

STATE OF TEXAS)	IN THE DISTRICT COURT
VS.)	186th JUDICIAL DISTRICT
JOE SMITH)	BEXAR COUNTY, TEXAS

**DEFENDANT'S EX PARTE MOTION TO PROVIDE FUNDS
FOR EXPERT ASSISTANCE FROM A PSYCHIATRIST**

TO THE HONORABLE JUDGES OF SAID COURT:

Joe Smith moves this Court *ex parte* pursuant to the Sixth, Eighth and Fourteenth Amendments of the United States Constitution, Article I, §§ 3, 3a, 10, 13 and 19 of the Texas Constitution, and article 26.05(a) of the Texas Code of Criminal Procedure, to provide funds for a psychiatrist to assist in the preparation of his defense, and for good cause shows the following:

I.

Defendant is indigent. He cannot afford to hire a psychiatrist to assist in the preparation of his defense. Because of the defendant's indigency, counsel was appointed by this Court.

II.

Defendant is charged with aggravated assault on a public servant.

III.

Defendant was shot in the head and seriously wounded on July 5, 2018. He has had surgery and has other surgeries scheduled in the future. Counsel has no training in the

sciences of mental health or neurology, and is unable to interpret the voluminous medical records compiled to date.

Counsel believes that defendant's head injury may have a bearing on his mental health, and that this, in turn, has implications regarding his feasibility for release on bond, his competency to stand trial, and his sanity at the time of the offense and mitigation of punishment. A definitive interpretation of defendant's condition and medical records must come from a qualified expert.

IV.

Counsel has spoken with Doctor Michael Bell, a competent and qualified forensic psychiatrist. Doctor Bell has been made aware of the existing information regarding defendant's condition and is willing to examine defendant in the jail and to review his medical records. He is also willing to consult with defense counsel and to testify at a hearing regarding his findings.

V.

If the defendant is not provided with expert assistance, he will be deprived of due process, due course, and equal protection of the laws, the effective assistance of counsel, his right to confront witnesses against him, his right to a fair and impartial trial, his right to present evidence on his own behalf, and his right to explain or deny evidence presented against him in the punishment phase, in violation of the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article I, §§ 10, 13 and 19 of the Texas

Constitution.

VI.

In *Ake v. Oklahoma*, 470 U.S. 68 (1985), the Supreme Court held that due process permits the defendant to make an *ex parte* showing to the trial court of his need for expert assistance. Defendant requests leave to proceed in this fashion on this motion.

WHEREFORE, PREMISES CONSIDERED, defendant requests that this Court consider this motion *ex parte* and order that he be provided with sufficient funds to have a competent psychiatrist assist him in the investigation, evaluation, preparation and presentation of his case.

Respectfully submitted:

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Attorney for Defendant

ORDER

On this the _____ day of _____, 2018, came on to be considered Defendant's *Ex Parte* Motion To Provide Funds For Expert Assistance From A Psychiatrist, and said motion is hereby

(GRANTED) (DENIED).

Accordingly, Doctor Michael Bell is appointed to assist the defense in the evaluation, preparation and presentation of the defense.

JUDGE PRESIDING