

UM3334-04  
2146409

CAUSE# 21-357453

# Complaint

COUNTY OF MONTGOMERY           §  
  §  
COUNTY COURT AT LAW         §

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that on or about April 23, 2021, in Montgomery County, Texas, DANIEL HUBERTY, hereafter styled the Defendant, while operating a motor vehicle in a public place, was then and there intoxicated,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

\* Casper Cheatham  
Affiant

Sworn And Subscribed To Before Me On April 26, 2021.

[Signature]  
Assistant District Attorney  
Montgomery County, Texas

21M3334-04  
2146489

CAUSE# 21-357453


### Information

COUNTY OF MONTGOMERY                   §  
   §  
COUNTY COURT AT LAW                   §

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

COMES NOW the undersigned Assistant District Attorney of Montgomery County, Texas, in behalf of the State of Texas, and presents in and to the County Court at Law of Montgomery County, Texas, that on or about April 23, 2021, in Montgomery County, Texas, DANIEL HUBERTY, hereafter styled the Defendant, while operating a motor vehicle in a public place, was then and there intoxicated,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

  
\_\_\_\_\_  
Assistant District Attorney  
Montgomery County, Texas

## DWI Blood Search Warrant (As of 9/26/2019):

Officer's title and name:	Deputy R Castillo
Offense/case number:	21F009774
Officer's agency:	Montgomery County Constable Pct 4
Suspect name (First Last):	Daniel Huberty
Suspect DL/ID number:	[REDACTED]
Suspect race:	white
Suspect gender:	male
Suspect DOB (MM/DD/YYYY):	[REDACTED]
Suspect height:	6'2"
Suspect weight:	~200 lbs
Suspect hair:	gray
Nurse/phlebotomist (if known):	Justin Chance

(Press Tab again to continue filling out the search warrant)

THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

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# DRIVING WHILE INTOXICATED

## BLOOD WITHDRAWAL PROCEDURE FORM

- 1. Officer placed suspect under arrest for Chapter 49 offense involving operation of a **motor vehicle**.
- 2. Officer read DIC-24 to suspect and did provide suspect with written copy.
- 3. Suspect did  consent /  refuse to give sample /  unconscious or incapable of refusal.
- 4. Officer did remove vial from blood collection kit.
- 5. Expiration date on blood kit/vial is 04/30/2021.
- 6. Officer did fill out label that came with kit completely except for the time blood was drawn.
- 7. Vial was closed when handed to the nurse/technician.
- 8. Preservative/anti-coagulant powder was seen in vial.
- 9. Nurse/technician did the following in withdrawing blood from subject:
  - Used Betadine (or other: N/A) solution as disinfectant. (save package)
  - Technician verified suitability with subject (allergies and medication).
  - Technician cleansed subject's  left  right arm by disinfecting with swab in a circular and outward motion.
  - Rotated vials as indicated or 8 times so as to mix blood with preservative anti-coagulant.
- 10. Vial (top never having been opened) was then delivered to officer and officer finished completing label by adding time blood was drawn and officer and nurse/technician initialed label, which was used to seal vial top closed.

Signed by:

[Signature] 8172  
 Arresting Officer/PD Department  
 Deputy R Castillo / Montgomery County Constable Pct 4

[Signature] RW  
 Nurse/Medical Technician  
 Justin Chance

**TURN IN \*ALL\* ORIGINAL PAPERWORK TO ON-CALL ADA BEFORE LEAVING!**

Suspect Name: Daniel Huberty

Date: 04/23/2021

Offense No.: 21F009774

Time of Blood Draw: 2257



THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

§

**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 Deputy R Castillo. I am a peace officer employed by Montgomery County Constable Pct 4. I have successfully completed the State-mandated requirements to become a peace officer and have successfully completed courses and/or training in the fields of alcohol detection, including Standardized Field Sobriety Tests, hereafter SFSTs, and intoxication-related offenses. I have seen intoxicated persons in the past and I have observed numerous people who are under the influence of alcohol or other substances.

I am certified and/or trained in the detection of drug impaired or intoxicated drivers through my classification(s) as:

a Drug Recognition Expert (DRE); or

through the Advanced Roadside Drug Enforcement (ARIDE) programs.

