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2021 APR 19 AM 11:58  
AMY J HUNNEY  
CLERK OF SUPERIOR COURT  
COCHISE COUNTY

5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
6 IN AND FOR THE COUNTY OF COCHISE

7 STATE OF ARIZONA, ) NO. CR201700904  
8 )  
9 Plaintiff, ) AFFIDAVIT AND EMERGENCY  
10 vs. ) MOTION FOR WRITTEN  
11 ) UNDERTAKING AND SECURITY FOR  
12 ) MATERIAL WITNESS  
13 JOHN LUCIAN SHEARER, )  
14 )  
15 Defendant. ) WITNESS:  
16 ) [REDACTED] a minor, and her  
17 ) legal guardian

18 Deputy County Attorney Lori A. Zucco, on behalf of the Office of the  
19 Cochise County Attorney, and pursuant to the provisions of A.R.S. §§ 13-4081-4084,  
20 Arizona Rules of Criminal Procedure 15.3 or A.R.S. § 12-2211(C) hereby reports,  
21 certifies and moves that [REDACTED] be determined to be a material witness required to enter a  
22 written undertaking and brought before this Court to set conditions, including, if  
23 appropriate, a bond to ensure her appearance at trial or order the witness into custody so a  
24 deposition may be taken to preserve her sworn testimony.

25 1. In this pending criminal matter, Defendant has been indicted on six  
felony counts that involve molesting and having sex with [REDACTED], who was 13 years old at  
the time, and providing and using methamphetamine with her. They are all Dangerous

1 Crimes Against Children pursuant to A.R.S. §13-705.C, with a sentencing range of 13-  
2 20-27 flat time.

3 2. Defendant has already been convicted of these offenses, but the  
4 conviction was overturned based on an issue with his assigned counsel.

5 3. [REDACTED] is a necessary and material witness in this matter, as she is the  
6 victim and only eyewitness to the six counts that relate to her.

7 4. The State requires [REDACTED] to testify at the trial of this matter.

8 For reasons further detailed herein, the State believes that [REDACTED], who turns  
9 18 before this case will come to trial, will not comply with a subpoena to testify at trial,  
10 and that she should therefore be brought before this Court to undertake written conditions  
11 necessary to ensure her attendance at trial or, at a minimum, complete a deposition prior  
12 to the scheduled trial to preserve her testimony. The facts in support of the State's  
13 request are as follows:  
14  
15

16 5. [REDACTED] is currently under the guardianship of DCS, case worker Tina Lee  
17 of the Sierra Vista Office. She is also under the supervision of the  
18 Yavapai County Juvenile Court System and will be held in detention  
19 there until April 30, 2021, the day before her 18<sup>th</sup> birthday, when both  
20 the guardianship and the Juvenile Court supervision will end. Ms. Lee  
21 has indicated that [REDACTED] does not want to testify in this matter, as she  
22 wants to put the matter behind her. [REDACTED]'s juvenile probation officer  
23 indicated that [REDACTED] was very upset upon hearing that she has to testify  
24 again. [REDACTED] will be moving to a "sober living environment when she is  
25

1 wants to put the matter behind her. [REDACTED] juvenile probation officer  
2 indicated that [REDACTED] was very upset upon hearing that she has to testify  
3 again. [REDACTED] will be moving to a "sober living environment when she is  
4 released from detention, but the Probation Department cannot force  
5 [REDACTED] to cooperate with the prosecution in this case.

6  
7 6. Undersigned Counsel and Det. Youman will meet with [REDACTED] on April  
8 26, 2021 to explain the reason for the re-trial and to try to convince her  
9 to cooperate with the prosecution.

10 7. [REDACTED] has a long history of running away from her parents, grandmother,  
11 foster homes, group homes, and the police.

12 8. Based upon the circumstances and history of victim/witness [REDACTED], the  
13 State has cause to believe that she will not comply with a subpoena to  
14 appear and give testimony at trial, nor will she comply with an order of  
15 this Court directing her to attend a deposition in advance of trial. It is  
16 thus necessary to bring this witness before this Court to establish a  
17 written undertaking to confirm that [REDACTED] will provide testimony in these  
18 proceedings.  
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1           WHEREFORE it is requested for and on behalf of the State of Arizona that  
2 Your Honor sign an order setting a hearing whereupon the witness can appear and give  
3 cause why she should not be required to post a bond to confirm her attendance at trial or  
4 be taken into custody to participate in a deposition to preserve her testimony.  
5

6           FILED this 19<sup>th</sup> day of April, 2021.

7           COCHISE COUNTY ATTORNEY

8 BY: 

9           Lori A. Zucco


10           Deputy County Attorney

11 FILED this 19<sup>th</sup> day of April 2021 with the Clerk of the Cochise County Superior Court.

12 Notice of filing delivered this 19<sup>th</sup> day of April 2021 to:

13 Hon. Laura Cardinal, Div. 3, via email

14 Chris Kimminau, via email

15  c/o Department of Child Safety, Attn: Tina Lee, and in person at Yavapai County  
16 Juvenile Detention Center  
17  
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1  
2 VERIFICATION

3 STATE OF ARIZONA )  
4 County of Cochise ) ss.

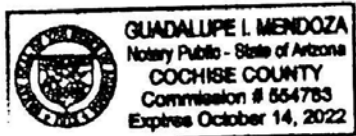
5  
6 LORI ZUCCO being first duly sworn, states on her oath:

7 She is a Deputy County Attorney for Cochise County, Arizona. She has prepared  
8 the foregoing Affidavit and Emergency Motion for Written Undertaking and Security for  
9 Material Witness based on information and belief. She makes the allegations in said Affidavit  
10 and Motion in good faith; she believes the allegations are true to the best of her knowledge and  
11 information.

12  
13   
14 LORI ZUCCO  
15 DEPUTY COUNTY ATTORNEY

16 SUBSCRIBED and SWORN to before me this 19 day of April, 2021, by LORI  
17 ZUCCO.

18   
19 NOTARY PUBLIC



22 My Commission Expires: \_\_\_\_\_  
23  
24  
25