

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 91-0024

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**APPROVAL OF AMENDMENTS TO LOCAL RULES  
OF NUECES COUNTY**

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**ORDERED:**

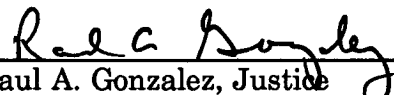
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following amendment to local rules, which have been previously approved by the presiding judge of the appropriate administrative judicial region and submitted to this Court:

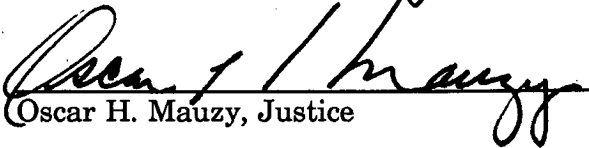
Amendment to Rules 5.149 and 5.153 of the Nueces County Local Rules of Felony Criminal Practice, dated January 17, 1991.

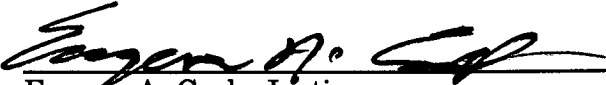
The approval of these rules is temporary, pending further orders of the Court.


SIGNED AND ENTERED this 25<sup>th</sup> day of March, 1991.


  
Thomas R. Phillips, Chief Justice

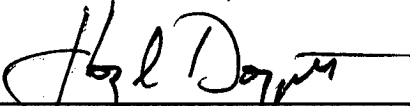
  
Raul A. Gonzalez, Justice

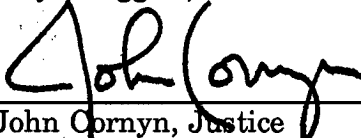
  
Oscar H. Mauzy, Justice

  
Eugene A. Cook, Justice

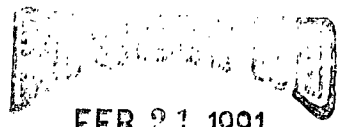
  
Jack Hightower, Justice

  
Nathan L. Hecht, Justice

  
Lloyd Doggett, Justice

  
John Cornyn, Justice

  
Bob Gammage, Justice



FEB 21 1991

OFFICE OF COURT  
ADMINISTRATION

**CERTIFICATE OF APPROVAL**

As presiding judge of the administrative judicial region covering the affected county, I approve the amendment to Rules 5.149 and 5.153 of the Nueces County Local Rules of Felony Criminal Practice, dated January 17, 1991.

(Signature)

2-19-91

(Date)



**J. MANUEL BANALES, JUDGE**

105TH JUDICIAL DISTRICT COURT  
NUECES, KLEBERG AND KENEDY COUNTIES

NUECES COUNTY COURTHOUSE  
901 LEOPARD STREET  
CORPUS CHRISTI, TEXAS 78401

TELEPHONE  
A/C 512 - 888-0510

January 18, 1991

Honorable Tom Phillips  
Chief Justice  
Supreme Court of Texas  
Supreme Court Building  
Austin, Texas 78711

re: Amendments to Nueces County Local Rules

Dear Mr. Chief Justice:

Pursuant to Rule 3a, Texas Rules of Civil Procedure, and on behalf of the Judges of the District Courts and the County Courts at Law of Nueces County, Texas, I submit to your Office the enclosed recent amendments to the Nueces County Local Rules. As you know, Rule 3a provides that courts "may make and amend local rules governing the practice before such courts, provided ... (3) that any proposed local rule or amendment shall not become effective until it is submitted [to] and approved by the Supreme Court of Texas."

You will also find copies of correspondence to Judge Darrell Hester in his capacity as Presiding Judge of the 5th Administrative Judicial Region, Mr. Andrew Lehrman as President of the Corpus Christi Bar Association, and Mr. Oscar Soliz as District Clerk for Nueces County, all in compliance with the other requirements of Rule 3a.

