

THE STATE OF TEXAS
VS.
ROBERT GONZALES
1200 TRAVIS
HOUSTON, TX 77004

03059897

SPN:
DOB: W M 7/13/1960
DATE PREPARED: 7/1/2020

D.A. LOG NUMBER: 2653143
CJIS TRACKING NO.:
BY: EH DA NO: 2425968
AGENCY: DAO
O/R NO: S1907
ARREST DATE: TO BE

NCIC CODE: 2699 78

RELATED CASES:

FELONY CHARGE: MISAPPLICATION

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1680894
228

COURT ORDERED BAIL: TO BE SET AT
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

FILED
Marilyn Burgess
District Clerk

JUL 01 2020

By _____
Deputy
Harris County, Texas

P5
KJSO

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

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **ROBERT GONZALES**, hereafter styled the Defendant, heretofore on or about **December 12, 2016 continuing through March 19, 2018**, did then and there unlawfully, while a fiduciary, namely, while an administrator, and while a person acting in a fiduciary capacity, and while an officer, manager, employee, and agent carrying on fiduciary functions on behalf of a fiduciary, knowingly, intentionally, and recklessly misapply property, namely money, of the value of at least two thousand five hundred dollars but less than thirty thousand dollars by dealing with said property contrary to an agreement under which the Defendant held the property and in a manner that involved substantial risk of loss to the Houston Police Department, the owner of said property and the person for whose benefit the property was held, to wit by repeatedly failing to verify and authorize the payment of Houston Police Department funds to confidential informants prior to Houston Police Department Narcotics officers releasing said funds to said confidential informants in violation of the General Orders and accompanying Standard Operating Procedures of the Houston Police Department.

Probable Cause:

Affiant, Lieutenant Billy Milan, is a certified peace officer employed by the Harris County District Attorney's Office (HCDAO) and assigned to the Civil Rights Division. Affiant has probable cause to believe and does believe that former Houston Police Department (HPD) Lieutenant Robert Gonzales, hereinafter defendant, did commit the state jail felony offense of aggregate misapplication of fiduciary property on or about December 12, 2016 through March 19, 2018 in Houston, Harris County, Texas.

Affiant bases this belief on the following:

On January 15, 2020, former HPD Narcotics Officers Gerald Goines (Goines) and Steven Bryant (Bryant) were indicted for Tampering with a Governmental Record, see Harris County Cause Nos. 1660764 and 1643521, respectively. These charges center on false statements sworn to by Goines in obtaining a narcotics search warrant for a residence located at 7815 Harding Street and false statements made in the corresponding offense report by Bryant. Execution of that search warrant led to the death of both homeowners, injury to four HPD officers, and thereafter an HPD investigation into Goines' use of confidential informants (C.I.s) to obtain search warrants.

Affiant is aware of and has reviewed HPD General Order (G.O.) #100-07 covering "Standard Operating Procedures" (SOPs). G.O. #100-07 mandates that "Standard Operating Procedures (SOPs) shall be followed by all commands, divisions, offices and units performing like tasks and functions in order to ensure uniformity of police services." It further states that "all employees are responsible for knowing, understanding, and following the SOPs applicable to their assignment" and that G.O. #100-07 "applies to all employees." G.O. #100-07 additionally mandates that "each employee shall read the current SOPs applicable to the employee's assignment," that "[i]f after reading the applicable SOPs an employee has any issues, concerns, or questions, the employee shall meet with his supervisor to address these matters," and that "[e]ach employee shall sign an Acknowledgment of Receipt and Review of Standard Operating Procedures form." Affiant has reviewed HPD personnel records for the defendant and observed that the defendant signed an Acknowledgment of Receipt of General Orders for G.O. #100-07 on both January 13, 2012 and May 13, 2019, and for G.O. #600-16 on both December 7, 2010 and March 30, 2015.

