

NO. 2018-CR-0000

STATE OF TEXAS)	IN THE DISTRICT COURT
VS.)	379th JUDICIAL DISTRICT
JOE SMITH)	BEXAR COUNTY, TEXAS

MOTION FOR VOIR DIRE OF EXPERT WITNESS

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves this Court to conduct a hearing prior to trial and outside the presence of the jury to determine the preliminary question of the qualification of all expert witnesses upon which the state intends to rely at trial, and to determine the underlying facts and data upon which their opinions are based, and, for good cause, shows the following:

I.

Defendant expects the state to rely upon expert witnesses to prove its case.

II.

The burden of establishing the admissibility of an expert's opinion rests on the party offering the evidence.

III.

Whether the proffered witness possesses the requisite qualifications is a preliminary matter for the trial court to decide and not a matter of weight only to be determined by the jury.

IV.

The party offering such evidence also bears the burden of establishing its relevance, and that its probative value outweighs its prejudicial potential.

V.

Defendant requests a hearing on the preliminary question concerning the expert's qualification pursuant to Rule 104(a) of the Texas Rules of Evidence.

VI.

In addition to the Rule 104(a) hearing, the defendant is entitled to a voir dire examination out of the hearing of the jury "directed to the underlying facts and data upon which the opinion is based." *See* Tex. R. Evid. 705(b).

WHEREFORE, PREMISES CONSIDERED, defendant respectfully prays that this Honorable Court grant this motion and order a voir dire hearing pursuant to Rules 104(a) and 705(b).

Respectfully submitted:

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CERTIFICATE OF SERVICE

I certify that a copy of defendant's Motion For Voir Dire of Expert Witness has been delivered to the Bexar County District Attorney's Office, Bexar County Justice Center; 300 Dolorosa; San Antonio, Texas, on this the 1st day of January, 2018.

MARK STEVENS

ORDER

On this the _____ day of _____, 2018, came to be considered defendant's Motion for Voir Dire Of Expert Witness, and said motion is hereby

(GRANTED)

(DENIED)

JUDGE PRESIDING