



7. Defendant hereby requests the Court order the deposition of [REDACTED] due to the likelihood of her removal from the State.

8. Tx. CCrP chapter 39.03 allows for a district judge, county judge, notary, district clerk or county clerk to conduct the deposition.

9. As this deposition regards a criminal case, it appears proper that Defendant, himself, attend the deposition in order to comply with any Confrontation issues. Defendant is currently in custody, pending this trial, in the Hidalgo County Jail.

10. Defense counsel is court-appointed. Resources are minimal. Defense requests that the deposition be conducted in the Hidalgo County Courthouse with a district judge and a court reporter for one of the courts. (Perhaps, this can be conducted in the Auxiliary Courts if this Court prefers.)

WHEREFORE PREMISES CONSIDERED, DEFENDANT respectfully prays that the court grant this application as a matter of substantive and procedural due process as well as Confrontation issues.

Respectfully submitted,

Lennard K. Whittaker, Attorney  
P.O.Box 720876  
McAllen, TX 78504  
956 821 9918  
fax: 866 596 6190  
teksus@mac.com

By: \_\_\_\_\_  
Lennard K. Whittaker  
SBT 24008274  
Attorney for [REDACTED]

AFFIDAVIT

STATE OF TEXAS

\*

COUNTY OF HIDALGO

\*

Before me, the undersigned notary, on this day personally appeared Lennard K. Whittaker, a person whose identity is known to me. After I administered an oath to him upon his oath, he stated:

“I am court-appointed attorney for Defendant [REDACTED] Ms. [REDACTED] presently held in the Hidalgo County Jail under Hidalgo County Court at Law [REDACTED] cause number CR-[REDACTED] is a material witness in cause number CR-[REDACTED] pending in the 370th District Court.

“The 370th District Court confirmed that there is an immigration detainer for Ms. [REDACTED] [REDACTED] She is subject to removal from the State by federal authorities prior to scheduled trial in CR-[REDACTED] of [REDACTED] 2017. Deposition is requested to preserve her testimony in the likelihood of her removal from the State and the Court’s jurisdiction.”

\_\_\_\_\_  
Lennard K. Whittaker

Sworn-to and subscribed before me by Lennard K. Whittaker on this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

**Certificate of Service**

I, Lennard K. Whittaker, affirm that a true and correct copy of the foregoing instrument has been delivered to:

Hidalgo County District Attorney  
100 E. Cano  
Edinburg, TX 78539

[REDACTED]@da.co.hidalgo.tx.us  
[REDACTED]@da.co.hidalgo.tx.us

\_\_\_\_\_  
Lennard K. Whittaker

CAUSE NO. CR [REDACTED]

STATE OF TEXAS

\* IN THE DISTRICT COURT

v.

\* 370th JUDICIAL DISTRICT

[REDACTED]

\* HIDALGO COUNTY, TEXAS

ORDER ON DEFENDANT'S APPLICATION TO DEPOSE MATERIAL WITNESS [REDACTED]

On this \_\_\_ day of \_\_\_\_\_, 2017, came to be heard the foregoing Application to Depose Material Witness [REDACTED] and upon consideration:

It is ordered that said Application to Depose Material Witness [REDACTED] is hereby:

GRANTED. She will be deposed at \_\_\_ am/pm on \_\_\_\_\_, 2017 in the \_\_\_\_\_ Court by the Court Reporter assigned to that Court. The transcript of the deposition is ordered to be produced by the Court Reporter within \_\_\_ days after the deposition.

DENIED.

Signed this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Judge Presiding

cc:

Lennard K. Whittaker, Attorney  
P.O. Box 720876  
McAllen, TX 78504  
956 821 9918  
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teksus@mac.com

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100 E. Cano  
Edinburg, TX 78539

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