Affiant is additionally aware of and has reviewed HPD General Order (G.O.) #600-16 covering "Confidential Informants and Other Sources of Information," which holds that "a supervisor's authorization is necessary for the disbursement of any CI funds" and shall be documented. The order further states that a sergeant may approve up to and including \$250. A Lieutenant may approve up to \$2500. G.O. #600-16 further

requires that a "Confidential Informant Receipt for Funds" form be completed, including the amount of the payment, the date on which the payment was made, and a signature of the "first-line supervisor witnessing the payment if the payment exceeds \$50." G.O. #600-16 additionally requires that "each division using confidential informants shall develop and adhere to standard operating procedures (SOPs) specific to that division's use of confidential informant funds."

Affiant has reviewed the Special Investigation Command, Narcotics Division, Standard Operating Procedures (SOP), specifically SOP 100/1.03, titled "Narcotics Division Investigative Lieutenant." Pursuant to this SOP, the Narcotics Division Investigative Lieutenant is responsible for a number of duties, including to "supervise daily operations of the squad ensuring conformance with departmental policies and procedures" and "to approve the expenditure of funds." Affiant has reviewed HPD personnel records for the defendant and observed that he served as a Narcotics Division Investigative Lieutenant during the years of 2014 through 2018. Affiant has also reviewed Special Investigation Command, Narcotics Division, SOP 100/2.05, which covers "Confidential Informant Funds/Expense Letters, Limits of Authorization and Use of Flash Money," and includes a section on "CI Payments & Receipt for Funds Form." That section repeats the requirements of GO 600-16 and also specifically states, "The CI Receipt for Funds form will be completed at the time of the payment to the CI" (emphasis in original). Regarding authorization for expenditures over a certain amount, SOP 100/2.05 mandates that purchases requiring amounts over \$125.00 up to \$250.00 must have prior approval by a Squad Supervisor, whereas a Narcotics Division Lieutenant may authorize an expenditure of over \$250.00 up to \$2,500.00.

Affiant has reviewed the specific C.I. Form used by the HPD Narcotics Division, titled "C.I. Activity Sheet / Receipt for Funds Form" and has found that, consistent with SOP 100/2.05, the form has six sections. The first section includes C.I. name, date, time, location, OR number, and blanks for up to two drug types and the corresponding weight. The second section is for an amount paid to the C.I. for information and assistance and includes blanks for the amount paid and the C.I.'s signature. The third section is for an amount provided to the C.I. to purchase narcotics and includes blanks for the amount paid and the C.I.'s initials. The fourth section provides a space for details. The fifth section starts with the word "Witness" followed by a blank for a printed name and a blank for a signature. The sixth section goes on to provide blanks for the signatures of the reviewing sergeant and the reviewing lieutenant.

Affiant has reviewed the specific form used by the HPD Narcotics division to document the required authorization, entitled "Request for C.I. Payment/Expense Authorization" form. The form has four sections. The first section includes the requesting officer's name, payroll number and squad number, and the date of the incident and incident number. The second section has a heading reading, "C.I. Payment Request," with space for the "amount requested" and for the signature and date of the required supervisors, including the lieutenant. Affiant has additionally reviewed Special Investigation Command, Narcotics Division, SOP 200/1.22, which covers "Handling of Confidential Informants: Recruited or Contract," and includes a section for "Payment of Criminal Informants and Use of Confidential Informant Activity Sheet/Receipt for Funds form." Consistent with SOP 100/2.05 (described above), this section requires that:

"All Narcotics Division personnel will properly document all funds provided to or paid to a Confidential Informant by completing a Confidential Informant Activity Sheet/Receipt for Funds Form. The Confidential Informant Activity Sheet/Receipt for Funds Form will be completed and signed at the time funds are dispersed to the Confidential Informant. (Ex. Both payments to informants and funds provided to the informant for narcotics purchases are included in this directive.)" (emphasis in original)
SOP 200/1.22 further mandates that "All Confidential Informant Payments over \$50.00 must be witnessed by a supervisor and a Request for Confidential Informant Payment form completed." It further states:

