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JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

JUSTICE COURT
LAS VEGAS NEVADA

DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

DEBRA PIMENTEL,
aka DEBRA FISHER, DEBRA FETHERSON

Defendant.

CASE NO.: 03M09031X

DEPT NO.: 4

**AFFIDAVIT OF PROBABLE CAUSE
IN SUPPORT OF CRIMINAL
COMPLAINT AND ISSUANCE OF
SUMMONS**

STATE OF NEVADA

COUNTY OF CLARK

} ss

I, Sherri L. Burnett, do hereby swear under penalty of perjury that the assertions of this affidavit are true:

1. Since October 1, 2001, I have been employed by the Office of the Attorney General for the State of Nevada, with Peace Officer status. I am presently an Investigator assigned to the Medicaid Fraud Control Unit (hereinafter MFCU). The MFCU investigates allegations of abuse and neglect of older persons. I recently completed an investigation concerning the abuse of an older person residing at a long-term care facility in Clark County, Nevada, committed by Debra PIMENTEL (hereinafter PIMENTEL).

2. Based on the investigation, I have probable cause to believe that PIMENTEL did batter, abuse or neglect an older person, Ms. N.J., age 79 (DOB 11/30/23).

3. The facts which your affiant, upon personal knowledge, and/or information and belief, verily believes to be true and which establish probable cause, are as follows:

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Medicaid Fraud Control Unit
198 N. Carson Street
Carson City, NV 89701

1 a. This investigation was assigned to me after MFCU received a complaint
2 from the Division of Aging Services that elder abuse occurred at a long-term care
3 facility located at 1151 S. Torrey Pines (hereinafter the Facility), regarding resident N.J.
4 It was alleged that on December 12, 2002, PIMENTEL, a Certified Nurse Assistant
5 (CNA) who was employed by the Facility, struck N.J. several times on the legs with a
6 closed fist while attempting to change her brief, and later threw a pillow at N.J.'s face
7 several times. The incident was witnessed by another CNA, Ronalyn SAGUM
8 (hereinafter SAGUM).

9
10 b. In connection with my investigation I have spoken to current and former
11 employees of the facility, including PIMENTEL. Additionally, I have reviewed
12 documents received from the facility, including photographs of the injuries, and
13 documents received from other government agencies.

14 c. I have reviewed the Nurse Practice Act, codified in Chapter 632 of the
15 Nevada Revised Statutes (NRS) and Regulations of the State Board of Nursing
16 contained in Chapter 632 of the Nevada Administrative Code (NAC), adopted and
17 authorized pursuant to NRS 632.120.

18
19 d. I have reviewed records of the facility that state N.J. was 79 years of age
20 when the incident occurred.

21 **The Striking of Ms. N.J.**

22 4. With respect to the December 12, 2002 striking of Ms. N.J., I obtained the
23 following information through the review of facility records, other government agency reports,
24 and interviews of other employees.

25 a. I reviewed disciplinary action records compiled by the facility concerning
26 the December 12, 2002 incident. The records contained a "Resident Abuse
27 Investigation Report Form" indicating that date the incident was reported by Rose
28

1 DILLION (hereinafter DILLION) on December 16, 2002, with SAGUM as a witness to
2 the incident. The records also contained a written statement by Director of Nursing
3 Nanette Smith stating that SAGUM had reported the incident to DILLION, and that
4 DILLION had reported the incident to her. The records further contained a written
5 statement by co-worker witness SAGUM. SAGUM wrote that "I noticed that she was
6 getting aggravated by the patient [sic] uncooperative behavior. She was yelling at her
7 while trying to take her brief off but the patient won't [sic] open her legs. . . . Debra got
8 frustrated she [sic] started hitting her in the legs with her fist, more in the right than left.
9 I told her to stop but N.J. kicked her in the face, she then hit her some more." SAGUM
10 also wrote that while changing N.J.'s roommate, A.L., PIMENTEL "picked up a small
11 pillow and threw it at N.J.'s face...the patient threw it back at her and it went back and
12 forth ..." SAGUM wrote that PIMENTEL told her not to tell anyone, that "if the patient
13 got bruises or red skin she'll just say that it's been there..."

