

NO. 2010-CR-00000

STATE OF TEXAS) IN THE DISTRICT COURT
VS.) 144TH JUDICIAL DISTRICT
JOE SMITH) BEXAR COUNTY, TEXAS

**MOTION FOR PRODUCTION OF MATERIALS
REQUIRED FOR DEFENSE TO RECONSTRUCT
THE ACCIDENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves for an order requiring the prosecution to produce copies of the following materials, necessary for the defense to properly reconstruct the accident in this case:

I.

Photographs and videotapes were taken of the accident scene in this case by the Bexar County Sheriff's Office, the Bexar County District Attorney's Office, experts employed by the District Attorney's Office, the Bexar County Medical Examiner's Office, and very possibly other agents of the State of Texas, as well as various media organizations. These photographs and videotapes are presently in the State of Texas's possession on various CD and DVD storage media. Defendant does not have copies. Experts in accident reconstruction have advised the defense that they will need copies of pictures taken at the scene in order to accurately reconstruct the accident. Specifically, the experts need pictures that have been copied directly from the storage media in possession of the state. Certainly all experts employed by the state have had access to these photographs and videotapes when

arriving at their conclusions, and it is only fair that the defense have the exact same access.

(GRANTED) (DENIED)

II.

The state's accident reconstruction expert has made a "preliminary" report that purports to draw conclusions about Mr. Smith's path of travel, his speed, his culpable mental state, and, the area of impact, among other things. The defense has been provided a copy of this preliminary report. Presumably there are worksheets, data compilations, measurements, diagrams, surveys, mathematical calculations, formulae, logs, and other information that underlie these conclusions. The Court has discretion under Rule 705(b) to order prior disclosure of the facts and data that underlie the opinions of expert witnesses, and the defense requests that same be disclosed at the present time concerning any witness the state will call at the trial of this case.

(GRANTED) (DENIED)

III.

In support of this motion, defendant shows the following:

1. The items requested are in the exclusive possession, custody and control of the State of Texas or the United States Government by and through its agents, the police or the prosecuting attorney's office, and the defendant has no other means of ascertaining the disclosures requested.
2. The items requested are not privileged.
3. The items and information are material to this cause and the issues of guilt or innocence and punishment to be determined in this cause.

4. The defendant cannot safely go to trial without such information and inspection, nor can the defendant adequately prepare the defense to the charges against him.
5. The absent such discovery the defendant's rights under Article 39.14 of the Texas Code of Criminal Procedure, Article I, §§ 3, 3a, 10, 13 and 19 of the Constitution of the State of Texas, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States of America will be violated.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I certify that a copy of this Motion has been delivered to the Bexar County District Attorney's Office; 101 W.Nueva St; San Antonio, Texas, on April 1, 2018.

MARK STEVENS

ORDER

On this the _____ day of _____, 2018, came on to be heard defendant's Motion For Production Of Materials For The Defense To Reconstruct The Accident, and after hearing same, the motion is granted or denied as indicated above.

PRESIDING JUDGE