"All payments to a Confidential Informant will be approved through the officer's chain of command. Signatures of approval will be placed on both the Request for Payment and the Confidential Informant Activity Sheet/Receipt for Funds form. The levels of authorization necessary for approval are outlined in Section 12 of S.O.P. 200/1.22. The request for payment will be put in synopsis form detailing the Confidential Informant's involvement, degree of risk, the amount of narcotics and money seized, the number of suspects arrested and charged, as well as the amount the officer wishes to pay the Confidential Informant. No Confidential Informant payment over \$1,000.00 will be made unless laboratory analysis has been conducted and the quantity (weight) of the seized contraband has been determined. Any false/positive field test determined by laboratory analysis will be brought to the Case Agent's Lieutenant's attention for further review. A supplement of the laboratory analysis must be included in the offense report and attached to the Confidential Informant payment request form. No payment will be made without the Narcotics Division Commander's approval if the contraband is determined to be simulated substance. After approval is granted and payment is made, the Request for Payment Form and the Confidential Informant Activity Sheet/Receipt for Funds form will be attached to the officer's expense letter and forwarded through his/her chain of Command." (emphasis in original)

SOP 200/1.22 goes on to give the example that a "Lieutenant must approve and sign payments from \$251.00 to \$2500.00." (emphasis in original) This is further stated in Section 12 of SOP 200/1.22 (referenced above), titled "Confidential Informant Fund Expenditures-Limits of Authorization," which in relevant part mandates that "[p]urchases requiring amounts larger than \$125.00 must have prior squad supervisor approval," that "[a] squad supervisor may authorize a maximum of \$250.00 for undercover buys and a maximum of \$250.00 for payment of Confidential Informants," and that "[a] Narcotics Division Lieutenant may authorize an expenditure of up to \$2500.00."

Affiant has reviewed HPD offense reports, Confidential Informant Activity Sheet/Receipt for Funds forms, Request for Payment forms, and

accompanying documentation for multiple HPD Narcotics Division transactions from 2014 to 2018. Affiant has learned through this review that the defendant acted contrary to the G.O.s and SOPs described above on multiple occasions, resulting in thousands of dollars of HPD funds being disbursed without proper authorization or verification.

Specifically, Affiant reviewed the above-described documentation for HPD incident number 029514918. Affiant found the case agent for this incident to be Bryant. Affiant reviewed the Request for Payment Form for this incident, in which Bryant stated that he made a buy and executed a subsequent search warrant at the location, and that he was requesting to pay the C.I. for this incident \$1,300 for their assistance. Affiant observed the defendant signed this request on March 19, 2018. Affiant reviewed the corresponding C.I. Activity Sheet/Receipt for Funds form and observed that Bryant documented paying this C.I. \$1,300 for "information or assistance" on March 21, 2018, for target location 8633 West Airport Boulevard. Affiant additionally reviewed the Houston Forensic Science Center laboratory analysis report for this incident. This lab report is dated March 27, 2018.

Pursuant to the above-described G.O.s and SOPs, no payment over \$1,000 is to be made until the laboratory analysis has been completed, and the lab report showing the results of said analysis is to be attached to the Request for Payment form. Because the lab report for this incident was not issued until eight (8) days after the defendant authorized this payment, no lab report could have been attached to the Request for Payment form, as required by SOP 200/1.22. Because no lab report was issued until six (6) days after Bryant disbursed \$1,300 to the C.I. for this incident, the defendant failed to verify the type and quantity of the substances allegedly recovered before HPD funds were spent for this transaction, in violation of SOP 200/1.22. Without said verification, any disbursement of HPD funds posed a substantial risk of said funds, in this instance \$1,300, being spent on the recovery of simulated, rather than illegal, substances, contrary to the policies and orders of HPD. Additionally, because the defendant failed to review the lab results prior to the funds being spent, the defendant risked the over-expenditure of HPD funds where the quantity of the alleged substance recovered might be less than the amount alleged by the requesting case agent, contrary to the policies and orders of HPD.

