NO. 00000

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

EX PARTE MOTION TO APPOINT A GUN, GUN HANDLING, AND BALLISTICS EXPERT TO ASSIST IN EVALUATION, PREPARATION AND PRESENTATION OF DEFENSE

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves this Court pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 3a, 10, 13 and 19 of the Texas Constitution, to appoint a gun, gun handling and ballistics expert to assist in the evaluation, preparation, and presentation of his defense, and for good cause shows the following:

I.

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

II.

All weapons operate differently and their operation necessarily depends on many variables that only an expert would know about or understand. Because counsel is untrained in the fields of ballistics and guns, which are both central to this case, defendant will be deprived of a fair trial without a gun and ballistics expert to assist him in the

evaluation, preparation, and presentation of his defense.

III.

This case was initially reported and believed by the police investigators as an "accidental shooting/accidental discharge" case. Now the state is charging defendant with manslaughter. Therefore, the very charge against the defendant now cries out for rebuttal by a competent gun and ballistics expert, since the gun itself goes to the heart of the state's case.

IV.

In light of the charge against the Defendant, it is essential that counsel seek the appointment of a gun, gun handling and ballistics expert to assist in the evaluation, preparation and presentation of his defense, pursuant to the Due Process Clause of the Fourteenth Amendment of the United States Constitution. *See Ake v. Oklahoma*, 470 U.S. 68 (1985).

V.

We seek court appointment of a gun, gun handling and ballistics expert, John Jones (See Exhibit A, attached), pursuant to the *Ake* case. Without an expert to assist in the evaluation, preparation and presentation of his defense, the state's evaluation from the Regional Crime Lab will go unchallenged for want of expert assistance. This will deny defendant due process and due course of law, equal protection of the law, effective assistance of counsel, the right to confront and cross-examine witness against him, and his right to compulsory process, contrary to the Constitutions of Texas and the United

States.

WHEREFORE, PREMISES CONSIDERED, defendant requests that this Court consider this motion and order that he be provided with sufficient funds to have a competent gun, gun handling and ballistics expert assist him in the investigation, evaluation, preparation and presentation of his defense.

Respectfully submitted:

MARK STEVENS 310 S. St. Mary's Street Tower Life Building, Suite 1920 San Antonio, TX 78205-3192 (210) 226-1433 mark@markstevenslaw.com State Bar No. 19184200

Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of Ex Parte Motion To Appoint A Gun, Gun Handling and Ballistics Expert To Assist In Evaluation, Preparation and Presentation of Defense has been delivered to the Bexar County District Attorney's Office; 101 W. Nueva St; San Antonio, Texas, on July 13, 2018.

MARK STEVENS

ORDER

	On this the	day of		, 20018, came on to b	e considered
defei	ndant's Ex Parte Mo	otion To App	ooint A Gun,	Gun Handling and Ballist	ics Expert To
Assis	st In Evaluation, Pr	eparation and	d Presentation	of Defense.	
	This Court, after	having read	ing the pleadi	ngs, is of the opinion that	said motion
shou	ld be granted;				
	IT IS THEREFO	RE, ORDEF	RED, ADJUD	GED and DECREED, tha	at
		i	s hereby appo	ointed as gun, gun handlir	ng and
ballis	stics expert to assis	t in evaluatio	on, preparation	n, and presentation of the	defense for the
defei	ndant.				
	IT IS FURTHER ORDERED that the said after the			after the	
conc	lusion of his evalua	ation be paid	up to in the s	um not to exceed	·
	SIGNED on this	the da	ay of	, 2018.	
			PRESID	DING JUDGE	

STATE OF TEXAS)	AFFIDAVIT	
COUNTY OF BEXAR	AFFIDA)		
BEFORE ME, the	ndersigned autho	ority, on this day personally appeared Mark	
Stevens, who after being of	ıly sworn stated:		
have read th Gun Handlin Preparation,	foregoing Ex p g, And Ballistics And Presentation	e-entitled and numbered cause. I arte Motion To Appoint A Gun, Expert To Assist In Evaluation, of Defense and swear that all ained therein are true and	
	$\overline{\mathbf{M}}$	IARK STEVENS	
SUBSCRIBED AN	O SWORN TO E	BEFORE ME on the 13th day of July 2018.	
		otary Public in and for exar County, Texas	
	M	ly commission expires:	