

CAUSE NO. \_\_\_\_\_

THE STATE OF TEXAS

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IN THE COUNTY COURT

VS

AT LAW NO. 2 OF

\_\_\_\_\_

HUNT COUNTY, TEXAS

**EX PARTE MOTION FOR THE APPOINTMENT OF AN INVESTIGATOR**

**NOTICE TO CLERK OF COURT:** *This Motion is to be considered EX PARTE and is filed for purposes of the record. This Motion is required to be sealed by law and disclosure can be made ONLY to the TRIAL COURT and COUNSEL FOR DEFENDANT.*

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES \_\_\_\_\_, Defendant in the above styled and numbered cause, by and through their attorney of record, and respectfully moves this Honorable Court to appoint a private investigator to assist in the preparation of his defense, and for good cause shows the following:

1. Defendant is charged with \_\_\_\_\_.
2. Defendant was found indigent, and Counsel was appointed by this Court on \_\_\_\_\_.
3. Based on my review of this case, I have determined that witnesses must be sought out and interviewed. Locating and interviewing witnesses can only be done properly and effectively with the use of a private investigator.
4. Appointment of a private investigator is necessary to insure that Defendant receive his rights to effective assistance of counsel, cross-examination and confrontation, and compulsory process, guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, section 10 of the Texas Constitution; due process and due course of law, guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, sections 13, 19 and 29; and, equal protection of the law, guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, sections 3 and 3a of the Texas Constitution.
5. Without financial assistance from this Court, Defendant will be denied the right to effective assistance of counsel. *Ake v. Oklahoma*, 470 U.S. 68 (1985), (when a State brings its judicial power to bear on an indigent defendant in a criminal proceeding, it is required to take steps to assure that the defendant has a fair opportunity to present a defense). Three factors must be considered to determine whether a defendant is entitled to access to an expert: (1) the private interest that will be affected by the action of the State; (2) the governmental interest that would be affected if the access is to be provided; and (3) the probable value of the additional or substitute procedural safeguards that are sought, and the risk of an erroneous deprivation of the affected interest if those safeguards are not provided. *See Ake*, 470 U.S. at 77. Where a defendant bears the risk of deprivation of life or liberty [s]he bears an interest in an accurate disposition of the criminal

proceeding. *Salinas v. State*, (Ct. App. Amarillo 2002). In consideration of the potential impact of a family violence conviction, the Defendant bears a substantial stake in ensuring that they are granted adequate tools to build a defense.

6. Defendant requests that the Court appoint a private investigation business, licensed in the State of Texas.

**WHEREFORE, PREMISES CONSIDERED**, Defendant prays that this Court appoint a private investigator to assist in the preparation of their defense and that the Court order the County Auditor to pay the costs of such investigative services.

Respectfully submitted,

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Signature of Attorney

State Bar No.:

Email:

Fax:

Phone:

Address:

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THE STATE OF TEXAS

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IN THE COUNTY COURT

VS

AT LAW NO. 2 OF

\_\_\_\_\_

HUNT COUNTY, TEXAS

**ORDER ON EX PARTE MOTION FOR THE APPOINTMENT OF AN INVESTIGATOR**

*NOTICE TO CLERK OF COURT: This application is to be considered EX PARTE and is filed for purposes of the record. This application is required to be sealed, by law, and disclosure can be made ONLY to the TRIAL COURT and COUNSEL FOR DEFENDANT*

The Court, having considered Defendant's *Ex Parte Motion for the Appointment of an Investigator* in the above styled and numbered cause:

A.  **GRANTS** the motion and appoints the individual named herein as investigator in the above-referenced cause to assist defense counsel. This Order approves and authorizes Investigator up to 10 hours of service from the Investigator. Should more time be necessary, written authorization from the Court is required. Investigator is entitled to a billable rate of \$50 per hour. To receive payment, the investigator shall submit to the Court the *Appointee's Application for Payment of Fees and Expenses* no later than: (a) the time of the plea, (b) the conclusion of the trial, or (c) within 30 days of any other final disposition. Failure to timely submit application for payment may result in reduction or denial of payment.

Name:  
Address:  
Phone:  
Email:

B.  **DENIES** the motion.

**SIGNED** on the following date: \_\_\_\_\_.

\_\_\_\_\_  
**JUDGE JOEL D LITTLEFIELD**