

NO. 000000

STATE OF TEXAS) IN THE DISTRICT COURT
VS.) 454TH JUDICIAL DISTRICT
JOE SMITH) MEDINA COUNTY, TEXAS

**MOTION THAT THE COURT ORDER THE PROSECUTION
TO PROVIDE NOTICE REQUIRED BY ARTICLE 39.14(b)
WITHIN 30 DAYS OF THE PRETRIAL HEARING**

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves this Court order the State to provide the notice required by article 39.14(b) of the Texas Code of Criminal Procedure within 30 days of February 14, 2022, and for good cause shows the following:

I.

Article 39.14(b) provides that, upon timely request by the defense, the State shall disclose "the name and address of each person the disclosing party may use at trial to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence not later than the 20th day before the date that jury selection in the trial is scheduled to begin On motion of a party and on notice to the other parties, the court may order an earlier time at which one or more of the other parties must make the disclosure to the requesting party." TEX. CODE CRIM. PROC. art. 39.14(b).

II.

This case was assigned to Sergeant Tom Jones of the Texas Attorney General's Office on April 13, 2018, and since that time, various employees of that office have investigated

allegations against Mr. Smith and others. Assistant Attorneys General Brown and Johnson received the file on January 15, 2021, and filed a complaint and information in Bandera, Texas on January 21, 2021 purporting to charge the same 35 offenses alleged in the instant indictment.

On March 1, 2021, and again on May 18, 2021, the defense made written requests of Mr. Brown and Ms. Johnson, pursuant to article 39.14(b), that they provide not later than 20 days before jury selection the names and addresses of their witnesses who may present evidence under Rules 703, 704, and 705 of the Texas Rules of Evidence.

III.

On this date the defense makes another 39.14(b) request, and this time moves that the Court order disclosure of the State's testifying expert witnesses within 30 days. The Attorney General's Office has worked on this case for almost 4 years. Prosecutor Brown has known of our request for more than 10 months. Surely by now the prosecutors – after filing multiple complaints and informations, and obtaining two grand jury indictments – have identified any expert witnesses they will require to attempt to establish its allegations beyond a reasonable doubt.

IV.

Immediate disclosure of the names and addresses of these witnesses is required in the interest of justice. If the State intends to rely on experts, the defense must have a fair opportunity to retain and consult with experts of its own, and this can be a time-consuming

process. The defense has filed numerous pleadings asserting that the present indictment should be dismissed, and we believe it should be, and that it will be, dismissed with prejudice when those motions are heard. Although we first began requesting discovery in writing on March 1, 2021, it is clear from what we have received that there is more discovery outstanding. We have moved the Court to order that discovery by motions filed on this date. If this case is not dismissed by this Court, the defense intends to assert its constitutional right to a speedy trial as soon as possible after we receive the discovery we are entitled to. An order from this Court that the State provide us with the names and addresses of the witnesses it may use to present evidence pursuant to Rules 703, 704, and 705 of the Texas Rules of Evidence will ensure that the defense does not have to request a delay in the trial, should a trial be required, and protect Mr. Smith's rights under the Sixth Amendment to the United States Constitution, and Article I, § 10 of the Texas Constitution.

Respectfully submitted:

/s Mark Stevens

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

Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of defendant's Motion that the Court Order the Prosecution to Provide Notice Required by Article 39.14(b) within 30 days of the Pretrial Hearing has been electronically delivered to the Medina County District Attorney's Office on February 3, 2022.

/s/ Mark Stevens
MARK STEVENS

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ORDER

On this the _____ day of _____, 2022, came on to be considered Motion that the Court Order the Prosecution to Provide Notice Required by Article 39.14(b) within 30 days of the Pretrial Hearing , and said Motion is hereby
(GRANTED) (DENIED).

JUDGE PRESIDING