

NO. 2020-CR-0000

STATE OF TEXAS	)	IN THE DISTRICT COURT
VS.	)	187th JUDICIAL DISTRICT
JOE SMITH	)	BEXAR COUNTY, TEXAS

**DEFENDANT'S MOTION TO STAY COMMENCEMENT OF TERMS  
AND CONDITIONS OF COMMUNITY SUPERVISION**

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith respectfully moves this Honorable Court to stay the commencement of each of the terms of his community supervision.

I.

Defendant was sentenced by the court to a term of five years community supervision on May 4, 2020, following an earlier conviction by a jury for the offense of continuous violence against the family.

II.

Mr. Smith filed a motion for new trial on June 2, 2020, and that motion has not been ruled on. If the motion for new trial is granted, Mr. Smith's case will be returned to its status before conviction, and before he was placed on community supervision.

III.

The "timely and effective filing of a motion for new trial toll[s] the commencement of his community supervision . . . ." *Lundgren v. State*, 434 S.W.3d 594, 600 (Tex. Crim. App. 2014). If no notice of appeal is thereafter filed, the terms of community supervision commence when the motion for new trial is overruled. *McConathy v. State*, 544 S.W.2d 666,

668 (Tex. Crim. App. 1976). If notice of appeal is filed, community supervision does not commence until the judgment is final and the appellate mandate has issued. *DeLorme v. State*, 488 S.W.2d 808, 810 (Tex. Crim. App. 1973); *Smith v. State*, 478 S.W.2d 518, 520 (Tex. Crim. App. 1972); *Humphries v. State*, 261 S.W.3d 144, 145 (Tex. App.— San Antonio 2008, pet. ref'd).

Respectfully submitted:

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Attorney for Defendant

### **CERTIFICATE OF SERVICE**

I certify that a copy of this motion has been electronically delivered to the Bexar County District Attorney's Office on June 5, 2020.

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MARK STEVENS

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**ORDER**

On this the \_\_\_ day of \_\_\_\_\_, 2020, came to be considered Defendant's Motion to Stay Commencement of Terms of Community Supervision, and said motion is hereby

(GRANTED)                      (DENIED)

\_\_\_\_\_  
JUDGE PRESIDING