

CAUSE NO. CH [REDACTED] G

STATE OF TEXAS

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IN THE DISTRICT COURT

v.

370th JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

**MOTION TO PRESERVE [REDACTED]'S NOTES, CALENDAR,
VOICEMAILS, TEXT MESSAGES PERTAINING TO WITNESS JANE DOE 10/19/16
'OUTCRY'**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, [REDACTED] Defendant herein, and files this motion to preserve [REDACTED]'s notes, calendar, voicemails and text messages pertaining to Jane Doe 10/19/16 "Outcry" and as grounds therefore would show the court the following:

1. On [REDACTED] 2017, Assistant District Attorney [REDACTED] provided a copy of CPS Records which included updated records into December 2016.
2. On pages 326 and 327 of the [REDACTED] printout of CPS Records, attached hereto as Exhibit 1, CPS agents [REDACTED] and [REDACTED] document that [REDACTED] had interviews with Jane Doe. In one of those interviews, Jane Doe is alleged to have made a new allegation of sexual abuse against Defendant in October 2016.
3. On 31 October 2016, Assistant District Attorney [REDACTED] announced 'ready' for trial. Trial was set for 19 December 2016.
4. On 6 December 2016, Defendant's counsel received a copy of a letter from CPS stating that an allegation of abuse dated to 10/19/16 was 'ruled out'. Defendant's counsel sent a copy via email to Assistant District Attorney [REDACTED]. In the email thread, Ms. [REDACTED] expressed some surprise at the CPS letter.
5. On 7 December 2016, Assistant District Attorney [REDACTED] announced 'ready' for trial. By the afternoon, Assistant District Attorney [REDACTED] reported that she had spoken to CPS and the letter pertained to a new allegation involving a 'counselor'.
6. Defendant is requesting, in a separate instrument, for an order to obtain the Jane Doe's counselor's records.

*do not
include
CPS records
- only for in-
camera
inspection*

7. Defendant has filed a subpoena for service upon Ms. [REDACTED] for her notes, calendars, voicemails, text messages, and emails pertaining to Jane Doe [REDACTED] of the months of October, November, and December 2016 to Court for possible in camera inspection.

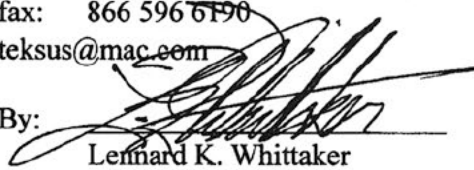
8. Defendant is, contemporaneously to this Motion, filing a 38.072 Notice of Assistant District Attorney [REDACTED] as a possible Outcry witness.

9. Defendant requests that District Attorney [REDACTED] be ordered to preserve all notes, calendars, voicemails, text messages, and emails pertaining to Jane Doe ([REDACTED] [REDACTED]) of the months of October, November, and December 2016.

WHEREFORE PREMISES CONSIDERED, DEFENDANT respectfully prays that the court grant this motion and order the State and Assistant District Attorney [REDACTED]'s notes, calendars, voicemails, text messages, and email pertaining to Jane Doe [REDACTED] of the months October, November, and December 2016 be preserved in the form that the Court finds reasonable.

Respectfully submitted,

Law Office of Lennard K. Whittaker
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]

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] G

STATE OF TEXAS

v.

[REDACTED]

* IN THE DISTRICT COURT
*
* 370th JUDICIAL DISTRICT
*
* HIDALGO COUNTY, TEXAS

ORDER ON DEFENDANT'S MOTION TO PRESERVE [REDACTED] NOTES, CALENDAR, VOICEMAILS, TEXT MESSAGES PERTAINING TO WITNESS JANE DOE 10/19/16 'OUTCRY'

On this the ____ day of _____, 2017, came to be heard in the above-entitled and numbered cause Defendant's Motion to Preserve [REDACTED] notes, calendar, voicemails, text messages pertaining to Witness Jane Doe 10/19/16 'Outcry' and this court finds that Defendant's motion is hereby:

GRANTED, orders the District Attorney to preserve ALL District Attorney notes, calendar, voicemails, and text messages pertaining to Witness Jane Doe 10/19/16 'Outcry'.

The Court instructions on method of preservation: _____

DENIED.

Signed this ____ day of _____, 2017.

Judge Presiding

cc:

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