

February 28, 2020
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ACCOUNT TRANSACTIONS
 From 01/01/10 to 03/28/20

ACCOUNT : 734200, Omar Salinas

Re: JOSE NAVARRO

DATE	PATIENT	ID	CODE	DR.	A/I	* TOS	POS	QTY	DESCRIPTION	PROD.	CHARGE	CHG ADJ	PAYMENT	PAY ADJ	BALANCE
09/03/19	Jose	734201	90885	3	A	A 01	11	1	Review Of Records	2000.00					2000.00
									Diag: V71.09 No Diagnosis						
									Note: 8hrs						
09/16/19	Jose	734201	90885	3	A	A 01	11	1	Review Of Records	2375.00					4375.00
									Diag: V71.09 No Diagnosis						
									Note: Translate Spanish Records; 9.5hrs						
09/23/19	Jose	734201	90899	3	A	A 01	11	1	Report (draft)	625.00					5000.00
									Diag: V71.09 No Diagnosis						
									Note: 2.5hrs						
10/04/19	Jose	734201	90899	3	A	A 01	11	1	TC W/Salinas	125.00					5125.00
									Diag: V71.09 No Diagnosis						
									Note: .5hr						
02/10/20	Jose	734201	90885	3	A	A 01	11	1	Review Of Records	375.00					5500.00
									Diag: V71.09 No Diagnosis						
									Note: Case Review; 1.5hr						
02/11/20	Jose	734201	90899	3	A	A 01	11	1	TC W/Salinas	250.00					5750.00
									Diag: V71.09 No Diagnosis						
02/18/20	Jose	734201	90899	3	A	A 01	11	1	Report	500.00					6250.00
									Diag: V71.09 No Diagnosis						
									Note: 2hrs						
02/27/20	Jose	734201	90899	3	A	A 01	11	1	Travel To Laredo	750.00					7000.00
									Diag: V71.09 No Diagnosis						
									Note: 3hrs						
02/27/20	Jose	734201	90899	3	A	A 01	11	1	Met With Attorney	1000.00					8000.00
									Diag: V71.09 No Diagnosis						
									Note: In Laredo/Non-Testimony Time; 4hrs						
02/27/20	Jose	734201	90899	3	A	A 01	11	1	Court	875.00					8875.00
									Diag: V71.09 No Diagnosis						
									Note: Testimony; 2.5hrs @ \$350						
02/27/20	Jose	734201	90899	3	A	A 01	11	1	Travel From Laredo	750.00					9625.00
									Diag: V71.09 No Diagnosis						
									Note: 3hrs						
ACCOUNT TOTALS:										9625.00	0.00	0.00	0.00	0.00	9625.00

ACCOUNT AGING

	Balance	Insurance
Current	4500.00	0.00
30 days	0.00	0.00
60 days	0.00	0.00
90 days	5125.00	0.00
Credits	0.00	
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Total	9625.00	0.00

CAUSE NO. 2016 CRS772-D4

THE STATE OF TEXAS

§

IN THE 406TH

§

V.

§

JUDICIAL DISTRICT COURT

§

JOSE HUMBERTO NAVARRO

§

WEBB COUNTY, TEXAS

ESTHER DEGOLLADO
CLERK OF THE DISTRICT COURTS
& COUNTY CLERK AT LAW
2019 OCT 23 AM 11:10
JUDICIAL DISTRICT COURT
WEBB COUNTY TEXAS

ORDER ON EX PARTE AKE MOTION FOR APPOINTMENT OF EXPERT WITNESSES (ADDITIONAL FUNDS)

NOTICE TO CLERK OF COURT:

This motion is to be considered EX PARTE and is filed for purposes of the record ONLY. This motion is required to be SEALED, by law, and disclosure shall be made ONLY to the TRIAL COURT and COUNSEL FOR DEFENDANT.