14
15 b. I reviewed a Silver Ridge routine patient assessment form dated 12/12/02
16 and signed by PIMENTEL. Nothing is marked in the body diagram or noted in the area
17 provided for "open areas, reddened areas, bruises, skin tears, rashes, cuts, wound
18 sites."

19
20 c. I reviewed N.J.'s chart and found no notations of bruising before the date
21 of the alleged incident, 12/12/02. I found notations regarding the bruising charted for
22 12/13/02.

23 d. I reviewed photographs taken 12/17/02 of bruises on N.J.'s thighs.

24 e. I reviewed the facility's "Protocol for Abuse Identification" policy noting
25 weekly body checks on all residents to coincide with weekly skin assessments by
26 Nursing personnel to assess for signs and symptoms of physical abuse.
27

1 f. I reviewed the facility's "Protocol for Abuse Protection" policy noting
2 weekly body checks on all residents to coincide with weekly skin assessments by
3 Nursing personnel to assess for signs and symptoms of physical abuse.

4 g. On January 22, 2003, I interviewed SAGUM regarding the alleged
5 incident. SAGUM stated that PIMENTEL hit N.J. on the right leg with her closed
6 fist. SAGUM stated that she told PIMENTEL to stop. SAGUM stated that then
7 N.J. kicked PIMENTEL in the face and PIMENTEL retaliated by hitting her again
8 with a closed fist. SAGUM stated that N.J. did not cry, but kept saying loudly
9 "ow, ow." SAGUM stated that PIMENTEL picked up a decorative pillow from
10 A.L.'s bed and threw it at N.J. N.J. then threw the pillow back at PIMENTEL.
11 SAGUM stated that this went on back and forth until the pillow almost hit A.L. in
12 the face, at which time PIMENTEL stopped throwing the pillow. SAGUM further
13 stated that PIMENTEL asked her not to say anything. SAGUM stated that
14 PIMENTEL told her that if she is asked about the bruises, she'll say that they
15 have been there.
16

17 h. On January 22, 2003 I interviewed Roxanne Horner, Director of
18 Nursing (DON) at Silver Ridge. Horner stated that it is customary to chart any
19 marks or bruises. A shower check sheet is done 2 to 3 times a week by the
20 CNA's when they shower the resident. Any injuries are to be reported to the
21 charge nurse. Per this policy, any bruising prior to the alleged date of December
22 12, 2002 should have been noted on the chart or shower check sheet.
23

24 i. On March 13, 2003 I interviewed PIMENTEL. PIMENTEL stated
25 that N.J. was holding her legs together in order to prevent PIMENTEL from
26 changing her. PIMENTEL stated that N.J. kicked her and PIMENTEL held N.J.'s
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thighs to keep from being kicked again. PIMENTEL stated "I really wanted to change her, I had a lot of patients and just wanted to finish."

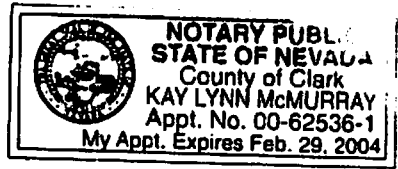
5. Based on the foregoing, there is probable cause to believe that PIMENTEL committed the crime of Battery against a Person 65 Years of Age or Older, one count, and a misdemeanor, violation of NRS 200.481 and NRS 193.167.

WHEREFORE, your affiant requests that a WARRANT be issued for the appearance of defendant, PIMENTEL to be dealt with according to the law.

DATED this 24 day of April, 2003.

By: Sherril L. Burnett
SHERRI L. BURNETT, Investigator
Medicaid Fraud Control Unit

Subscribed and Sworn to before me this
24th day of April, 2003



Kay Lynn McMurray
Notary Public in and for the
County of Clark, State of Nevada

Brian Sandoval
Attorney General

By: Edward O. Cousineau
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