Affiant additionally reviewed the above-described documentation for HPD incident number 55888917. Affiant found the case agent for this incident to be HPD Narcotics Officer Felipe Gallegos (Gallegos). Affiant reviewed the Request for Payment Form for this incident, in which Gallegos stated that he made a buy and executed a subsequent search warrant at 5523 Elm Lawn, and that he was requesting to pay the C.I. \$1,100 for this incident. Affiant observed that the defendant signed this request on June 8, 2017. Affiant reviewed the corresponding C.I. Activity Sheet/Receipt for Funds form and observed that Gallegos documented paying this C.I. \$1,100 for "information or assistance" on May 18, 2017. Affiant additionally reviewed the Houston Forensic Science Center laboratory analysis report for this incident. This lab report is dated June 12, 2017.

Pursuant to the above-described G.O.s and SOPs, "[p]urchases requiring amounts larger than \$125.00 must have prior squad supervisor approval," and any expenditure over \$250 up to \$2500 required the prior authorization of the Narcotics Division Lieutenant, in this case, the defendant. Because the defendant signed the Request for Payment approximately twenty (20) days after the payment of \$1,100 was made to the C.I., the defendant failed to authorize the disbursement of those funds in accordance with the G.O.s and SOPs. Additionally, because the lab report for this incident was not issued until four (4) days after the defendant authorized this payment, no lab report could have been attached to the Request for Payment form, as required by SOP 200/1.22. Because no lab report was issued until nearly a month after Gallegos disbursed \$1,100 to the C.I. for this incident, the defendant failed to verify the type and quantity of the substances allegedly recovered before HPD funds were spent for this transaction, in violation of SOP 200/1.22. Without said verification, and without proper authorization, any disbursement of HPD funds posed a substantial risk of said funds, in this instance \$1,100, being spent on the recovery of simulated, rather than illegal, substances, contrary to the policies and orders of HPD. Additionally, because the defendant failed to review the lab results prior to the funds being spent, the defendant risked the over-expenditure of HPD funds where the quantity of the alleged substance recovered might be less than the amount alleged by the requesting case agent, contrary to the policies and orders of HPD.

Affiant additionally reviewed the above-described documentation for HPD incident number 094731717. Affiant found the case agent for this incident to be Goines. Affiant reviewed the Request for Payment Form for this incident, in which Goines stated that he executed a search warrant at 6514 Depriest, and that he was requesting to pay the C.I. \$1,500 for this incident. Affiant noted that Goines stated in his Request for Payment Form that the "confidential informant was paid the amount of \$1,500 on 08/03/2017." Affiant observed that the defendant signed this request on September 14, 2017. Affiant reviewed the corresponding C.I. Activity Sheet/Receipt for Funds form and observed that Goines documented paying this C.I. \$1,500 for "information or assistance" on August 3, 2017. Affiant additionally reviewed the Houston Forensic Science Center laboratory analysis report for this incident. This lab report is dated September 6, 2017.

Because the defendant signed the Request for Payment over one month after the payment of \$1,500 was made to the C.I., the defendant failed to properly authorize the disbursement of those funds in accordance with the G.O.s and SOPs. Additionally, because the lab report for this incident was issued over a month after Goines disbursed \$1,500 to the C.I. for this incident, no lab report could have been attached to the Request for Payment form, and thus the defendant failed to verify the type and quantity of the substances allegedly recovered before HPD funds were spent for this transaction, in violation of SOP 200/1.22. Without said verification, and without proper authorization, any disbursement of HPD funds posed a substantial risk of said funds, in this instance \$1,500, being spent on the recovery of simulated, rather than illegal, substances, contrary to the policies and orders of HPD. Additionally, because the defendant failed to review the lab results prior to the funds being spent, the defendant risked the over-expenditure of HPD funds where the quantity of the alleged substance recovered

might be less than the amount alleged by the requesting case agent, contrary to the policies and orders of HPD.