At your earliest opportunity, please submit the proposed changes to the Honorable Court for approval and, if approved, please inform me of the fact thereof.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Manuel Banales", written over a horizontal line.

cc: Honorable Darrell Hester  
Presiding Judge, 5th Administrative Judicial Region

Mr. Andrew Lehrman  
President, Corpus Christi Bar Association

Mr. Oscar Soliz  
Nueces County District Clerk

IN THE DISTRICT COURTS OF NUECES COUNTY, TEXAS

ORDER CONFIRMING AMENDMENT OF LOCAL RULES  
REGARDING SUPERSEDING INDICTMENTS  
AND PROVIDING FOR TEMPORARY EFFECT PENDING FINAL APPROVAL  
BY THE SUPREME COURT OF TEXAS

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On August 29, 1989 and as amended on September 11, 1989 the District Courts of Nueces County, Texas then assigned to hear criminal cases promulgated local rules regarding superseding indictments which were applicable to criminal cases only and which were intended to be incorporated into and to amend the Nueces County Local Rules. The Order adopting the new rules appears below verbatim.

However, the new rules were not submitted to all the District Courts and the County Courts at Law for approval, to the local Bar for comment, to the Presiding Judge of the 5th Administrative Judicial Region for review, and to the Supreme Court of Texas for final approval, all as required by Rule 3a of the Texas Rules of Civil Procedure.

The Courts below find that the failure to so submit the new rules was inadvertent; that the changes apply only to criminal cases; that the changes are procedural, are not substantive and do not impair the rights of any party; that the changes are intended to eliminate the creation of duplicate criminal case files and to reduce the needless additional paperwork that would otherwise be required by a reindictment of a criminal case to correct an error in the indictment or to add an enhancement of punishment count or paragraph; and that the changes will best serve the prompt and orderly disposition of criminal cases in

Nueces County. The Courts further find that the new rules should be adopted and incorporated into the Nueces County Local Rules as originally intended.

The Amended Order reads as follows:

"IN THE DISTRICT COURTS  
OF NUECES COUNTY, TEXAS

**AMENDED ORDER ADOPTING RULES  
REGARDING SUPERSEDING INDICTMENTS**

The District Courts of Nueces County, Texas assigned to hear criminal cases find it necessary to adopt the following rules regarding superseding indictments filed in said Courts, and, accordingly, the Nueces County Local Rules of Felony Criminal Practice are so amended:

Section 1. RULE 5.149 is amended to read as follows:

"RULE 5.149. When [a] case is reinicted, the new indictment shall be referred to as a superseding indictment.

a. The clerk shall file the superseding indictment in the same cause as the original indictment.

b. The clerk shall assign the same cause number to the superseding indictment as the original indictment, except that there shall be added to the cause number the notation "S1" after the original cause number; thus, a superseding indictment in 89-CR-000-A would become 89-CR-000-A-S1. Each succeeding superseding indictment shall be numbered sequentially, to-wit: "S2," "S3," etc.

c. The filing of a superseding indictment shall cause the previous indictment to be dismissed without the necessity of an order of dismissal; the cause itself is not dismissed by the filing of a superseding indictment. The most recent superseding indictment shall be the State's live pleading in the cause.

d. All orders, motions, applications, subpoenas, precepts, notices, warrants of arrest, and other documents filed in the cause shall apply to a superseding indictment filed in the cause.

e. The filing of a superseding indictment shall not affect the defendant's bond, unless a motion to increase or to reduce bail is filed in the cause.

f. The jury shall not be informed that a superseding indictment has been filed in the cause.

g. The foregoing rules apply in the same manner to the filing of a superseding information in the cause.

Section. 2. RULE 5.153 is amended to read as follows:

"RULE 5.153. The District Attorney shall note on a non-substantive part of the indictment whether (a) the defendant has pending indicted causes or (b) the indictment is a superseding indictment. Thereafter, the Clerk shall assign the indictment or superseding indictment as provided by RULEs 5.146, 5.147 or 5.149."

