

CAUSE NO. CR-[REDACTED]

STATE OF TEXAS

*
*
*
*
*

IN THE DISTRICT COURT

v.
[REDACTED]

JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

CERTIFICATE FOR ATTENDANCE OF OUT-OF-STATE WITNESS

On this the 24 day of [REDACTED] came to be heard in the above-entitled and numbered cause DEFENDANT'S MOTION TO SUMMON OUT-OF-STATE WITNESS AND FOR ADVANCE FOR EXPENSES. This Court grants Defendant's Motion and issues this Certificate.

After hearing evidence, the Court **finds the following** facts:

1. The [REDACTED] District Court, seated in Hidalgo County, Texas, is a court of record for the State of Texas.
2. Texas has adopted the Uniform Act to Secure Attendance of Witnesses from without a State in Criminal Proceedings as set forth in Texas Code of Criminal Procedure Art. 24.28.
3. The above-captioned case is a criminal proceeding in the District Court of Hidalgo County, Texas, in which Defendant is charged with Texas Penal Code 21.11(a)(1) and 21.11(d), two counts of Indecency with a Child.
4. The witness, who conducts business at Custodian of Records, Mayo Clinic Health System, [REDACTED], [REDACTED], is material and necessary witness in this case.
 - a. Materiality. Records in possession of witness pertain to adolescent accuser, a principal witness at expected trial, during a period of time relevant to Court inquiry (between time of alleged offenses and trial) and are likely to assist fact-finder in considering adolescent accuser faults to intelligently observe, recollect and tell the truth at trial. Adolescent Accuser, within this Certificate is identified by initials [REDACTED]
 - b. Necessity. Without testimony of Custodian of Records of Mayo Clinic Health System, Defendant would be deprived of due process and cross-examination rights protected under Texas and United States Constitutions.
5. Minnesota has adopted the Uniform Act to Secure Attendance of Witnesses from without a State in Criminal Proceedings as set forth in [REDACTED] Statutes [REDACTED]

(2022). The [redacted] court jurisdiction pertaining to witness location is the [redacted] Judicial District of [redacted]

- 6. The presence required of the witness is one day. Trial is set for [redacted] at 9:30 am/ 9:50 AM pm in the [redacted] District Court, 100 N. Closnet, [redacted] floor, Edinburg, TX 78539, 956 [redacted]
- 7. The State of Texas, pursuant to the Uniform Act, will grant the witness protection from arrest or service of process, civil or criminal, in connection with matters which arose before the witness's entrance in the State for purpose of testifying in this case.
- 8. The State of Texas stands ready to tender to the witness the sum allowed by the laws of this State. Upon the [redacted] court input of a reasonable sum for witness expenses, Defense Counsel Whittaker shall submit corresponding orders to [redacted] for those expenses.

The Court ORDERS:

- 1. This certificate, along with attachments listed below, incorporated into this Certificate, be transmitted to the presiding judge of the [redacted] Judicial District of [redacted]
 - a. Defendant's Motion to Summon Out-of-State Witness and for Advance for Expenses with its respective attachments,
 - b. Indictment, and
 - c. Order setting trial.
- 2. This Certificate shall constitute a request that summons be issued and served upon the witness at the address below, or any other place as the witness may be found in that district, requiring the witness to appear and attend the trial of this case in Hidalgo County, Texas, on the date indicated in the finding of facts of this Certificate, and to remain there and testify as a witness.

Custodian of Records
Mayo Clinic Health System

[redacted signature block]

3. The [REDACTED] District Court shall issue orders for payment of expenses (travel, lodging, daily travel/attendance fees) upon Defense Counsel submitting specified request after advice from [REDACTED] judicial officer.
4. All counsel, court personnel, and clerks are ordered to redact sensitive information as permitted throughout the process of filings, issuance, transmission and service of summons.

Signed this 24 day of MAY, 20[REDACTED]

[REDACTED]

[REDACTED] Judge Presiding
[REDACTED] Judicial District, Hidalgo County
State of Texas

cc:

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

DATE [REDACTED]

LAURA HINOJOSA
District Clerk, Hidalgo County, Texas

By [REDACTED]

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

[REDACTED] x.us

CAUSE NO. [REDACTED]

STATE OF TEXAS

* IN THE DISTRICT COURT

*

v.

* [REDACTED] JUDICIAL DISTRICT

*

* HIDALGO COUNTY, TEXAS

DEFENDANT'S MOTION TO SUMMON OUT-OF-STATE WITNESS AND FOR ADVANCE FOR EXPENSES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, [REDACTED] Defendant herein, and files this motion requesting that this Honorable Court summon out-of-state witness custodian of records of Mayo Clinic Health System and as grounds thereof would show unto the Court as follows:

A. Facts and Grounds for Request

1. Adolescent Accuser attended and received pediatric services at Mayo Clinic Health Systems (specifically from Dr. [REDACTED] DO) prior-to, during, and after the outcry of sexual abuse subject of this case. Dr. [REDACTED] is employed by Mayo Clinic Health System (Mayo) and the employer keeps and maintains medical records pertaining to Dr. [REDACTED] practice.

2. Court previously authorized Defense Counsel to obtain the Adolescent Accuser's medical records from Mayo Clinic Health Systems.¹

3. This Court was informed that [REDACTED] Police Capt. [REDACTED] reported, in initial discovery, that the Accuser's step-mother informed him that the Accuser has suffered from mental illness and **several suicide attempts** since moving to [REDACTED] in [REDACTED]

The Adolescent Accuser is expected to be the principal witness at trial and her mental health diagnoses and symptoms would assist the jury in making factual findings.