Came on this 22 day of October to be considered Defendant's EX PARTE AKE MOTION FOR APPOINTMENT OF EXPERT WITNESSES (ADDITIONAL FUNDS).

Having considered same, the Court is of the opinion that the Motion is good and should be and is, in all things

(GRANTED)/(DENIED).

The Court finds that the defendant, JOSE HUMBERTO NAVARRO, is indigent and unable to afford the services requested above and further authorizes the funds in the amount of \$5,000 for the services requested herein and to be divided as follows:

- (1) 20 hours of services from Dr. JOANN MURPHEY at the rate of \$250.00 per hour and \$350.00 per testifying hour for a total of \$5,000.

So Ordered this 22 day of October 2019.



HON. OSCAR J. HALE JR.
406th JUDICIAL DISTRICT COURT
WEBB COUNTY, TEXAS

October 4, 2019

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ACCOUNT TRANSACTIONS
From 01/01/19 to 10/04/19

ACCOUNT : 734200, Omar Salinas

FAX 956-523-5009

RE: NAVARRO

DATE	PATIENT	ID	CODE	DR.	A/I	* TOS	POS	QTY	DESCRIPTION	PROD.	CHARGE	CHG ADJ	PAYMENT	PAY ADJ	BALANCE
09/03/19	Jose	734201	90885	3	A	A	01	11	1 Review Of Records	2000.00					2000.00
									Diag: V71.09 No Diagnosis						
									Note: 8hrs						
09/16/19	Jose	734201	90885	3	A	A	01	11	1 Review Of Records	2375.00					4375.00
									Diag: V71.09 No Diagnosis						
									Note: Translate Spanish Records; 9.5hrs						
09/23/19	Jose	734201	90899	3	A	A	01	11	1 Report (draft)	525.00					5000.00
									Diag: V71.09 No Diagnosis						
									Note: 2.5hrs						

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ACCOUNT TOTALS: 5000.00 0.00 0.00 0.00 0.00 5000.00

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ACCOUNT AGING

	Balance	Insurance
Current	3000.00	0.00
30 days	2000.00	0.00
60 days	0.00	0.00
90 days	0.00	0.00
Credits	0.00	0.00
Total	5000.00	0.00

PATIENT BALANCES

PATIENT NAME	ID	PATIENT	INSURANCE	TOTAL
Jose	734201	5000.00	0.00	5000.00

THE STATE OF TEXAS	§	IN THE 406 TH
	§	
V.	§	JUDICIAL DISTRICT COURT
	§	
JOSE HUMBERTO NAVARRO	§	WEBB COUNTY, TEXAS

**ORDER ON
EX PARTE AKE MOTION FOR APPOINTMENT OF CERTIFIED TRANSCRIBER
AND TRANSLTOR**

NOTICE TO CLERK OF COURT:

This motion is to be considered EX PARTE and is filed for purposes of the record ONLY. This motion is required to be SEALED, by law, and disclosure shall be made ONLY to the TRIAL COURT and COUNSEL FOR DEFENDANT.


Came on this 30 day of October to be considered Defendant's EX PARTE AKE MOTION FOR EX PARTE AKE MOTION FOR APPOINTMENT OF CERTIFIED TRANSCRIBER AND TRANSLTOR. Having considered same, the Court is of the opinion that the Motion is good and should be and is, in all things

GRANTED (DENIED).

The Court finds that the defendant, JOSE HUMBERTO NAVARRO, is indigent and unable to afford the services requested above and further authorizes the funds up to but not more than \$2,000 for the services requested herein:

- (1) for 1 hour transcription and translation of forensic interview.

So Ordered this 30 day of October 2019.


 HON. OSCAR J. HALE JR.
 406th JUDICIAL DISTRICT COURT
 WEBB COUNTY, TEXAS

CAUSE NO. 2016 CRS772-D4

THE STATE OF TEXAS

§

IN THE 406TH

§

V.