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**

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

Name: Daniel Huberty		
TX DL/ID # [REDACTED]		
Race: white	Sex: male	DOB: [REDACTED]
Height: 6'2"	Weight: ~200 lbs	Hair Color: gray

2. The suspect is presently in the custody of a law enforcement agency here in Montgomery County, Texas, namely the Montgomery County Constable Pct 4, which will present the suspect to execute the warrant requested herein;

3. The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph 4 below;

4. Based on my own observations and information relayed to me by other licensed peace officers, namely \_\_\_\_\_, I have good reason to believe that on the 23 day of April, 2021, the suspect did then and there operate a motor vehicle in a public place in Montgomery 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**

My belief that the suspect committed the offense described in paragraph 4 above is based on the following facts:

1. Based on my observations or information relayed to me by other investigating officers, I developed the opinion that on the date specified in paragraph 4 above, at about 8:35 o'clock, P.M. the suspect was operating a motor vehicle in a public place in Montgomery County, Texas, namely at the following location:  
Valley Ranch Parkway at FM-1314

2. The following information influenced my reasonable-suspicion consideration (any that apply are checked):

**TRAFFIC STOP:** The vehicle was stopped at the above time and location for the following reason(s):  
\_\_\_\_\_  
\_\_\_\_\_

and, at the time of the stop, I believed that these facts, among others, possibly indicated that the suspect was committing the following Transportation Code violations or offenses:

and/or the offense of driving while intoxicated;

**ENCOUNTER:** The suspect's vehicle was already stopped and I believed that the suspect had been driving and/or operating the vehicle. The following was observed I observed a Corvette under the rear bumper of a red SUV in what appeared to be a ehicle crash. The suspect was outside the Corvette inspecting the damage. He said the lady slammed on her brakes and he did not stop in time.

\_\_\_\_\_ and, at the time of the contact, I believed that these facts, among others, possibly indicated that the suspect committed the following traffic and/or criminal violations: Fail to Control Speed and/or the offense of driving while intoxicated.

**WITNESSES:** One or more witnesses, Eduardo Villarreal, conveyed information about observing the suspect's actions and/or motor-vehicle operation. The details of the conveyed information included, but were not limited to: he saw the Corvette run the red light and the Corvette never shoed any brake lights before striking the other vehicle.He identified the suspect as the only person in the Corvette.

**ADMISSION TO OPERATING:** The suspect admitted that the suspect had been operating a motor vehicle in a public place in Montgomery County, Texas.



**IV. INTOXICATION EVIDENCE:**

1. GENERAL OBSERVATIONS: During contact with the suspect, the following observations about the suspect were made:

ODOR OF ALCOHOL:  Strong  Moderate  Faint  None

FACE APPEARANCE:  Flushed  Dazed  Glassy Eyes  Bloodshot Eyes

SPEECH:  Cotton-mouthed  Slurred  Confused  Stuttered  Accent

Other: \_\_\_\_\_

ATTITUDE:  Cooperative  Combative  Indifferent  Carefree  Cocky  Mood Swings  
 Talkative  Excited  Insulting  Sleepy  Profane  Polite

Other: \_\_\_\_\_

BALANCE/STANDING:  Falling  Staggering  Hesitant  Swaying  Unsure  Sure

Other: \_\_\_\_\_

BALANCE/WALKING:  Falling  Staggering  Hesitant  Swaying  Unsure  Sure

Other: \_\_\_\_\_

ADMISSION TO DRINKING: The suspect admitted that he/she had consumed alcohol. In addition, the suspect admitted beginning drinking at \_\_\_\_\_  AM  PM, at \_\_\_\_\_ (location), and stopped drinking at \_\_\_\_\_  AM  PM. The suspect said he/she consumed the following type(s) of alcoholic beverages: \_\_\_\_\_

ALCOHOL CONTAINERS: The following alcohol containers were observed: \_\_\_\_\_

OTHER INDICATIONS OF MENTAL IMPAIRMENT: \_\_\_\_\_

2. EVIDENCE OF POSSIBLE DRUG/CONTROLLED SUBSTANCE USE:

- Drug paraphernalia found
- Describe drug paraphernalia found \_\_\_\_\_
- Odor of marijuana detected (describe) \_\_\_\_\_
- Statements made by the suspect or others indicating possible drug usage:  
\_\_\_\_\_  
\_\_\_\_\_

- Other evidence of drug use including pupil size, pulse, body temp, etc: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. FIELD SOBRIETY TESTS IN GENERAL:

The suspect refused to perform ( ) of the requested field sobriety tests, and this refusal indicates to me that the suspect was attempting to hide intoxication evidence

YES NO

During contact with the suspect, performance of field sobriety tests was requested of the suspect. The following are the observations of the suspect's performance of field sobriety tests and signs of intoxication:

4. SPECIFIC FIELD SOBRIETY TESTS:

**HORIZONTAL GAZE NYSTAGMUS (hereafter HGN):**

The suspect was first qualified as a candidate by checking the suspect's eyes for equal tracking, no resting nystagmus, and equal pupil size. The suspect was also qualified as a candidate by questions which revealed that he had not suffered from a head injury, did not have any relevant medical problems, and was not currently on any disqualifying medications.