4. In an attempt to obtain the records without the use of compulsion, Defense Counsel, after being informed by Mayo that it would respect a QPO, sent a request for Adolescent Accuser records. Such request was rejected by Mayo.³ The institution would accept an order from a

¹See attached Exhibit 1, QPO.

² See attached Exhibit 2, [REDACTED] PD p.4. (underlining added)

³ See attached Exhibit 3, letter from Mayo. (italics & underline added on p.1)

court with jurisdiction over it. As these Mayo records and the custodian thereof are located in [REDACTED] the [REDACTED] judicial District has jurisdiction.⁴

B. TxCCrP §24.28⁵/ [REDACTED] Stat. [REDACTED] (2022)⁶

Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings (Uniform Act)

5. To compel testimony and records material to criminal defense of Defendant against sexual abuse charges, Defense Counsel requests the Court employ the Uniform Act to bring the out-of-state custodian of records of Mayo Clinic Health Systems to the [REDACTED] judicial District Court in Edinburg to provide testimony and records.

C. TxCCrP Art. 35.27 §6 & §8.⁷ Witness Expenses

6. Defense Counsel requests the Court order advanced payment of witness expenses. The exact amount required might not be determinable until a [REDACTED] judicial officer is assigned to the corresponding [REDACTED] legal action. (A rough estimate is \$1300 plus the cost of the records.)

7. Defendant was already found to be indigent.⁸ Defense Counsel requests the Court find that the custodian of records of Mayo Clinic Health Systems is a material witness with possession of records material to Defense at trial and that, failing an advance of funds, the attendance of the witness will not be possible.⁹

D. Materiality of Witness & Records in Witness' Custody

8. The out-of-state witness requested is the Custodian of Records for Mayo Clinic Health Systems, the employer of the Adolescent Accuser's pediatrician, Dr. [REDACTED] DO.

⁴ Judicial notice is requested.

⁵ Exhibit 4, Texas Uniform Act, attached.

⁶ Exhibit 5, [REDACTED] Uniform Act, attached.

⁷ Exhibit 6, TxCCrP 35.27, attached.

⁸ Exhibit 7, Order Appointing Counsel.

⁹ See Exhibit 5 [REDACTED] Stat. [REDACTED] (c). Witness is subject to constructive contempt for failing to testify only after payment of 'travel and lodging expenses and \$25 for each day witness is required to travel and attend as a witness.' (underlining added)

The disclosure of Dr. [REDACTED] providing medical services to the Adolescent Accuser was made in the Adolescent Accuser's psychiatric hospital records.¹⁰ The Adolescent Accuser made her outcry of sexual abuse against Defendant while a patient at psychiatric hospital.¹¹

9. The Adolescent Accuser's mental health from the time of the accusation to the outcry to the day of trial, is material and relevant for the fact-finder to consider¹² when she testifies in trial. Furthermore, dependent upon her diagnoses & reported time-period(s) of symptoms, the Court might need to consider witness competence prior to trial. The records in the custody of Mayo Clinic Health Systems are necessary and material for due process and proper cross-examination by Defense Counsel.

On 6 [REDACTED], Adolescent Accuser's step-mother [REDACTED] reported to [REDACTED] Police Dept. that Adolescent Accuser has struggled with mental illness including 'several suicide attempts.'¹³

E. Legal Necessities for [REDACTED] Courts

10. Certificate for Attendance Out-of-State Witness
 - a. Finding of materiality and necessity of witness testimony.
 - b. Trial setting.
 - c. Number of days of testimony for said witness. Defense Counsel requests one day for testimony. Two days of travel. Two to three nights of lodging, dependent upon options at time of booking.
 - d. Address of witness.

Custodian of Records
Mayo Clinic Health System
[REDACTED]

¹⁰ See Exhibit 8, 12/1/21 psychiatrist hospital note p.2. (underline added)

¹¹Outcry occurred 12/20/21 in individual psychotherapy to step-mother and psychiatric hospital employee [REDACTED] Adolescent Accuser, aged 11, outcried sexual abuse alleged in indictment to have occurred at age 4 or 5.

¹² Fact-finder must consider AA's faculty to intelligently observe, recollect, and tell the truth at trial regarding the event(s) being related.

¹³ See Exhibit 2, [REDACTED] PD report p. 4.

[REDACTED]

F. Witness will be offered alternative to travel.

11. Upon post-service contact by Mayo, Witness will be offered alternate to travel. Witness will be allowed to sign/notarize a business records affidavit and provide the requested records in lieu of travel.

G. Requests

12. Defendant requests this Court sign and issue Certificate for Attendance of Out of State Witness with attendant attachments, qualified protective order, findings of fact, and funding for witness expenses, filing, service, and possible local counsel.

13. Defendant requests compulsion of Adolescent Accuser's registration/counseling/medical/pharmaceutical/mental health records in order for the Court to comply with

- a. Defendant's Confrontation¹⁴, Compulsory Process¹⁵ Procedural Due Process and Substantive Due Process rights¹⁶ under the U.S. and Texas Constitutions; and,
- b. HIPAA.¹⁷

WHEREFORE PREMISES CONSIDERED, DEFENDANT respectfully prays that the court grant this motion and order the summons, by way of proposed Certificate for Attendance off Out-of-State Witness, of the Mayo Clinic Health System Custodian of Records to provide testimony and records.

