# CAUSE NO. CR-

STATE OF TEXAS	* IN THE DISTRICT COURT			
v.	* 370th JUDICIAL DISTRICT			
	* HIDALGO COUNTY, TEXAS			
DEFENDANT'S APPLICATION TO DEPOSE MATERIAL WITNESS				
TO THE HONORABLE JUDGE OF SAID COURT:				
NOW COMES, Application to Depose Material Witness court the following:	EFENDANT herein, and files this ard as grounds therefore would show the			
providing a false or fictitious date of birth	as arrested by Pharr Police Dept. for in a traffic stop. She has been in the Hidalgo County before the Hidalgo County Court at Law under			
hearings and trial settings as a witness by	tory Witness by the State. She was subpoenaed for prior both the State and Defense in CR 6. Ms. ms and received the initial 'outcries.' She is a material ss.			
has provided notice to De	rney's office, through Assistant District Attorney  fense that Ms. Cavazos is subject to an immigration fied and reported to Court and Defense that immigration			
4. In Ms. misdemeanor case pretrial hearing on 2017.	e, arraignment has already occurred. She is set for a			
	70th District Court, this Court stated that it recommends ossible detention by federal officials and her possible Court.			
6. Trial is tentatively set for	017 in this Court.			

- 7. Defendant hereby requests the Court order the deposition of 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

Lenn	ard K. Whittaker
SBT	24008274

## **AFFIDAVIT**

STATE OF	TEAAS	T		
COUNTY	OF HIDALGO	*		
		day personally appeared Lennard K. Whittak- administered an oath to him upon his oath, h		
	am court-appointed attorney for Defendar Hidalgo County Jail under Hidalgo Courts a material witness in cause num	nty Court at Law Pause number		
"The 370th District Court confirmed that there is an immigration detainer for Ms. She is subject to removal from the State by federal authorities prior to scheduled trial in CR 2017. Deposition is requested to preserve her testimony in the likelihood of her removal from the State and the Court's jurisdition."				
Sworn-to a		rd K. Whittaker		
2017.	and subscribed before me by Lennard K.	winuaker on this day or		
	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
da.co.hidalgo.tx.us

Lennard K. Whittaker

### CAUSE NO. CR

is hereby:

2017 in

## STATE OF TEXAS IN THE DISTRICT COURT 370th JUDICIAL DISTRICT v. HIDALGO COUNTY, TEXAS ORDER ON DEFENDANT'S APPLICATION TO DEPOSE MATERIAL WITNESS On this day of 2017, came to be heard the foregoing Application to Depose Material Witness and upon consideration: It is ordered that said Application to Depose Material Witness **GRANTED**. She will be deposed at am/pm on 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 fax 866 596 6190 teksus@mac.com

Hidalgo County District Attorney

da.co.hidalgo.tx.us da.co.hidalgo.tx.us

100 E. Cano

Edinburg, TX 78539