HGN: At Least 6 Clues Observed

Check observed clues:

L R 1. Lack of smooth pursuit

L R 2. Distinct and sustained nystagmus at maximum deviation

L R 3. Onset of nystagmus prior to 45 degrees

Vertical Nystagmus: YES NO

Subject swayed excessively: YES NO

Other comments: \_\_\_\_\_

I know from my training and experience that Horizontal Gaze Nystagmus is caused by the introduction of a Central Nervous System Depressant, Inhalant, or Dissociative Anesthetic into the subject's body.



**WALK AND TURN TEST (hereafter WAT):**

WAT: At Least 5 Clues Observed

Check observed clues:

- 1. Cannot keep balance while listening to instructions
- 2. Starts before instructions are finished
- 3. Stops while walking to steady self
- 4. Does not touch heel to toe
- 5. Loses balance while walking (i.e., steps off line)
- 6. Uses arms for balance (raises arms over six inches)
- 7. Loses balance while turning/turns incorrectly
- 8. Incorrect number of steps

Other comments: \_\_\_\_\_

**ONE LEG STAND (hereafter OLS):**

OLS: At Least 4 Clues Observed. Check observed clues:

- 1. Sways while balancing
- 2. Hops
- 3. Puts foot down
- 4. Uses arms for balance (raises arms over six inches)

Other comments: \_\_\_\_\_

**OTHER TESTS**

The suspect performed other tests which also indicated that the subject was impaired:

\_\_\_\_\_  
\_\_\_\_\_

**Portable Breath Test Consent – Result:** NA

5. **ADDITIONAL OBSERVATIONS / FACTORS:** The following additional facts led me to believe that the suspect was intoxicated while operating a motor vehicle in a public place:  
Suspect made very obvious efforts to step away and keep distance when approached by law enforcement officers on the crash scene. I viewed this as an effort to conceal the odor of alcohol on his part.
6. **SUSPECT'S ORAL STATEMENTS:** The suspect made the following relevant statements:  
Said he drank last night, but denied more recent consumption of alcoholic beverages.
7. **CHEMICAL TESTS OFFERED:** The suspect was offered the following chemical tests which were refused by the suspect. This refusal indicates to me that the suspect was intoxicated and was hiding evidence of impairment. **TESTS OFFERED TO SUBJECT AND REFUSED :**  
Breath    Blood    Urine    Portable Breath Test
8. **SUMMARY:** Based upon my experiences, my training in intoxication-related offenses, the information relayed to be by other licensed peace officers, and observations made of the suspect during contact with him/her, I believe that the suspect is intoxicated by reason of the introduction of alcohol, a controlled substance, a dangerous drug, another impairing substance, or a combination thereof into his/her body, and that the suspect has lost the normal use of his/her mental and/or physical faculties.
9. 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, Affiant asks for a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above, seize the same as evidence that the offense described was committed and that the suspect committed the said offense, and search the same by having said evidence forensically analyzed at a qualified laboratory to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drug, or other substance in said evidence.

Further Affiant asks for issuance of an order to appropriate third parties directing them to assist Affiant in the execution of said warrant.

\_\_\_\_\_  
 Affiant

Sworn and subscribed to me by the affiant on this 23 day of April, 2021, and I am an official authorized to administer this oath pursuant to Tex. Gov't Code § 602.002.

\_\_\_\_\_  
 Peace Officer / Notary / Judge (if in person)

\_\_\_\_\_  
 Official's Printed Name & Title



THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

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**SEARCH WARRANT AND ORDER OF ASSISTANCE**

The State Of Texas: To any Sheriff or any Peace Officer of Montgomery 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, which said Affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this warrant and whereas I find that the verified facts stated by Affiant in said Affidavit show that Affiant has probable cause for the belief Affiant expresses herein and establishes the existence of proper grounds for the issuance of this Warrant and sufficient probable cause to forensically test said blood to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drug, or other substance in said blood;

Now, therefore, you are commanded to take custody of the suspect and transport the suspect to a physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician skilled in the taking of blood from the human body, in Montgomery County, Texas, where the said physician, registered nurse, qualified technician or medical laboratory technician shall, in the presence of a law enforcement officer, take samples of the blood from the body of the following described individual:

Name:		
Daniel Huberty		
TX DL/ID #		
[REDACTED]		
Race:	Sex:	DOB:
white	male	[REDACTED]
Height:	Weight:	Hair Color:
6'2"	~200 lbs	gray

Medical personnel are hereby ordered to cooperate and assist the officer by procuring the blood samples according to accepted medical practice. Law enforcement officers are authorized to use all reasonable force necessary to assist the physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician to take the samples from the body of the suspect. After obtaining the samples of blood, the medical personnel shall deliver the said samples to the said law enforcement officer who shall submit the said samples to any person or qualified laboratory for the forensic analysis of said samples to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drugs, or other substance in said samples and for said person or qualified laboratory to forensically analyze said samples to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drugs, or other substance in said samples. This court grants you leave and authority to remove such seized property from this county if and only if such removal is necessary for the safekeeping of such seized property by you or if such removal is otherwise authorized by the provisions of Article 18.10, Texas Code of Criminal Procedure. Herein fail not, said law enforcement officer shall bring this warrant within three days, exclusive of the day of its issuance, with your return thereon, showing how you have executed the same.