Respectfully submitted,

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

¹⁴ U.S. Constitution Amendment 6, Tex. Constitution Art. 1, §10

¹⁵ U.S. Constitution Amendment 6, Tex. Constitution Art. 1, §10

¹⁶ U.S. Constitution Amendments 5 & 14

¹⁷ Exhibit 9, HIPAA 45 CFR §154.512(e) on judicial proceedings.

Electronically Filed

Hidalgo County District Clerks
Reviewed By: [REDACTED]

fax: 866 596 6190

teksus@mac.com

By: [REDACTED]

Lennard K. Whittaker

SBT 24008274

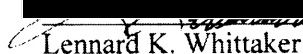
Counsel for [REDACTED]

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] tx.us

[REDACTED]

Lennard K. Whittaker

CAUSE NO. [REDACTED]

STATE OF TEXAS

* IN THE DISTRICT COURT

v.

* [REDACTED] JUDICIAL DISTRICT

[REDACTED]

* HIDALGO COUNTY, TEXAS

ORDER TO MAYO CLINIC HEALTH SYSTEM

On this the 4TH day of [REDACTED] came to be heard in the above-entitled and numbered cause DEFENDANT'S MOTION FOR QUALIFIED PROTECTIVE ORDER FOR WITNESS' COUNSELING/MEDICAL/MENTAL HEALTH RECORDS FROM MAYO CLINIC HEALTH SYSTEM and this court finds that Defendant's motion is hereby:

GRANTED, AND ORDERS Mayo Clinic Health System, to produce ALL counseling/medical/mental health records of [REDACTED] (dob [REDACTED] to Counsel Lennard K. Whittaker. Mr. Whittaker is obliged to produce a copy of the records to the State of Texas as soon as practicable.

Mr. Whittaker and the State of Texas may only utilize the records under 15 CFR §164.512(e) for the purposes of litigation and must destroy such records when pertinent litigation is terminated.

DENIED.

Signed this 11TH day of [REDACTED]

[REDACTED]

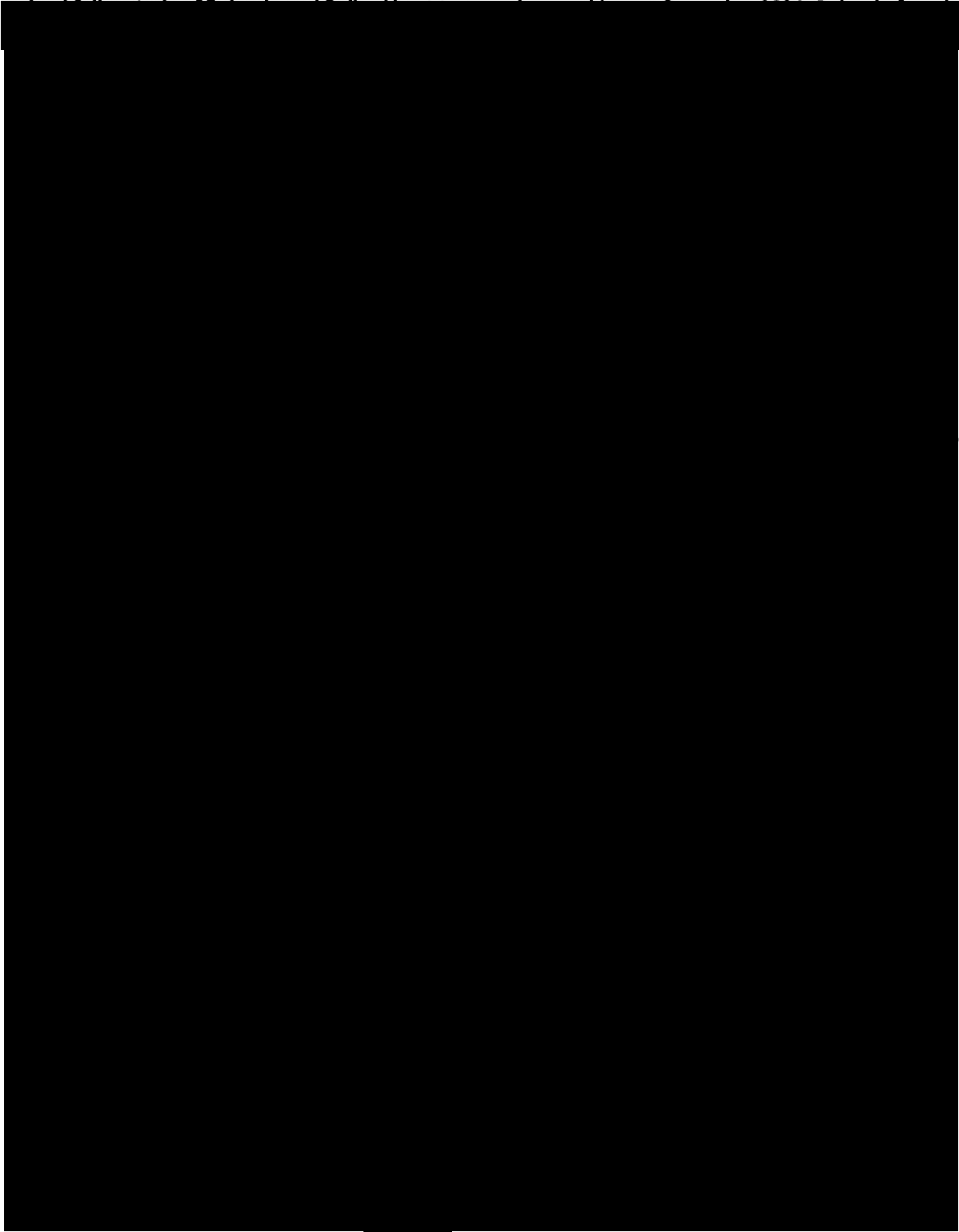
Judge Presiding

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
100 E. Cano
Edinburg, TX 78539

[REDACTED]



interviews will be provided to Detective [redacted] of McAllen, TX PD.