Affiant additionally reviewed the above-described documentation for HPD incident number 154924416. Affiant found the case agent for this incident to be Bryant. Affiant reviewed the Request for Payment Form for this incident, in which Bryant stated that he executed a search warrant for the location, and that he was requesting to pay the C.I. \$2,400 for this incident. Affiant observed that the defendant signed this request on December 12, 2016. Affiant reviewed the corresponding C.I. Activity Sheet/Receipt for Funds form and observed that Bryant documented paying this C.I. \$2,400 for "information or assistance" on December 14, 2016, for target location 5201 Market Street. Affiant additionally reviewed the Houston Forensic Science Center laboratory analysis report for this incident. This lab report is dated January 5, 2017.

Because the lab report for this incident was issued over twenty (20) days after the defendant authorized this payment, no lab report could have been attached to the Request for Payment form, as required by SOP 200/1.22. Because no lab report was issued until approximately twenty (20) days after Bryant disbursed \$2,400 to the C.I. for this incident, the defendant failed to verify the type and quantity of the substances allegedly recovered before HPD funds were spent for this transaction, in violation of SOP 200/1.22. Without said verification, any disbursement of HPD funds posed a substantial risk of said funds, in this instance \$2,400, being spent on the recovery of simulated, rather than illegal, substances, contrary to the policies and orders of HPD. Additionally, because the defendant failed to review the lab results prior to the funds being spent, the defendant risked the over-expenditure of HPD funds where the quantity of the alleged substance recovered might be less than the amount alleged by the requesting case agent, contrary to the policies and orders of HPD.

Affiant has reviewed Texas Penal Code Section 32.45, "Misapplication of Fiduciary Property," under which a person commits an offense if he intentionally, knowingly, or recklessly misapplies property he holds as a fiduciary in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held. Under this section, "Fiduciary" includes an administrator, any person acting in a fiduciary capacity, and any officer, manager, employee, or agent carrying on fiduciary functions on behalf of a fiduciary. Under this section, "Misapply" means "deal with property contrary to an agreement under which the fiduciary holds the property." An offense committed under this section is a state jail felony if the value of the property misapplied is \$2,500 or more but less than \$30,000. Affiant has reviewed Texas Penal Code Section 32.03 and knows that when amounts are obtained in violation of Chapter 32 (Fraud) pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of offense.

For all of the reasons listed above, Affiant has reason to believe and does believe that the defendant, former HPD Lieutenant Robert Gonzales, committed the state jail felony offense of aggregate misapplication of fiduciary property on or about December 12, 2016 and continuing through March 19, 2018, by knowingly, intentionally, and recklessly dealing with \$6,300 (the total value of the amounts detailed above), which was owned by HPD and being held by the defendant for the benefit of HPD, while he was employed as an administrator, officer, manager, employee, and agent of HPD, in a manner that involved substantial risk of loss to HPD by repeatedly failing to verify and properly authorize the expenditure of HPD funds to confidential informants prior to HPD Narcotics officers releasing said funds to said confidential informants, in violation of the General Orders and accompanying Standard Operating Procedures of the HPD.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on 7/1/20

Duly attested by me on 07/01/2020

Billy Moran

Jim Leiber

AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

Bar No. 12187900

In Person

Witness (Peace Officer)

Witness Printed name & Badge or Payroll number

COPY OF COMPLAINT/WARRANT DELIVERED TO

Officer's name: *Officer Sullivan*
Police agency: *74090*
Phone no: _____ date/time: *7/1/20*

Unofficial Copy Office of Marilyn Burgess District Clerk