Issued on this the 23 day of April, 20<sup>21</sup>, at \_\_\_\_\_ o'clock, A.M.

\_\_\_\_\_  
Judge/Magistrate (Signature)  
Montgomery County, Texas

Hon Mary Ann Turner, CCL#4  
\_\_\_\_\_  
Judge/Magistrate (Printed Name)  
Per Texas Code of Criminal Procedure 18.04(5)



THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

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**SEARCH WARRANT AND ORDER OF ASSISTANCE**

The State Of Texas: To any Sheriff or any Peace Officer of Montgomery 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, which said Affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this warrant and whereas I find that the verified facts stated by Affiant in said Affidavit show that Affiant has probable cause for the belief Affiant expresses herein and establishes the existence of proper grounds for the issuance of this Warrant and sufficient probable cause to forensically test said blood to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drug, or other substance in said blood;

Now, therefore, you are commanded to take custody of the suspect and transport the suspect to a physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician skilled in the taking of blood from the human body, in Montgomery County, Texas, where the said physician, registered nurse, qualified technician or medical laboratory technician shall, in the presence of a law enforcement officer, take samples of the blood from the body of the following described individual:

Name:		
Daniel Huberty		
TX DL/ID #		
[REDACTED]		
Race:	Sex:	DOB:
white	male	[REDACTED]
Height:	Weight:	Hair Color:
6'2"	~200 lbs	gray

Medical personnel are hereby ordered to cooperate and assist the officer by procuring the blood samples according to accepted medical practice. Law enforcement officers are authorized to use all reasonable force necessary to assist the physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician to take the samples from the body of the suspect. After obtaining the samples of blood, the medical personnel shall deliver the said samples to the said law enforcement officer who shall submit the said samples to any person or qualified laboratory for the forensic analysis of said samples to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drugs, or other substance in said samples and for said person or qualified laboratory to forensically analyze said samples to determine the alcohol concentration or the presence and amount of a controlled substance, drug, dangerous drugs, or other substance in said samples. This court grants you leave and authority to remove such seized property from this county if and only if such removal is necessary for the safekeeping of such seized property by you or if such removal is otherwise authorized by the provisions of Article 18.10, Texas Code of Criminal Procedure. Herein fail not, said law enforcement officer shall bring this warrant within three days, exclusive of the day of its issuance, with your return thereon, showing how you have executed the same.

Issued on this the 23 day of April, 20<sup>21</sup>, at 10:47 o'clock, P.M.

Mary Ann Turner  
Judge/Magistrate (Signature)  
Montgomery County, Texas

Hon Mary Ann Turner, CCL#4  
Judge/Magistrate (Printed Name)  
Per Texas Code of Criminal Procedure 18.04(5)

THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

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**RETURN AND INVENTORY**

The undersigned Affiant, being a Peace Officer under the laws of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the 23<sup>rd</sup> day of April, 2021, by making the search directed therein and seizing during such search the following described property:

Specimen(s) of the suspect's blood.

Subject's name: Daniel Huberty

22 CWO 8472

Affiant

THE STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

**AFFIDAVIT OF PERSON WHO WITHDREW BLOOD**

Before me, the undersigned authority, personally appeared Justin Chance  
who being duly sworn, deposed as follows:

My name is Justin Chance, I am over the age of 18 years and  
capable of making this affidavit, I am currently a physician, registered nurse, qualified technician,  
phlebotomist, or medical laboratory technician.

On the 23<sup>rd</sup> day of April, 2021, at 2252 o'clock, P.M., I withdrew a blood  
specimen from the following person:

Daniel Huberty, from the right  
or left arm using Betadine or other: N/A.

The blood specimen was taken using reliable procedures as recognized by the scientific  
community in the State of Texas and in a sanitary place. The specimen was properly labeled and  
sealed.

Justin Chance  
Affiant / Signature of person drawing blood

Justin Chance  
Printed name of person drawing blood

Sworn and subscribed to me by the affiant on this 23<sup>rd</sup> day of April, 2021, and I am  
an official authorized to administer this oath pursuant to Tex. Gov't Code § 602.002.

2/26/20 8472  
Peace Officer / Notary / Judge (if in person)  
Deputy Roxana Castillo 8472  
Official's Printed Name & Title