

Cause No. 1262661

THE STATE OF TEXAS

§

VS.

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GAMBOA, DAVID

HARRIS COUNTY, TEXAS

COURT NO. 184

**MOTION TO DESTROY CONTROLLED SUBSTANCES**

COMES NOW, the State of Texas requesting an order authorizing destruction of the controlled substances listed in the preceding inventory, pursuant to Subchapter E of Chapter 481 of the Texas Controlled Substances Act. The State, based upon the attached affidavit, states to the Court that the items listed in the affiant's attached inventory were seized in connection with an offense under Chapter 481, Texas Controlled Substances Act and:

- the defendant was convicted or placed on deferred adjudication; or
- the criminal charge against the defendant was dismissed.

**PRESENCE OF BIOLOGICAL (DNA) MATERIAL.** Pursuant to Article 36.43 Tex. Code Criminal of Procedure, and based upon the attached Peace Officer's affidavit and inventory, the undersigned Assistant District Attorney confirms that the requesting officer, regarding the item requested to be destroyed,

- IS AWARE of the existence of biological material.
- IS NOT AWARE of the existence of biological material; AND

IF biological material does exist:

- IS NOT AWARE of the existence of an unapprehended suspect. (DO NOT PROCEED IF UNAPPREHENDED SUSPECTS EXIST)

COMPLETE THE DISCUSSION BELOW IF BIOLOGICAL MATERIAL IS KNOWN TO EXIST:

**DNA Destruction Eligibility:**

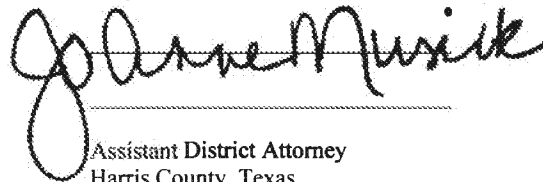
Pursuant to Article 36.43, Texas Code of Criminal Procedure, the undersigned prosecutor confirms that destruction of the evidence described by the requesting officer is appropriate because the defendant in this case has (select one):

- Died;
- Completed his/her sentence or community supervision;
- Been released on parole or mandatory supervision; or
- Has received dismissal or no-bill;

**CERTIFICATION OF NOTIFICATION:** Notification to the defendant and last attorney of record has been accomplished as described in the above Peace Officer's affidavit, and notice to the court has been accomplished pursuant to 36.43 (d), and at least 91 days have passed and no objection has been received.

Pursuant to Subchapter E of Chapter 481 of the Texas Controlled Substances Act, the State requests that the listed agency be ordered to destroy the controlled substances listed in the attached Inventory of Controlled Substances. Sufficient documentation as to the ultimate disposition of said controlled substances will be retained by said agency.

Respectfully Submitted,



Assistant District Attorney  
Harris County, Texas

Cause No. 1262661

THE STATE OF TEXAS

§

DISTRICT/COUNTY

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COURT NO. 184

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GAMBOA, DAVID

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HARRIS COUNTY, TEXAS

**DESTRUCTION ORDER**

HAVING FOUND that all biological material preservation requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with and that no written objection to the planned destruction of evidence has been submitted to this court; and

HAVING CONSIDERED the State's motion and inventory, the Motion to Destroy is hereby GRANTED.

IT IS ORDERED that the above-described items be destroyed by the requesting law enforcement agency and that notice of the destruction is to be provided to this Court.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed: *A. Anastasio*  
11/9/2020

Presiding Judge  
County Court at Law No. \_\_\_\_\_  
District Court

**RETURN**

I HEREBY CERTIFY, under oath, that upon the above authority, the \_\_\_\_\_ has destroyed the controlled substances described above by \_\_\_\_\_ (state method). Documentation of the ultimate disposition of said property will be retained by said agency.

SIGNED: \_\_\_\_\_

(Type or Print Name)

Date & Time: \_\_\_\_\_ Witness: \_\_\_\_\_

Sworn and subscribed before me the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

SIGNED: \_\_\_\_\_  
Notary Public for the State of Texas

THE STATE OF TEXAS

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**RECEIVED**  
**District Attorney's Office**

DISTRICT/COUNTY  
COURT NO. 184

VS.

**AUG 2 1 2018**

GAMBOA, DAVID

HARRIS COUNTY, TEXAS

**INVENTORY OF SEIZED CONTROLLED SUBSTANCES AND REQUEST FOR DESTRUCTION ORDER**

Affiant, DEPUTY AMON SIMON, states that the HCSO possesses the controlled substances listed below. Further, the controlled substances were seized in connection with an offense under Chapter 481 of the Texas Controlled Substances Act and the seizure is described in offense report number 100065102. The criminal case involving the listed controlled substances was assigned to the above referenced Court, where the defendant received 10 YEARS TDC (assert either defendant's sentence or dismissal).

**PRESENCE OF BIOLOGICAL (DNA) MATERIAL:** This officer is aware that Art. 38.43 C.C.P. requires that evidence containing biological material must be preserved except in certain narrow circumstances. Biological evidence means: (1) the contents of a sexual assault examination kit; or (2) any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used to (A) establish the identity of the person committing the offense or engaging in the conduct constituting the offense; or (B) exclude a person from the group of persons who could have committed the offense or engaged in conduct constituting the offense.

**Certification of Presence of biological material: (Check One)**

- This officer IS AWARE of the presence of biological material in or on the below listed items.
- This officer IS NOT AWARE of the presence of biological material in or on the below listed items.

**NOTE TO OFFICER:** If you are aware of the presence of biological material in or on the below listed material you must complete the sections below.

**Certification Regarding Unapprehended Actors:** If there is an unapprehended actor associated with the offense, the evidence may not be destroyed.

- This officer IS AWARE of the existence of an unapprehended actor. STOP HERE, DO NOT DESTROY ITEM
- This officer IS NOT AWARE of an unapprehended actor.

**Certification of Eligibility to Destroy Biological (DNA) Material:**

If you have certified above that DNA evidence is present in the item submitted for destruction, check any of the following categories that apply. The defendant has: (1)  died; (2)  completed his/her sentence or community supervision; (3)  been released on parole or mandatory supervision; or (4)  a dismissal or no-bill.

**Certification of Mandatory Notice:**

This officer understands that notice of the decision to destroy biological material must be sent to the defendant, the defendant's last attorney of record, and the convicting court. Destruction may proceed if a written objection is not received by the officer before the 91<sup>st</sup> day after the later of the following dates: (1) the date on which the officer receives proof that the defendant received notice of the planned destruction of evidence; or (2) the date on which notice of the planned destruction of evidence is mailed to the last attorney of record for the defendant.

This officer has complied with the notice requirements of 38.43 by the below described notice (provide specific dates of mailing and /or receipt of confirmation that defendant received the notice):

\_\_\_\_\_

**INVENTORY OF CONTROLLED SUBSTANCES:**

Item No. 1: bag with crystal methamphetamine 425GM; Item No. 2: \_\_\_\_\_;

Item No. 3: \_\_\_\_\_; Item No. 4: \_\_\_\_\_;

Pursuant to Subchapter E of Chapter 481, Texas Controlled Substances Act, affiant requests that the State of Texas move for a destruction order authorizing destruction of the above listed controlled substances by the above referenced law enforcement agency. Sufficient documentation as to the ultimate disposition of the controlled substances will be retained by the agency.

DATED: 6/29/18 SIGNED:  \_\_\_\_\_  
Affiant AMON SIMON  
(Type or Print Name)

Sworn to and subscribed before me this 29 day of June, A.D. 2018

SIGNED:  \_\_\_\_\_  
Notary Public for the State of Texas

