

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	386TH JUDICIAL DISTRICT
V. E.		BEXAR COUNTY, TEXAS

STATE'S MOTION TO REQUIRE DISCLOSURE
OF ANY DEFENSE EXPERT
UNDER TEX. FAMILY CODE § 51.17, TEX. CODE CRIM. PROC. ART. 39.14(b)
AND TEX. R. CRIM.EVID. 702, 703, & 705

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Criminal District Attorney of Bexar County, Texas, by and through its undersigned Assistant Criminal District Attorney and files this Motion of Discovery, and in support thereof would show the Court the following:

I.

Section 51.17(b) of the Texas Family Code provides that:

(b) Discovery in a proceeding under this title is governed by the Code of Criminal Procedure and by case decisions in criminal cases.

II.

Article 39.14(b) of the Texas Code Crim. Procedure allows the following discovery:

(b) On motion of a party and on notice to the other parties the court in which an action is pending may order one or more of the other parties to disclose to the party making the motion the name and address of each person the other party may use at trial to present evidence under Rule 702, 703, and 705 Texas Rules of Evidence. The court shall specify in the order the time and manner in which the other party must make the disclosure to the moving party, but in specifying the time in which the other party shall make disclosure the court shall require the other party to make the disclosure not later than the 20th day before the date the trial begins.

III.

Rule 705 (b) of the Texas Rules of Evidence mandates:

(b) Voir dire. Prior to the expert giving the expert's opinion or disclosing the underlying facts or data, a party against whom the opinion is offered upon request in a criminal case shall, or in a civil case may, be permitted to conduct a voir dire examination directed to the underlying facts or data upon which the opinion is based. This examination shall be conducted out of the hearing of the jury.

IV.

The State hereby gives notice to the Court and to counsel for the Respondent that the State moves for disclosure of the name, address and curriculum vitae of any witness and any reports they may have prepared to testify for this case that the Respondent may use at trial under Rule 702, 703 and 705, Texas Rules of Evidence and that the disclosure be made not later than the 20th day before the date the trial begins. Additionally, the State requests a voir dire examination of the expert outside the hearing of the jury.

WHEREFORE, PREMISES CONSIDERED, the State of Texas requests that the Court grant the above motion.

Respectfully submitted,

DAPHNE PREVITI
Assistant Criminal District Attorney
Bexar County, Texas
Juvenile Justice Center
235 East Mitchell
San Antonio, Texas 78210
(210) 531-1960
(210) 531-1963 (fax)
State Bar No. 00798445

CERTIFICATE OF SERVICE

_____, I, DAPHNE PREVITI, Assistant Criminal District Attorney, Bexar County, Texas, hereby certify that a true copy of the above and foregoing Motion was served upon: Dennis L. Moreno, Counsel of Respondent, on this _____ day of _____, 2002 by certified mail.

DAPHNE PREVITI
Assistant Criminal District Attorney

2002-JUV-00000

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

386TH JUDICIAL DISTRICT

V. E.

BEXAR COUNTY, TEXAS

ORDER

On this, the _____ day of _____, after considering the evidence on the above State's Motion to Require Disclosure of Any Defense Expert and any reports they may have prepared to testify for this case Under the Tex. Family Code § 51.17, Tex. Code Crim. Proc. Art. 39.14(b) and Tex. R. Crim. Evid. 702, 703, and 705, the Court is of the opinion that same should in all things be GRANTED/DENIED.

JUDGE PRESIDING
386th Judicial District Court
Bexar County, Texas

STATE OF TEXAS

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§
§

IN THE 786th DISTRICT COURT

R. H.

BEXAR COUNTY, TEXAS

MOTION REQUESTING PARENTS/GUARDIANS BE ORDERED TO PAY
RESTITUTION AND ORDER AFFECTING PARENTS/GUARDIANS OF RESPONDENT
PURSUANT TO § 54.041 OF THE TEXAS FAMILY CODE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Criminal District Attorney of Bexar County, Texas, by and through her undersigned Assistant Criminal District Attorney and pursuant to Sections 54.041 of the Texas Family Code, files this State’s Motion Requesting Parents/Guardians Be Ordered to Pay Restitution, and in support of said motion would show the Court the following:

I.