§

JUDICIAL DISTRICT COURT

§

JOSE HUMBERTO NAVARRO

§

WEBB COUNTY, TEXAS

ESTHER DE GONCALVES
 CLERK OF DISTRICT COURTS
 2019 OCT 21 PM 4:59
 WEBB COUNTY, TEXAS
 BY _____

**EX PARTE AKE MOTION FOR APPOINTMENT OF CERTIFIED TRANSCRIBER
 AND TRANSLTOR**

NOTICE TO CLERK OF COURT:

This motion is to be considered EX PARTE and is filed for purposes of the record ONLY. This motion is required to be SEALED, by law, and disclosure shall be made ONLY to the TRIAL COURT and COUNSEL FOR DEFENDANT.

SCANNED

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW JOSE HUMBERTO NAVARRO, defendant in the above-styled and numbered cause and herein respectfully moves the Court to provide funds for the expenses of obtaining expert witnesses and in support thereof would show the Court as follows:

I.

STATEMENT OF FACTS

Defendant, JOSE HUMBERTO NAVARRO, is charged with two counts of AGGRAVATED SEXUAL ASSAULT OF A CHILD, a first degree felony and one count of INDECENCY WITH A CHILD BY CONTACT, a second degree felony. Defendant's case is currently set for final pretrial on December 19, 2019.

Attorney Edward Nolan was initially representing Mr. NAVARRO, however, Attorney Nolan was subsequently taken off the case by this Court and, Webb County Public Defender's was appointed.

This case involves testimony from the State's witness Lupita Martinez, Forensic Interviewer for the Child Advocacy Center. Ms. Martinez conducted the interview of "Sandy" on October 25, 2013 which consisted of questions and answers given in both the English and Spanish language.

As such, the Defense's consulting expert is required to effectively review this interview as well as the methodology used by Ms. Martinez. However, Defense's expert is unable to understand the Spanish language. Therefore, Defense is requesting a certified translator and transcriber to transcribe and translate the interview. The certified professional has been contacted and is ready and willing to assist the defense with this issue, which is necessary in the preparation for an effective cross examination of the State's witness.

The Court should note that Mr. Navarro is indigent and cannot afford to hire experts to assist in the evaluation, preparation, and presentation of his defense. Due to the serious nature of the offense and in order to properly prepare for this case, defense counsel respectfully requests a certified translator to help prepare an effective and competent defense for Mr. Navarro.

II.

LAW IN SUPPORT OF DEFENDANT'S MOTION FOR APPOINTMENT OF EXPERT

A Defendant's constitutional rights under Article I, section 10 and 19 of the Texas Constitution and the 5th, 6th and 14th Amendments to the United States Constitution are violated when the State's expert testimony is a significant factor in proving the defendant's guilt or punishment and the defendant is denied access to his own expert for rebuttal and/or consultation. *Ake v. Oklahoma*, 470 U.S. 68 (1985). In *Ake*, the Supreme Court of the United States reiterated its long standing rule "that when the State brings its judicial power to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his defense." *Id.* at 76. According to the Court, "this elementary principal, grounded in significant part on the Fourteenth Amendment's due process guarantee of fundamental fairness, derives from the belief that justice cannot be equal where, simply as a result of his poverty, a defendant is denied the opportunity to participate meaningfully in a judicial proceeding in which his liberty is at stake." *Id.*

In *Rey v. State*, 897 S.W. 2d 333 (Tex. Crim. App. 1995), the Texas Court of Criminal Appeals held that due process requires a "reasonably level playing field at trial," which means more than a mere examination by a neutral expert. Instead, the Court found that due process

requires that an expert be appointed to “provide technical assistance to the accused, to help evaluate the strength of his defense, to offer his own expert diagnosis at trial if it is favorable to the defense, and to identify the weaknesses in the State’s case, if any, by testifying himself and/or preparing counsel to cross-examine opposing expert.” *Rey*, 897 S.W. 2d at 343. The Court of Criminal Appeals further stated that in deciding whether to appoint an expert, the trial court must consider the following factors outlined by the *Ake* Court: (1) the private interest affected by the action of the State, (2) the governmental interest affected if the safeguard (i.e. expert) is provided, and (3) the probable value of the additional safeguard and the risk of erroneous deprivation of the affected interest if the safeguard is not provided. *Rey*, 897 S.W.2d at 337.

