

CAUSE NO. CR-0464-16-A

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
VS.	§	92 nd JUDICIAL DISTRICT
	§	
JOHN BERNARD FEIT	§	HIDALGO COUNTY, TEXAS

APPLICATION TO TAKE DEPOSITION OF STATE WITNESS

TO THE HONORABLE JUDGE LUIS MANUEL SINGLETERRY OF 92ND DISTRICT COURT:

NOW COMES RICARDO RODRIGUEZ JR, BY AND THROUGH THE UNDERSIGNED DISTRICT ATTORNEYS Michael J. Garza and Krystine Ramon submits this Application to take the deposition of a person listed by the State as a witness, Dale Tachney, whose testimony will be critical to the outcome of the trial and whose deposition is essential to the trial.

Dale Tachney possesses information critical to significant factors at trial, and has information relevant to the charges in this case that are exclusively within his knowledge.

The State is entitled to take the deposition of a witness “if good reason exists for taking the deposition.” Tex. Code Crim. Proc. art. 39.02

Good reason exists for taking the deposition of Dale Tachney because he possesses knowledge and information critical to significant factors at trial; and, he has information concerning this case exclusively within his knowledge; due to the age (eight-seven years old) of Mr. Tachney it is vital that we take his deposition as soon as the court will allow the State.

In the absence of a deposition, Dale Tachney will be subject to a limited and incomplete examination and the State will be deprived of their right to effectively examine this witness. In the absence of a deposition, State will be deprived of his right to a fair and impartial trial.

The State’s ability to take a deposition was added effective September 1, 2005 under the Texas Code of Criminal Procedure. Due to the age of the witness and the exclusive knowledge the witness posses, it constitutes good reason for ordering such witness' deposition. Tex. Code Crim.

Proc. Art 39.025.

Additional good reason exists for taking this deposition because in the absence of such deposition, State will also be denied

- 1) the right to make an opening statement “The State’s attorney shall state to the jury the nature is the accusation and the facts which are expected to be proved by the State in support thereof.” Tex. Code Crim. Proc. art. 36.01 (a) 3; and
- 2) the right to “Rebutting testimony may be offered on the part of each party.” Tex. Code Crim. Proc. art. 36.01(a) 7; and
- 3) the right to “In the event of a finding of guilty, the trial shall then proceed as set for in Tex. Code Crim. Proc. art. 37.07; art. 36.01 (a) 8
- 4) the right to a fair and impartial trial. Tex. Code Crim. Proc. art. 1.03 (4), (5); and
- 5) the right to obtain evidence.

WHEREFORE, premises considered, Applicant prays that this Court set this Application for hearing and authorize such Deposition for Dale Tachney.

RESPECTFULLY SUBMITTED:



KRYSTINE RAMON
STATE BAR NO. 24090343
100 E. Cano St.
EDINBURG, TEXAS 78539
Telephone: 956-292-7600 ext 8125

CERTIFICATE OF DELIVERY

I certify that a true and correct copy of this application to take deposition of State Witness was electronically served to on January 20, 2017 to:

Oscar Rene Flores
1308 S. 10th Ave
Edinburg TX78539
Phone # 956-383-9090
Fax # 956-383-9050
Email: floreslaw1@aol.com



Krystine N Ramon

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**AFFIDAVIT OF FACTS CONSTITUTING GOOD REASON FOR
TAKING OF WITNESS'S DEPOSITION**

BEFORE ME, the undersigned authority, this day personally appeared The State of Texas, to me well know, and after being by me duly sworn, did depose and state upon oath the following:

I am the attorney representing the State on a pending criminal prosecution for an alleged felony offense of Murder. I have personal knowledge of all matters stated in this affidavit.

The State has listed Dale Tachney as a witness.

Dale Tachney is a witness relating to the charges against defendant John Bernard Feit.

Dale Tachney possesses knowledge and information critical to significant factors at trial.

Dale Tachney has information concerning this case exclusively within his knowledge.

Dale Tachney is eight seven years old. Due to the nature of the witness's age it is vital the State is able to depose the witness.

The testimony of Dale Tachney will be critical to the outcome of the trial.

Awareness of the facts known by Dale Tachney is essential in the preparation of the State's case in chief.

Awareness of the facts known by Dale Tachney is essential to effectively examine him at the trial of this action.


In the absence of a deposition, Applicant will not be able to conduct a full and complete examination of this witness, and this witness will be subject only to a limited and incomplete examination.

In the absence of a deposition, Applicant and defendant will be deprived of effective examination of this witness.

In the absence of a deposition, Applicant will be deprived of the right to make an opening statement informing the jury of the nature of the defenses relied upon and the facts to be proven in their support because the nature of the defenses and the facts to be proven will not be known at the time such statement is to be given.

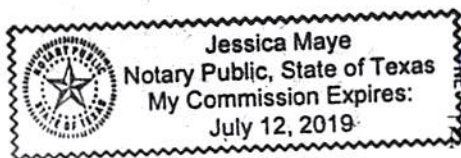
In the absence of a deposition, Applicant will be deprived of the right to a fair and impartial trial.

In the absence of a deposition, Applicant will be deprived of the right to obtain evidence to impeach and to contradict the witness concerning matters raised by his testimony at trial, because such impeachable statements will not be known until after it will be too late for Applicant to obtain such contradictory evidence.



Krystine N Ramon


Before me, the undersigned notary public, on January 20, 2017 personally appeared The State of Texas, known to me to be the person whose name is subscribed to the foregoing document, and being by me first duly sworn, he/she then and there declared that the statements therein contained are true and correct of his own personal knowledge, to certify which witness my hand and seal of office.





NOTARY PUBLIC, State of Texas

Notary Public, State of Texas
My Commission Expires
July 12, 2019
Jessica Maye

A circular notary seal for Jessica Maye, Notary Public, State of Texas. The seal features a five-pointed star in the center and the words "NOTARY PUBLIC STATE OF TEXAS" around the perimeter.