On the 4th day of December 2002, R. H., hereinafter called Respondent, was found to be a child who engaged in delinquent conduct by committing the offense of aggravated assault with a deadly weapon, a crime against a person in which personal injury occurred. The Disposition Hearing has been reset until the 13th day of January 2003.

II.

Actual damages are significant in this case. The Complainant’s out of pocket costs total \$30,431.24.

III.

Texas Family Code Section 54.041 allows the juvenile court, on notice to all persons affected by the hearing, to order a parent to make full or partial restitution to the victim of an offense when a child has been found to have engaged in delinquent conduct arising from the commission of an offense in which personal injury occurred.

IV.

The Respondent; his mother, M. H.; and Respondent's Counsel, J. Q. were all served with the original petition providing notice of the State's prayer for restitution in paragraph d). The State is now providing written notice via certified mail to Respondent's father, H. H., with a copy of this motion.

WHEREFORE, PREMISES CONSIDERED, the State of Texas requests that the Court grant the State's Motion Requesting Parents/Guardians Be Ordered to Pay Restitution.

Respectfully submitted,

Daphne Previti
Assistant Criminal District Attorney
235 E. Mitchell Street
San Antonio, Texas 78210
210 531-1960
210 531-1963 (Facsimile)
SBN: 00798445

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion Requesting Parents/Guardians Be Ordered to Pay Restitution and Order Affecting Parents/Guardians of Respondent Pursuant to Section 54.041 of the Texas Family Code was delivered via certified mail to counsel of record for the Respondent, J. Q., Street Address, San Antonio, Texas 78210-1053 on the 31st day of December 2002.

I hereby certify that a true and correct copy of this Motion Requesting Parents/Guardians Be Ordered to Pay Restitution and Order Affecting Parents/Guardians of Respondent Pursuant to Section 54.041 of the Texas Family Code was delivered via certified mail to Father of the Respondent, H. H., Street Address, San Antonio, Texas 78221-1908 on the 31st day of December 2002.

Daphne Previti
Assistant Criminal District Attorney

STATE OF TEXAS

§

SID#9012345
IN THE 786th DISTRICT COURT

R. H.

§

BEXAR COUNTY, TEXAS

§

ORDER AFFECTING PARENTS/GUARDIANS OF RESPONDENT
PURSUANT TO § 54.041 OF THE TEXAS FAMILY CODE

On this the ____ day of _____, 2003, personally appeared, the Respondent, R. H., his attorney, J. Q., his parents/guardians, M. H. and H.H., and the Petitioner, the State of Texas, by and through her Assistant District Attorney, DAPHNE PREVITI, at a hearing incident to the disposition of the above entitled cause pursuant to § 54.041 of the Texas Family Code; and all parties present announced ready for said hearing.

I.

While hearing evidence at the proceeding, the Court considered the following:

1. The child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision;
2. The juvenile court has made a finding that the child is in need of rehabilitation;
3. The court finds that the child committed offenses in which property damage or loss or personal injury occurred and actual damages to the Complainant, R. L., are in the amount of Thirty Thousand Four Hundred Thirty-One Dollars and twenty four cents (\$30,431.24).

II.

More specifically, M. H. and H.H. are hereby ORDERED as follows:

1. Pay restitution to the Complainant, R. L., are in the amount of Thirty Thousand Four Hundred Thirty-One Dollars and twenty four cents (\$30,431.24).

III.

It is also ORDERED that the parents/guardians keep the probation department advised of their current addresses and phone numbers at all times. This order shall expire on the 15th day of JUNE, 2003, the Child's eighteenth birthday.

IV.

M. H. and H. H. ARE HEREBY PUT ON NOTICE THAT A VIOLATION OF THIS ORDER WILL RESULT IN THEM HAVING TO APPEAR BEFORE A DISTRICT JUDGE UPON WRITTEN NOTICE. ANY UNEXCUSED VIOLATIONS MAY BE PUNISHED AS CONTEMPT OF COURT BY UP TO ONE HUNDRED EIGHTY (180) DAYS IN COUNTY JAIL AND/OR A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100.00) AND NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00).

THEY ARE ALL FURTHER NOTIFIED THAT THEY MUST APPEAR UPON WRITTEN NOTIFICATION FOR ANY FURTHER HEARINGS.

Signed and entered this ____ day of _____, A.D., 2003.

THE HONORABLE KEVIN C. WILLIS
786TH DISTRICT COURT
BEXAR COUNTY, TEXAS

I understand the conditions of the above Court Order.