IT IS ORDERED that the foregoing amendments shall be effective immediately.

Signed this 11th day of September, 1989.

/s/ Eric Brown  
Judge, 28th District Court

/s/ J. Manuel Banales  
Judge 105th District Court

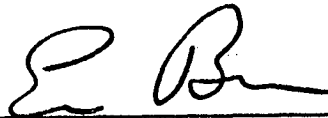
/s/ Joaquin Villareal  
Judge, 347th District Court"

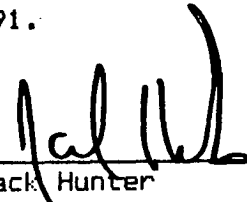
IT IS ORDERED that the foregoing amendments to the Local Rules are hereby adopted.

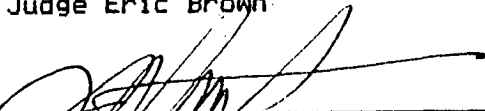
IT IS FURTHER ORDERED that said amendments be submitted to the Nueces County Bar for comment by providing a certified copy thereof to the President of the Corpus Christi Bar Association and by posting a copy thereof in a place in the offices of each of the Courts in a manner reasonably calculated to give notice to the attorneys practicing in said Courts; by submitting a certified copy thereof to the Presiding Judge of the 5th Administrative Judicial Region; and by submitting a certified copy thereof to the Supreme Court of Texas.

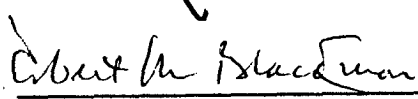
IT IS FURTHER ORDERED that, pending final approval by the Supreme Court of Texas, the foregoing proposed amendments shall be given temporary effect as if same were finally approved.

Signed this 19th day of January, 1991.

  
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Judge Eric Brown

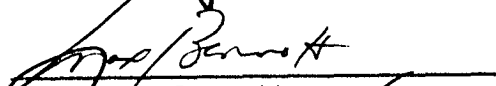
  
\_\_\_\_\_  
Judge Jack Hunter

  
\_\_\_\_\_  
Judge J. Manuel Banales

 (Approving as to the Amendment only)  
\_\_\_\_\_  
Judge Robert Blackmon

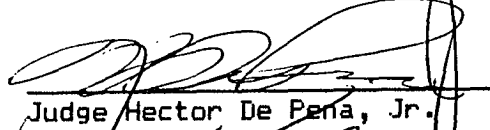
  
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Judge Margarito Garza

  
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Judge Mike Westergren

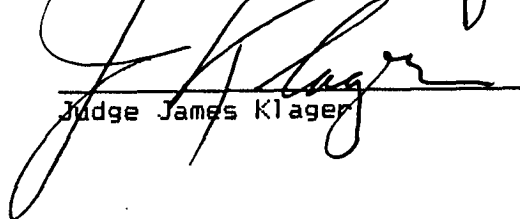
  
\_\_\_\_\_  
Judge Max Bennett

  
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Judge Joaquin Villareal

  
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Judge Robert Vargas

  
\_\_\_\_\_  
Judge Hector De Pena, Jr.

  
\_\_\_\_\_  
Judge Hilda Tagle

  
\_\_\_\_\_  
Judge James Klager

STATE OF TEXAS  
COUNTY OF NUECES

I, OSCAR SOLIZ, DISTRICT CLERK OF NUECES COUNTY,

Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession as appears

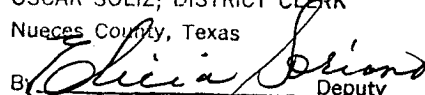
of record in Vol. CM 56, Page \_\_\_\_\_, Minutes of

the 105 District Court on file in my office.

Witness my official hand and seal of office,

this January 21, 1991

OSCAR SOLIZ, DISTRICT CLERK  
Nueces County, Texas

By  Deputy

ELICIA SORIANO