End of Report



Mayo Clinic
[Redacted]

[Redacted]

Lennard K. Whittaker
Po Box 720876
McAllen, TX 78504

RE: Request for Records of: [Redacted]
Date of Birth: [Redacted]
Date request received: [Redacted]
Release ID: [Redacted]

Dear Lennard K. Whittaker,

We have received your request for health records. The HIPAA Protective Order provided does not have jurisdiction for the Mayo Clinic site that the document was addressed to. To release patient information, one of the following is required:

- The HIPAA Protective Order must be addressed to a Mayo Clinic site where the court has jurisdiction.
- A HIPAA compliant authorization or Patient Directive from the patient or the patient's legal representative must be provided.
- The HIPAA Protective Order must include HIPAA Certificate of Compliance or Satisfactory Assurance verbiage.

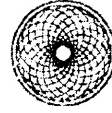
If you are still in need of the requested health records, please resubmit your request with above required documentation. When applicable, we have enclosed our authorization for your use.

Should you have any questions, you may contact us at [Redacted], Monday through Friday, 8:00 a.m. until 5:00 p.m., or write to the address above, attention Health Information Management Services-Release of Information.

Sincerely,

Release of Information
Health Information Management Services

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.



Leonard K. Whitaker, Attorney

Mayo Clinic Health System
Attn: Medical Records

[Redacted]

Date [Redacted]

Re: Request for Patient Records

Pt: [Redacted]

P.O. Box 720876
McAllen, TX 78504
T 956 821 9918
F 956 596 6190
teksus@mac.com
www.whitakerlaw.com
www.criminalstrategies.com

Dear Medical Records:

Please accept this letter as a request for the medical records pertaining to [Redacted]
[Redacted] (dob [Redacted]).

Enclosed please find a certified copy of the Qualified Protective Order (QPO). You may verify the QPO in two ways. Call the court coordinator at 956 [Redacted]. Or, call the District Clerk 956 318 2200 [Redacted].

Please feel free to communicate with me on cost or production. Electronic production is preferred.

Sincerely yours,

[Redacted Signature]
Leonard K. Whitaker

end: QPO

CAUSE NO. [REDACTED]

STATE OF TEXAS * IN THE DISTRICT COURT
*
v. * [REDACTED] JUDICIAL DISTRICT
*
[REDACTED] * HIDALGO COUNTY, TEXAS

ORDER TO MAYO CLINIC HEALTH SYSTEM

On this the 4TH day of [REDACTED], ~~2022~~, came to be heard in the above-entitled and numbered cause DEFENDANT'S MOTION FOR QUALIFIED PROTECTIVE ORDER FOR WITNESS' COUNSELING/MEDICAL/MENTAL HEALTH RECORDS FROM MAYO CLINIC HEALTH SYSTEM and this court finds that Defendant's motion is hereby:

GRANTED, AND ORDERS Mayo Clinic Health System, to produce ALL counseling/medical/mental health records of [REDACTED] (dob [REDACTED]) to Counsel Lennard K. Whittaker. Mr. Whittaker is obliged to produce a copy of the records to the State of Texas as soon as practicable.

Mr. Whittaker and the State of Texas may only utilize the records under 15 CFR §164.512(e) for the purposes of litigation and must destroy such records when pertinent litigation is terminated.

DENIED.

Signed this 11 day of [REDACTED]

[REDACTED]

Judge Presiding

cc:

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

[REDACTED]
A TRUE COPY I OUSTRY
LAURA HINOJOSA
Clerk of Court, Hidalgo County, Texas
[REDACTED]

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

[REDACTED]



Authorization to Release Protected Health Information to a Third Party

Form content retained in medical record.
Route to HIMS Scanning.

**TO BE
SCANNED**

Instructions: This form is to be used by a patient or legal representative to authorize the release of information to a third party (other than a family member or friend) such as an insurance company, employer, or for legal purposes, etc. Print clearly; each section needs to be completed to be valid.

1. *(complete fields or place patient label here)*

Patient Name <i>(First, Middle, Last)</i>	
Birth Date <i>(mm-dd-yyyy)</i>	Room Number <i>(if applicable)</i>
Mayo Clinic Number	

Staff Use Only

<input type="checkbox"/> ROI to Send Records	<input type="checkbox"/> Scan to Chart
<input type="checkbox"/> Information Released by LAN ID	Date <i>(mm-dd-yyyy)</i>

2. Additional Patient Information

Previous or Maiden Name <i>(if applies) (First, Middle, Last)</i>	Daytime Phone	<input type="checkbox"/> Check this box if patient is deceased.
Patient Address <i>(Street, City, State, ZIP Code)</i>		

3. Release Purpose

Check appropriate box or write in other purpose.

