees not to allow the confidential information on their monitors to be video recorded, since Defendant 2 continues to record. The clerk again tells Defendant 2 (Roth) that what's on her screen is confidential and that he cannot record it. She then covers her computer screen with a piece of paper, but Defendant 2 keeps recording.

Defendant 2 (Roth) then walks to another window and raises his voice to another clerk and asks for a "benefit packet". A supervisor tells Defendant 2 (Roth) that they will serve him if he gets in line and waits his turn. Defendant 2 (Roth) says, "I don't need service in the line, I need a packet to fill out then when I'm done, I'll get in line." Defendant 2 (Roth) repeats himself about not getting in line until things are done his way. The supervisor then sees that Defendants 2's actions have made it impossible for her clerks to attend to the clients waiting in line, so she shuts the service window where Defendant 2 is filming. As she attempts to shut the service window, Defendant 2 pushes his device past the window and into the clerk's space, on the other side of the window, so that it can't be closed. The Supervisor then forces the window shut.

Shortly thereafter, the two Defendants leave the building.

Your Affiant met separately with the six employees (witnesses) and the Security Officer assigned to this building. The six employees comprise two Supervisors, three Clerks and one Administrative Tech. The names of the employees along with the Security Officer will not be revealed at this time for their safety. The seven employees have given your Affiant Sworn Statements and will testify in Court at a later date, if needed. The 2 Defendants have been positively identified at this time by the seven employees.

The following sentiments were expressed to your Affiant by the employees in their witness statements:

Due to the 2 Defendants being disruptive and disturbing the employees, services to clients were hindered

and the employees workflow was hindered.

Clients had to wait longer in line, in order to receive their services, because of the 2 Defendants' tumultuous behavior and disorderly conduct.

The 2 Defendants were told numerous times to stop their video recording because of the agency's policies and because the information being shared in the office, by clients seeking services, was extremely confidential and disclosure of such sensitive, client information amounted to violations of "HIPPA". Additionally, it is the experience of these agency's employees that their clients do not want it known to the general public that they are receiving State benefits. Thus, video recording them when they are applying for or receiving information about such services is a violation in regard to their privacy.

Defendants were videotaping children that were in the building, at the time of this incident. Often, children have been legally removed from their parents and these childrens' caretakers come to these agencies to apply for benefits for these children. A woman is seen on the videotape appearing to tell her child to turn away from the cameras that were recording the building lobby, where they were waiting.

Some clients are battered women, some are immigrants, some have just been released from prison, some are mentally challenged and/or handicapped. All are seeking services.

Some clients are in a compromised life situation and the agencies try to promote a culture of safety, comfort and non-judgment, since their employees are dealing with very private matters.

Employees stated that they had to stop their conversations with their clients, as the 2 Defendants walked by them, for fear that their conversation would be video recorded.

Force was used by one of the Defendants to keep a window open when he stuck his camera into the workspace of an employee.

The employees stated that they feared losing their jobs if they permitted the confidential information of their clients to be recorded.

The employees stated that their clients expressed relief when the 2 Defendants left the building.

The Security Officer said that he was called to handle a disturbance involving the Defendants. The Security Officer told the 2 Defendants that they could not record in that building and one of the Defendants told the Security Officer that he would continue recording after this official request to desist. The Security Officer stated that it appeared to him that the 2 Defendants did not care in the least about the agencies' purpose and function of processing applicants and that the tumultuous behavior and disturbance caused by the 2 Defendants posed a security threat to the employees and clients. The Security Officer asked the 2 Defendants to leave the building, and the 2 Defendants refused to leave.

Therefore your Affiant respectfully requests that an Arrest Warrant be issued for the arrest of Patrick Roth - SID #1132820 and Joshua Russell - SID #1132822 who on or about February 13th, 2020 in San Antonio, Bexar County, Texas - intentionally or recklessly committed the offense of Hindering Proceeding by Disorderly Conduct - Section 38.13 of the Penal Code of the State of Texas.

• Your Affiant has reason to believe, and does believe, the said Defendants, Joshua Russell and Patrick Roth, on or about the 13th day of February, 2020, in Bexar County, Texas,

committed the Offense of - Hindering Proceedings by Disorderly Conduct

in violation of Section # 38.13 of the Penal Code of the State of Texas.

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Therefore, your Affiant respectfully requests that a warrant be issued for the arrest of the Defendants, Joshua Russell and Patrick Roth, charging them with the misdemeanor criminal offense of Hindering Proceedings by Disorderly Conduct in violation of Section # 38.13 of the Penal Code of the State of Texas.

Respectfully Submitted, Det. [signature] #2368
Signature of Affiant

Sworn to and subscribed before me in person this 03rd day of March 2020 hour of 7:06 PM	[signature] Signature of Magistrate Bexar County, Texas

Dan Kessahn