M. H., Mother

H. H., Father

Approved as to Form:

J. Q.
Attorney for Respondent

DAPHNE PREVITI,
Assistant District Attorney

2002 JUV 12345

IN THE MATTER OF	§	IN THE 786TH JUDICIAL
VS.	§	DISTRICT COURT
RESPONDENT	§	BEXAR COUNTY, TEXAS

STATE'S WRITTEN NOTICE OF POTENTIAL EXCULPATORY MATERIAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Criminal District Attorney of Bexar County, Texas, by and through its undersigned Assistant Criminal District Attorney and files this Written Notice of Potential Brady Material, as required under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, and in support thereof would show the Court the following:

I.

The State hereby gives notice to the Court and to counsel for RESPONDENT, herein after referred to as Respondent, that Ms. Mary Wicha, a teacher at Dwight Middle School, was an eye witness to the incident that occurred on the 12th day of September, 2002, which is alleged in State's Original Petition in the case. Ms. Wicha, in contradiction of her sworn written statement, has since stated that she did not see Respondent acting angry and defiant toward Officer Trevino. Ms. Wicha also states that she did not witness Respondent assault Officer Trevino.

Respectfully submitted,

SUSAN D. REED
Criminal District Attorney
Bexar County, Texas

Khristina J. Fielder
Assistant Criminal District Attorney
Bexar County, Texas
235 E. Mitchell Street
San Antonio, Texas 78210
(210) 531-1960
(210) 531-1963 – fax.
State Bar No. 24027307

Attorney for the State

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above and foregoing Notice was forwarded to Attorney of record for the Respondent on this _____ day of November, A.D., 2002.

Khristina J. Fielder

CAUSE NO. 2001JUV00000C

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SID: 1234567

IN THE MATTER OF

§

IN THE JUVENILE COURT

§

789TH JUDICIAL DISTRICT COURT

J.S.

§

BEXAR COUNTY, TEXAS

STATE'S MOTION FOR CONSOLIDATION AND
JOINER OF RESPONDENTS' CAUSES OF ACTION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Criminal District Attorney of Bexar County, Texas, by and through her undersigned Assistant Criminal District Attorney and pursuant to Rules 40, 41 and 174 of the Texas Rules of Civil Procedure, files this State's Motion for Consolidation and Joinder of Respondents, and in support of said motion would show the Court the following:

I.

The Respondent, J.S., is charged with the commission of the offense of Burglary of a Habitation under the above referenced cause number. L.A., a co-Respondent, stands charged with the same offense, arising out of the same transaction and occurrence, under cause number 2001JUV00000A, such offenses having been committed on 25 January 2001.

II.

The above referenced cases involving co-Respondents L.A. and J.S. are both pending before this court and involve common questions of law and fact. The charges alleged arise out of the same occurrence. To consolidate the cases will avoid unnecessary costs and delay.

WHEREFORE, PREMISES CONSIDERED, the State of Texas requests that the Court grant the State's Motion for Consolidation and Joinder of Respondents' Causes of Action.

Respectfully submitted,

Daphne Previti
Assistant Criminal District Attorney
235 E. Mitchell Street
San Antonio, Texas 78210
210 531-1960
210 531-1963 (Facsimile)
SBN: 00798445

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Motion for Consolidation and Joinder of Respondents' Causes of Action has been delivered to counsel of record for the Respondent, on this the 16th day of March, 2001, by certified mail, return receipt requested, to RESPONDENT'S COUNSEL, 1717 N. Loop 1604 E, # 320, San Antonio, Texas 78232-1553.

Daphne Previti
Assistant Criminal District Attorney

CAUSE NO. 2001JUV00000C

§

SID: 1234567

IN THE MATTER OF

§

IN THE JUVENILE COURT

§

789TH JUDICIAL DISTRICT COURT

J.S.

§

BEXAR COUNTY, TEXAS

ORDER

The Court hereby enters an order on the State's Motion for Consolidation and Joinder of Respondents' Causes of Action in all respects be:

_____ Granted

_____ Denied

The Honorable Kevin C. Willis
Presiding Judge

Evidence Chart

<u>No.</u>	<u>Item</u>	<u>Marked</u>	<u>Identified</u>	<u>Offered</u>	<u>Admitted</u>
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