Continuing care Disability Forms completion Insurance Legal Workers' compensation

Other, specify _____

4. Release Information FROM

Check one box and complete if applicable.

Mayo Clinic
Includes all Mayo Clinic and Mayo Clinic Health System locations

Other, specify organization, department, or individual (complete each line below)

Street _____

City _____

State _____ ZIP Code _____

Phone _____

Fax _____

5. Release/Send Information TO

Check one box and complete each line for box checked.

Mayo Clinic
Dept. _____ Attn. _____
Fax _____

Other, specify organization, department, or individual (complete each line below)

Street _____

City _____

State _____ ZIP Code _____

Phone _____

Fax _____

This authorization will expire in 1 year from date of signature *unless another date is specified*:

By checking this box I allow the ongoing exchange of information between the above parties until this authorization expires or is revoked.

By checking this box I also authorize the release of records for future visits or stays after the date of my signature until this authorization expires or is revoked.

6. Delivery of Information

Preferred Method <input type="checkbox"/> Written copy (may include completed forms) <input type="checkbox"/> Verbal only	Date information Needed by <i>(mm-dd-yyyy)</i>
--	--

Written information will be mailed unless an alternate method is checked.

Patient Portal -- Mayo Clinic Patient Online Services

Fax (number listed above in section 5)

Email address _____

Pick-up at a Mayo Clinic location, specify _____

CD/DVD

USB flash/thumb drive

Other, specify _____



Authorization to Release Protected Health Information to a Third Party (continued)

(complete fields or place patient label here)

Patient Name (First, Middle, Last)
Birth Date (mm-dd-yyyy)
Mayo Clinic Number

7. Records or Reports to Be Released

Timeframe to Be Released
 Date(s) _____ or Year(s) _____
(mm-dd-yyyy) (yyyy)

Document/Note(s) (check all that apply)
 Behavioral health/Mental/Psychological notes
 Operative/Procedure notes
 Therapy notes (physical, occupational, speech)
 Emergency department/Urgent care notes
 Provider notes
 Other, specify _____

I understand the information to be released may include behavior and/or mental health care, and HIV test results.

Additional Records (check all that apply)
 Allergy list
 Immunizations
 Medication list
 Billing information for records checked
 Laboratory results
 HIV lab test results
 Genetic testing
 Pathology report(s)
 EKG(s)/Cardio/Echo
 Radiology report(s)
 Radiology image(s), specify exam(s)/body part(s)

Substance Abuse and Addiction Treatment Records (check all that apply)
 Assessment/Evaluation
 History and physical exam
 Multidisciplinary notes
 Family participation invitation
 Questionnaires
 Treatment/Discharge summary
 Treatment plans
 Other, specify _____

Other, specify if applicable _____

8. Signature and Date The patient or legal representative must sign and date this authorization.

- This authorization may be revoked at any time by providing a written notice of revocation to the Health Information Management Services (HIMS) Release of information (ROI) department at the facility releasing the information, except to the extent that the Providers have already taken action in reliance on it.
- Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by the Federal Privacy Law (42 CFR Part 2) (HIPAA).
- I understand that Mayo Clinic will not condition treatment on whether I sign this authorization.
- I may request a copy of the signed authorization.
- I may be charged for copies in accordance with state law.
- I have a right to inspect and receive a copy of the material to be disclosed.

Note: A patient (18 years or older) must authorize the release of their own information unless patient is incapacitated or deceased. If signing for a minor patient, I hereby state that my parental rights have not been revoked by a court of law. Specific situation(s) may require minor's authorization.

Signature (required): _____ **Date** (required) (mm-dd-yyyy) _____

Printed Name of Person Signing (if not patient) (First, Middle, Last) _____

Relationship if Not Patient (legal documentation of the right of access by the signing individual may be required)
 Parent Stepparent Legal guardian Foster parent Health care power of attorney/agent Other _____

HIMS* Release of Information Contact Information

Arizona	Florida	Rochester	MCHS MN	MCHS WI

Reminder: If sending records TO Mayo Clinic, fax records to number indicated in section 5 on page 1.

*Health Information Management Services



Fax

To: Lennard K. Whittaker, Atty

Date: **1/24/23**

Company: Requester Not In System

Fax: **866-596-6190**

No. of Pages (including cover sheet): 1

Phone: **956-821-9918**

Delivery Instructions: Routine Urgent

Special Instructions:

From: [REDACTED] Release of Information

Fax: **See below**

Phone: [REDACTED]

Message:

You are receiving this in response to a request for medical record information.

Request ID: [REDACTED]

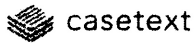
If you have additional questions please contact us at the number listed below.

Wisconsin: (F) [REDACTED]
Minnesota: (F) [REDACTED]
Rochester: (F) [REDACTED]
Arizona: (F) [REDACTED]
Florida: (F) [REDACTED]

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2.

A general authorization for the release of medical or other information is NOT sufficient for this purpose.

The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.



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Statutes, codes, and regulations / Texas Codes / ... / Chapter 24 - SUBPO...
/ Section 24.28 - Unifo...

Tex. Code Crim. Proc. art. 24.28

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Current through the 87th Legislature Third Called Session.

Section 24.28 - Uniform Act to Secure Attendance of
Witnesses From Without State

Previous Section
Section 24.27 - No
Surrender After
Forfeiture

Next Section
Section 24.29 -
Uniform Act to
Secure Rendition of
Prisoners In
Criminal
Proceedings

Sec. 1. SHORT TITLE. This Act may be cited as the
"Uniform Act to Secure the Attendance of Witnesses from
Without the State in Criminal Proceedings".

