

MISCELLANEOUS RULE 11-003

**Procedures in Death Penalty Cases Involving Requests for Stay of Execution and Related Filings in Texas State Trial Courts and the Court of Criminal Appeals**

1. *Time Requirements for Habeas Petitions or Other Motions.* Inmates sentenced to death who seek a stay of execution or who wish to file a subsequent writ application or other motion seeking any affirmative relief from, or relating to, a death sentence must exercise reasonable diligence in timely filing such requests. A motion for stay of execution, or any other pleading relating to a death sentence, must be filed in the proper court at least seven days before the date of the scheduled execution date (exclusive of the scheduled execution date). A pleading shall be deemed untimely if it is filed in the proper court fewer than seven days before the scheduled execution date. For example, a request for a stay of execution filed at 8:00 a.m. on a Wednesday morning when the execution is scheduled for the following Wednesday at 6:00 p.m. is untimely.


2. *Special Requirements for Untimely Petitions or Other Motions.* Counsel who seek to file an untimely motion for a stay of execution or who wish to file any other untimely pleading requesting affirmative relief in an impending execution case, must attach to the proposed filing a detailed explanation stating under oath, subject to the penalties of perjury, the reason for the delay and why counsel found it physically, legally, or factually impossible to file a timely request, motion, or other pleading. Counsel is required to show good cause for the untimely filing.

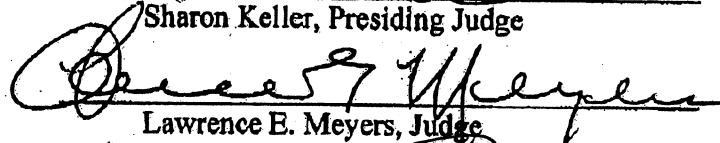
3. *Sanctions.* Counsel who fails to attach a sworn detailed explanation to an untimely filing or who fails to adequately justify the necessity for an untimely filing shall be sanctioned. Such sanctions include, but are not limited to (1) referral to the Chief Disciplinary Counsel of the State Bar of Texas; (2) contempt of court; (3) removal from the list of Tex. Code Crim. Proc. Art. 11.071 list of attorneys; (4) restitution of costs incurred by the opposing party; and (5) any other sanction allowed by law (see, e.g., Tex. R. Civ. P. 215.2).


**IN THE COURT OF CRIMINAL APPEALS  
OF TEXAS**

*To ensure that all appropriate state and federal courts, officials, and parties shall have an adequate opportunity to review and resolve legal and factual issues concerning an impending execution, the Court of Criminal Appeals has adopted Miscellaneous Rule 11-003, effective immediately. This rule is modeled upon an analogous rule adopted by the Fifth Circuit Court of Appeals.*


SIGNED AND ENTERED this 30<sup>th</sup> day of June, 2011.

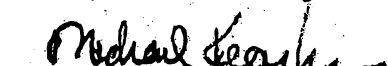
  
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Sharon Keller, Presiding Judge


  
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Lawrence E. Meyers, Judge


  
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Tom Price, Judge

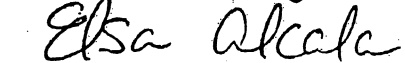
  
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Paul Womack, Judge

  
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Cheryl Johnson, Judge

  
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Michael Keasler, Judge

  
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Barbara Hervey, Judge

  
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Cathy Cochran, Judge

  
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Elsa Alcala, Judge