III.

APPLICATION OF LAW

First, the private interest at issue in this case is Mr. NAVARRO’s life and liberty. The offense he currently faces carries a maximum punishment of 99 years to life. Hence, here as in the *Ake* case, defendant’s interest in the accuracy of this trial is “obvious and weighs heavily” in the analysis. *Ake*, 470 U.S. at 78. Second, here as in the *Ake* case, this Court should find that the State’s interest in judicial economy is “not substantial, in light of the compelling interest of both the State and the individual in accurate dispositions.” *Ake*, 470 U.S. at 79. Finally, in addressing the third factor outlined in *Ake*, defense counsel would urge this Court to consider the State’s experts findings as noted above and the lack of other evidence showing Mr. Navarro is guilty of the offense charged. Arguably, the economic cost of providing defendant with experts is minimal compared to the high risk of erroneously depriving Mr. NAVARRO of his life and liberty. Counsel would ask this Court to note that in a majority of these types of cases, the jury is more prone to be swayed by emotion because of the sensitive issue of this type of offense. Thus, making it even more critical to ensure that defendant is provided an adequate opportunity to address the State’s experts’ testimony with the use of his own experts.

In this case, the forensic reports and counseling treatment are clearly unfavorable and it basically concludes that the alleged victim was abused by the defendant as alleged in the indictment, and therefore is a significant factor and indispensable to the State’s case. Accordingly, an expert for the defendant is essential in helping prepare an effective defense. Specifically, an expert in psychology would be instrumental to the defense because she would assist counsel to rebut the methodology or conclusions alleged by the State’s forensic report and counseling.

Furthermore, this case also involves complex procedures which must be investigated and explored through the use of an expert in the field of psychology. Specifically, an impartial psychologist would be instrumental to the defense.

The Defendant contends that in order for his expert to properly and effectively prepare a defense a certified translator must transcribe and translate the State's forensic interview.

IV.

FUNDS REQUESTED

Vicente Mendoza, is a certified transcriber and translator in the State of Texas who has agreed to provide his services at a rate of no more than two thousand dollars (\$2,000) for the one hour forensic interview video. Vicente Mendoza is currently the court reporter at the 111th District Court in Webb County Texas. Subject to the court's approval of funds, Mr. Mendoza has agreed to transcribe and translate the C.A.C. video. As such, counsel requests that the Court grant defendant funds up to but no more than two thousand dollars (\$2,000.00) in order to obtain a copy of the interview.

V.

CONCLUSION

The appointment of a certified transcriber and translator is necessary to insure that Mr. Navarro receives his rights to effective assistance of counsel, cross-examination and confrontation of witnesses, and compulsory process, guaranteed by the Fifth, Sixth and Fourteenth Amendments to the United States constitution and Art. I § 10 and 19 of the Texas Constitution; also his right to due process and due course of law, guaranteed by the Fourteenth Amendment to the United States Constitution and Art. I, § § 13, 19, and 29 of the Texas Constitution; and his right to the equal protection of the law, guaranteed by the Fourteenth Amendment to the United States Constitution and Art. I, § § 3 and 3a of the Texas Constitution. If the requested experts are denied, there will be substantial and injurious effect or influence to the jury's verdict thereby undermining the adversarial process and could result in reversible error on appeal.

VI.

PRAYER

With support of the above mentioned law and facts, we pray that the defendant is granted the appointment of Vicente Mendoza as a certified transcriber and translator in this case.

Respectfully submitted,

Omar Salinas /s/

OMAR SALINAS
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