Sec. 2. DEFINITIONS. "Witness" as used in this Act shall
include a person whose testimony is desired in any
proceeding or investigation by a grand jury or in a
criminal action, prosecution or proceeding.

The word "State" shall include any territory of the United
States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

Sec. 3. SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE.

(a) If a judge of a court of record in any State which by its laws has made provision for commanding persons within that State to attend and testify in this State certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other State, and that the laws of the State in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, (and of any other State through which the witness may be required to pass by ordinary course of travel), will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons,

with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(c) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting State to assure his attendance in the requesting State, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting State.

(d) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the compensation for nonresident witnesses authorized and provided for by Article 35.27 of this Code, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

Sec. 4. WITNESS FROM ANOTHER STATE

SUMMONED TO TESTIFY IN THIS STATE.

(a) If a person in any State, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(b) If the witness is summoned to attend and testify in this State he shall be tendered the compensation for nonresident witnesses authorized by Article 35.27 of this Code, together with such additional compensation, if any, required by the other State for compliance. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a

court of record in this State.

Sec. 5. EXEMPTION FROM ARREST AND SERVICE OF PROCESS. If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

If a person passes through this State while going to another State in obedience to a summons to attend and testify in that State or while returning therefrom, he shall not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

Tex. Code Crim. Proc. § 24.28

Amended by Acts 1973, 63rd Leg., p. 1285, ch. 477, Sec. 1, eff. 8/27/1973.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. 1/1/1966.

Office of the Revisor of Statutes
Office of the Revisor of Statutes

[REDACTED] Statutes

Authenticate  PDF

[REDACTED] RESIDENTS REQUIRED TO TESTIFY IN ANOTHER STATE.

(a) Upon presentation of a certificate from a judge of a court of record in any state that may require persons within that state to attend and testify in criminal actions or grand jury investigations in this state stating that (1) there is a criminal action pending in the court or a grand jury investigation has commenced or is about to be commenced; (2) a person within this state is a material witness in the action or grand jury investigation; and (3) the person's presence will be required for a specified number of days at the trial or grand jury investigation; a judge of the district court of the county where the person resides, or where the person is found if not a resident of this state, shall set a time and place for a hearing and notify the person of the time and place.

(b) If at the hearing the judge determines that (1) the person is a material and necessary witness; (2) it will not cause undue hardship to the person to be compelled to attend and testify in the other state; and (3) the laws of the state where the person will testify and of any other state that the person may be required to pass through by ordinary course of travel will provide protection from arrest and the service of civil and criminal process; the judge shall make an order, with a copy of the certificate attached, directing the person to attend and testify at the time and place specified in the certificate.


(c) If the person, after being paid by an authorized person reasonable travel and lodging expenses and \$25 for each day the person is required to travel and attend as a witness, fails without good cause to attend and testify as directed by the order, the person is guilty of constructive contempt of court.

History: [REDACTED]

Official Publication of the State of [REDACTED]
Revisor of Statutes

Office of the Revisor of Statutes
Office of the Revisor of Statutes

[REDACTED] Statutes

Authenticate  PDF

EXEMPTIONS; ARREST, SERVICE OF PROCESS.

If a person comes into this state in obedience to a court order directing the person's attendance and testimony in a criminal action or grand jury investigation in this state the person shall not, while in this state, pursuant to such court order, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before entrance into this state under such order.


If a person passes through this state while going to another state in obedience to a court order requiring the person's attendance and testimony in a criminal action or grand jury investigation in that state or while returning therefrom, the person shall not, while so passing through this state, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before entrance into this state pursuant to such court order.

History: [REDACTED]

Official Publication of the State of [REDACTED]
Revisor of Statutes

Office of the Revisor of Statutes
Office of the Revisor of Statutes

[REDACTED] Statutes

[Authenticate](#)  PDF

634.09 UNIFORMITY.

Sections [REDACTED] to [REDACTED] shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of the states which enact them.

History: [REDACTED]

Official Publication of the State [REDACTED]
Revisor of Statutes

Texas Code of Criminal Procedure

Art. 35.27

Reimbursement of Nonresident Witnesses

Sec. 1. EXPENSES FOR NONRESIDENT WITNESSES. (a) Every person subpoenaed by either party or otherwise required or requested in writing by the prosecuting attorney or the court to appear for the purpose of giving testimony in a criminal proceeding who resides outside the state or the county in which the prosecution is pending shall be reimbursed by the state for the reasonable and necessary transportation, meal, and lodging expenses he incurs by reason of his attendance as a witness at such proceeding.

(b) The state may reimburse a witness for transportation only if the transportation is provided by a commercial transportation company or the witness uses the witness's personally owned or leased motor vehicle. In this article, "commercial transportation company" means an entity that offers transportation of people or goods to the public in exchange for compensation.

(c) The state may reimburse a witness for lodging only if the lodging is provided by a commercial lodging establishment. In this article, "commercial lodging establishment" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

Sec. 2. AMOUNT OF REIMBURSEMENT FOR EXPENSES. Any person seeking reimbursement as a witness shall make an affidavit setting out the transportation, meal, and lodging expenses necessitated by his travel to and from and attendance at the place he appeared to give testimony, together with the number of days that such travel and attendance made him absent from his place of residence. A reimbursement paid by the state to a witness for transportation, meal, or lodging expenses may not be paid at a rate that exceeds the maximum rates provided by law for state employees.

