

NO. 2018-CR-0000

STATE OF TEXAS	)	IN THE DISTRICT COURT
VS.	)	226TH JUDICIAL DISTRICT
DUANE SMITH	)	BEXAR COUNTY, TEXAS

**MOTION FOR CONTINUANCE**

TO THE HONORABLE JUDGE OF SAID COURT:

Duane Smith moves the Court to continue the trial date for sufficient cause shown, pursuant to article 29.03 of the Texas Code of Criminal Procedure:

I.

That this cause is set for trial on April 1, 2018.

II.

Bill Jones is unavailable for trial on that date, despite diligent attempts of counsel, because he has just begun a job working in California and will be fired if he is forced to return to Texas before June 15, 2018.

III.

The testimony of this witness is vital to the defense inasmuch as he will testify that he was with Joe Smith at attending a minor league baseball game in Austin, Texas at the same time the instant offense was committed in San Antonio, on December 16, 2017.

IV.

The absence of said witness was not procured or consented to by Defendant or defense counsel. For the above stated reasons there is no reasonable expectation that the presence of the witness may be obtained on April 1, 2018. This motion is not made for

the purpose of delay but rather in the interest of justice.

V.

Neither the above-mentioned testimony nor the substance of such testimony may be procured from any other source known to Defendant or defense counsel.

VI.

Defendant has a reasonable expectation of securing the testimony of said witness after June 15, 2018.

WHEREFORE, the defendant prays the Court continue this cause on the docket of this Court until a later date so that the defendant may receive a fair trial.

Respectfully submitted:

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Attorney for Defendant

STATE OF TEXAS        )

AFFIDAVIT

COUNTY OF BEXAR     )

BEFORE ME, the undersigned authority, on this day personally appeared Mark Stevens, who after being duly sworn stated:

My name is Mark Stevens. I am the attorney for the defendant in the above-entitled and numbered cause. I have read the foregoing Motion for Continuance and swear that all of the allegations of fact contained therein are true and correct.

\_\_\_\_\_  
MARK STEVENS

SUBSCRIBED AND SWORN TO BEFORE ME on the 28h day of March 26, 2018.

\_\_\_\_\_  
Notary Public in and for  
Bexar County, Texas

**CERTIFICATE OF SERVICE**

I certify that a copy of defendant's Motion for Continuance has been delivered to the District Attorney's Office; Justice Center; 300 Dolorosa; San Antonio, Texas, on this the 28th day of March, 2018.

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MARK STEVENS

My commission expires: 1/27/2020

**ORDER**

On this the \_\_\_\_ day of \_\_\_\_\_, 2018, came to be considered defendant's Motion for Continuance, and it appears to the Court that this Motion should be

(GRANTED)

(DENIED)

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JUDGE PRESIDING