

THE STATE OF TEXAS

§

IN THE _____ COURT

§

CITY OF AUSTIN

COUNTY OF TRAVIS

§

TRAVIS COUNTY, TEXAS

AFFIDAVIT FOR WARRANT OF ARREST AND DETENTION

The Undersigned Affiant, who after being duly sworn by me, on oath, makes the following statement:

I have good reason to believe and do believe that

Filed in The District Court
of Travis County, Texas

Michael Hernandez Sr., H/M, 5/19/1957

DEC 19 2018

At 12:00 P.M.
Valva L. Price, District Clerk

on or about **November 23rd, 2018 through December 8th, 2018**, in Austin, Travis County, Texas, did then and there commit the offense of:

Aggravated Sexual Assault of a Child - 1st Degree Felony

Affiant, Detective A. Lewis #4969, is an investigator assigned to the Child Abuse Unit of the Austin Police Department. As a result of such assignment, Affiant is responsible for the investigation of sexual and physical offenses committed against children. The following information is based on victim statements, witness statements, Affiant's personal knowledge, and information in Austin Police Department incident report 18-3430846.

On December 9th, 2018, patrol officers responded to a 911 call for service call in the 5700 block of Palo Blanco Lane. The text of the call indicated that an 11 year old girl was pregnant and indicated that the father of her unborn child was her grandfather. Patrol officers confirmed that the dispatched location in the 5700 block of Palo Blanco Lane was the residence of Michael Hernandez Sr. The 11 year old girl, fully identified in Austin Police Department Report 18-83430846 and herein referred to as Victim, informed officers that she last had sexual intercourse the night of December 8th, 2018 so Affiant approved a Sexual Assault Forensic Examination (SAFE). The SAFE was completed on December 9th, 2018. At Dell Children's Hospital, Victim's mother, fully identified in Austin Police Department Report 18-83430846 and herein referred to as Mother, was informed that Victim was measuring approximately 28 weeks pregnant.

Victim was forensically interviewed on December 9th, 2018 at the Center for Child Protection in Austin, Texas. Affiant observed Victim's forensic interview. Victim stated that her stomach was starting to get big and her grandmother suspected that Victim may be pregnant. Victim said her grandmother, identified by patrol officers as Mary Ann Liques H/F 09/18/1959, the wife of Michael Hernandez Sr., asked Victim to pee in a cup. Victim said that her grandmother used that pee to do a pregnancy test and the test confirmed Victim was pregnant. Victim said she initially told her grandmother that her grandfather, whom Victim identified as Michael Hernandez Sr., was the father, but her grandmother didn't believe Victim. Victim said that when they started noticing her stomach, Michael Hernandez Sr. told her not to tell anyone that it was him. Victim indicated that she told Mother and her step-father that Michael Hernandez Sr. was the father after they left Michael Hernandez Sr's house.

Victim described the sleeping arrangements at her grandfather's house. Victim said that her grandmother, younger brother, and Michael Hernandez Sr. would always sleep in the same bed and Victim would sleep on the floor next to Michael Hernandez Sr. Victim said that Michael Hernandez Sr. would keep Victim awake until her grandmother and younger brother fell asleep. Victim defined the middle on a girl and boy as the thing used to pee. Victim said that on 12/08/2018, Michael Hernandez used his foot to kick Victim to keep her awake, then used his hand to touch her chest and her middle and kept rubbing. Victim said that Michael Hernandez Sr. then got down on the floor, moved Victim's

Suspect: Michael Hernandez Sr., H/M, 5/19/1957

APD Case #18-3430846

- 1 -

legs, pulled down his shorts, pulled down Victim's shorts, and rubbed his middle on Victim's middle. Victim clarified that Michael Hernandez Sr. was touching Victim's breast, not her clothing. Victim could hear Michael Hernandez breathing hard and felt the warmth of his stomach. Victim said that Michael Hernandez then held the tip of his middle like something was going to come out of it, and he got up and went to the restroom like he does all the time, then came back to bed and fell asleep.

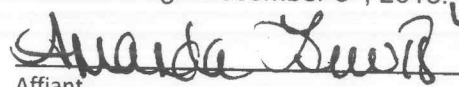
Victim described another incident that occurred the previous evening on December 7th, 2018. Victim said that Michael Hernandez kept Victim awake until her grandmother and Victim's little brother fell asleep. Michael Hernandez touched Victim once or twice then put his middle inside of her middle. Victim said her legs were spread apart and Michael Hernandez Sr.'s legs were in the middle. Victim said he only took Victim's shorts off one of her legs that time. Victim said that Michael Hernandez Sr. didn't put anything on his middle that time and something came out of his middle. Victim said that he held his tip and went to the restroom like he always does.

Victim said that during Thanksgiving break in 2018, Michael Hernandez Sr took Victim into his room while Victim's brother was playing video games and while Victim's grandmother was working. Michael Hernandez Sr. laid Victim on the bed, pulled down her shorts, then pulled down his shorts and either rubbed her middle with his middle or put his middle in her middle.

Victim said that she goes to Michael Hernandez Sr's house every other weekend and stays there when they are out of school for the day. When asked if there was ever a time when she went to her grandfather's house and these events did not occur, Victim said no. Victim estimated that the first time Michael Hernandez Sr. tried to put his middle inside her middle was when she was about 10 years old and the last time was on December 8th, 2018.

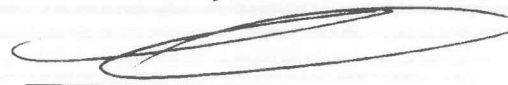
Michael Hernandez Sr. H/M 05/19/1957 was positively identified through several previous Austin Police reports involving Victim's step-father, who is Michael Hernandez Sr's son, and is fully identified in Austin Police Department Report 18-3430846. These reports documented Michael Hernandez Sr's Texas Driver's License 08755538 and Travis County mugshot CD 90191.

It is Affiant's belief that Michael Hernandez Sr., H/M, 5/19/1957 did commit the offense of Aggravated Sexual Assault of a Child, a 1st Degree Felony, in violation of section 22.021 of the Texas Penal Code, in the 5700 block of Palo Blanco Ln, Austin TX 78744, Austin, Travis County, Texas by intentionally or knowingly causing the penetration of the sexual organ of an 11 year old child, who is younger than 17 years of age, by any means, and the actor is more than three years older than the victim at the time of the offense on or about November 23rd, 2018 through December 8th, 2018.

 4969
Affiant
A. Lewis #4969

Sworn and subscribed to before me by the said Affiant on this the 19 day of December, 2018.

LEON GRIZZARD
CRIMINAL LAW MAGISTRATE
TRAVIS COUNTY, TEXAS


Magistrate

Court,
AUSTIN, TRAVIS County, Texas

On this the 19 day of December, 2018, I hereby acknowledge I have examined the foregoing affidavit and have determined that probable cause does exist for the issuance of a warrant of arrest for the individual accused therein.

LEON GRIZZARD
CRIMINAL LAW MAGISTRATE
TRAVIS COUNTY, TEXAS


Magistrate

Court,
AUSTIN, TRAVIS County, Texas