Sec. 2A. DIRECT PAYMENT OF TRANSPORTATION OR LODGING EXPENSES. If this article requires the state to reimburse a witness for transportation or lodging expenses, the state may instead directly pay a commercial transportation company or commercial lodging establishment for those expenses.

Sec. 3. OTHER EXPENSES. In addition to reimbursement or payment for transportation, meal, and lodging expenses, the comptroller, upon proper application by the attorney for the state, shall reimburse or pay the other expenses required by the laws of this state or the state from which the attendance of the witness is sought.

Sec. 4. APPLICATION AND APPROVAL BY JUDGE. A reimbursement to a witness as provided

by this article shall be paid by the state to the witness or his assignee. Claim shall be made by sworn application to the comptroller, a copy of which shall be filed with the clerk of the court, setting out the facts showing entitlement as provided in this article to the reimbursement, which application shall be presented for approval by the judge who presided over the court or empaneled the grand jury before whom the criminal proceeding was pending. No fee shall be required of any witness for the processing of his claim for reimbursement.

Sec. 5. PAYMENT BY STATE. The Comptroller of Public Accounts, upon receipt of a claim approved by the judge, shall examine it and, if he deems the claim in compliance with and authorized by this Article, draw his warrant on the State Treasury for the amount due the witness, or to any person to which the certificate has been assigned by the witness, but no warrant may issue to any assignee of a witness claim unless the assignment is made under oath and acknowledged before some person authorized to administer oaths, certified to by the officer, and under seal. If the appropriation for paying the account is exhausted, the Comptroller of Public Accounts shall file it away and issue a certificate in the name of the witness entitled to it, stating therein the amount of the claim. Each claim not filed in the office of the Comptroller of Public Accounts within twelve months from the date it became due and payable shall be forever barred.

Sec. 6. ADVANCE BY STATE. Funds required to be tendered to an out-of-state witness pursuant to Article 24.28 of this Code shall be paid by the Comptroller of Public Accounts into the registry of the Court in which the case is to be tried upon certification by the Court such funds are necessary to obtain attendance of said witness. The court shall then cause to be issued checks drawn upon the registry of the Court to secure the attendance of such witness. In the event that such funds are not used pursuant to this Act, the Court shall return the funds to the Comptroller of Public Accounts.

Sec. 7. ADVANCE BY COUNTY. The county in which a criminal proceeding is pending, upon request of the district attorney or other prosecutor charged with the duty of prosecution in the proceeding, may advance funds from its treasury to any witness who will be entitled to reimbursement under this article. The amount advanced may not exceed the amount that is reasonably necessary to enable the witness to attend as required or requested. However, the amount advanced may include sums in excess of the reimbursement provided for by this article if the excess is required for compliance with Section 4 of Article 24.28 in securing the attendance of a witness from another state under the Uniform Act. A county that advances funds to a witness under this section is entitled to reimbursement by the state as an assignee of the witness.

Sec. 8. ADVANCE FOR EXPENSES FOR WITNESSES OF INDIGENT DEFENDANT. Upon application by a defendant shown to be indigent and a showing to the court of reasonable necessity and materiality for the testimony of a witness residing outside the State, the court shall act pursuant to Section 6 hereof to secure advance of funds necessary for the attendance of such witness.

Sec. 9. LIMITATIONS. A witness, when attached and conveyed by a sheriff or other officer, is not eligible to receive reimbursement of transportation, meal, or lodging expenses incurred while in the custody of the officer. A court, in its discretion, may limit the number of character witnesses allowed reimbursement under this article to not fewer than two for each defendant and two per defendant for the state.

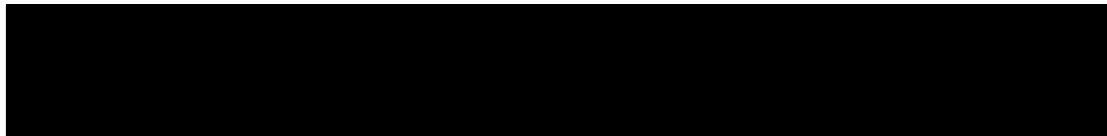
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1973, 63rd Leg., p. 1287, ch. 477, Sec. 2, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 1039, ch. 469, Sec. 1, eff. Sept. 1, 1979.

Secs. 1, 2 amended by and Sec. 2A added by Acts 1993, 73rd Leg., ch. 449, Sec. 18, eff. Sept. 1, 1993; Secs. 3, 4 and 7 amended by Acts 1993, 73rd Leg., ch. 449, Sec. 18, eff. Sept. 1, 1993.

Location: https://texas.public.law/statutes/tex._code_of_crim._proc._article_35.27

Original Source: Article 35.27 — Reimbursement of Nonresident Witnesses, <http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.35.htm#35.27> (last accessed [REDACTED])

▼



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THE STATE OF TEXAS
VS

IN THE: [REDACTED] District Court

SO#: [REDACTED]

DOB [REDACTED]

Language: English

Cell

Degree

of
Offense: F2

Date of Arrest:

Arresting Agency:

Holds

Offense(s): INDECENCY W/CHILD SEXUAL CONTACT X2 [REDACTED]

Application for Appointment

The Applicant, being duly sworn, states the following: I am the applicant in the above entitled and numbered cause, and I am too poor to employ counsel and request that the Court appoint counsel for me. In support of my claim of indigency, I would respectfully show the Court that I own the following property of value indicated:

Address Line 1 [REDACTED] City [REDACTED] State TX Zip [REDACTED]

Home Phone [REDACTED] Cell Phone [REDACTED] Marital Status Single Family Size 2

Spouse's Name [REDACTED] Spouse's Phone Number [REDACTED] Food Stamps TANF

Other Contact [REDACTED] Other Contact Phone Number [REDACTED] Medicaid SSI

Employment Status Unemployed Name of Employer/School

Monthly Salary \$0.00 Other Source of Income Other Income Amount \$0.00

of Autos Value of Autos \$0.00 Checking Balance \$0.00 Savings Balance \$0.00

Rent/Mortgage \$0.00 Light \$0.00 Gas \$0.00 Water \$0.00

Home Phone \$0.00 Car Payment \$0.00 Car Insurance \$0.00 Childcare \$0.00

Food \$0.00 Interviewer Notes [REDACTED]

Poverty Guide Line \$15,503.50

App. Status: Accepted Household Income \$0.00

Indigent

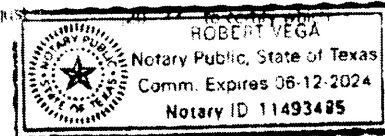
[REDACTED]

Applicant Signature

SWORN TO AND SIGNED BEFORE ME the 11 day of

August

[REDACTED] seal of office.



NOTARY PUBLIC

Order Appointing Counsel

On this 11 day of August, 2022, I hereby appoint the Honorable

Whittaker, Lennard K. attorney for the applicant with respect to the above pending

charge. Counsel is requested to interview applicant no later than 24 hours of receiving this appointment.

Signed and entered on this the [REDACTED] day of [REDACTED], 2022.

The Court finds that the Defendant is NOT indigent and therefore Application for Appointment of Counsel is hereby Denied.

State District Judge Designee / County Court at Law Judge Designee



medical group

Progress Notes

Medications

Current Medications:

None

Past medication Trials:

None

Psychiatric History

[Redacted]

Developmental History

[Redacted]

Attachment History

[Redacted]

Sexual History

[Redacted]

Abuse/Trauma History

[Redacted]

Current Providers

[Redacted]

Medical History

[Redacted]

Allergies

Drug Allergies

NKDA

Environmental Allergies

Seasonal

45 CFR §154.512(e) (last amended 2016)

(e) Standard: Disclosures for judicial and administrative proceedings -

(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

- (i)** In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or
- (ii)** In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

- (A)** The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

- (B)** The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

- (iii)** For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

- (A)** The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

- (B)** The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

- (C)** The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

- (1)** No objections were filed; or

(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) For the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

(vi) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(v) of this section.

(2) Other uses and disclosures under this section. The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

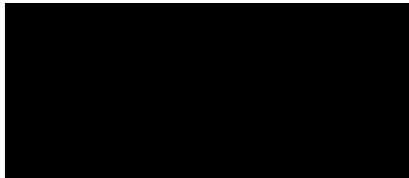
IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of Hidalgo, State of Texas, duly selected, impaneled, sworn and organized as such at the [redacted] of the [redacted] Judicial District Court for said County, upon their oaths present in and to said court at said term that [redacted] hereinafter styled Defendant, on or about the [redacted] and before the presentment of this indictment, in Hidalgo County, Texas, did then and there, with the intent to arouse or gratify the sexual desire of the defendant, engage in sexual contact with [redacted] a pseudonym by touching any part of the genitals of [redacted] a pseudonym, a child younger than 17 years;

COUNT TWO

THE GRAND JURY, for the County of Hidalgo, State of Texas, duly selected, impaneled, sworn and organized as such at the [redacted] of the [redacted] Judicial District Court for said County, upon their oaths present in and to said court at said term that [redacted] hereinafter styled Defendant, on or about the 30th day of [redacted] and before the presentment of this indictment, in Hidalgo County, Texas, did then and there, with the intent to arouse or gratify the sexual desire of the defendant, engage in sexual contact with [redacted] a pseudonym, a child younger than 17 years, by causing the said [redacted] pseudonym to touch the genitals of the defendant.

AGAINST THE PEACE AND DIGNITY OF THE STATE.



FOREPERSON OF THE GRAND JURY

CR- [redacted]
DA Control No. [redacted]
Agency: [redacted] POLICE DEPARTMENT
Arrest Date: [redacted]
Bond: [redacted] LL
State of Texas vs. [redacted]
SO: [redacted] ID: [redacted]
Charge: INDECENCY W/CHILD SEXUAL CONTACT (cts 1,2)

FILED
AT 1:19 O'CLOCK PM

LAURA HINOJOSA, CLERK



CAUSE NO. [REDACTED]

STATE OF TEXAS

* IN THE DISTRICT COURT
*
* [REDACTED] JUDICIAL DISTRICT
*
* HIDALGO COUNTY, TEXAS

v.
[REDACTED]

ORDER SETTING TRIAL

TRIAL IS SET FOR 9:30 A.M. 25 day of [REDACTED] Counsel,
Defendant and Witnesses are required to be present.

Signed this 27 day of [REDACTED]

[REDACTED]

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
100 E. Cano
Edinburg, TX 78539

[REDACTED] us

DATE [REDACTED]
A true copy I certify
LAURA HINOJOSA
[REDACTED] Hidalgo County, Texas