



SIXTH ADMINISTRATIVE JUDICIAL REGION

ADMINISTRATIVE ASSISTANT
BECKY HENDERSON

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TO: District Judges and District Clerks in the Sixth Administrative Judicial Region; Attorneys on the Lists of Attorneys Qualified to Serve as First or Second Chair in Death Penalty Cases; Members of the Local Selection Committee

FROM: Stephen B. Ables, Presiding Judge
Sixth Administrative Region

DATE: December 7, 2005

RE: Revised Standards for Qualification of Attorneys to be Appointed to Represent Indigent Defendants in Capital Cases in which the Death Penalty is Sought

Pursuant to the provision of Senate Bill 60 enacted by the 79th Texas Legislature, the Local Selection Committee for the Sixth Administrative Judicial Region of Texas has adopted revised standards of qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought. The revised standards conform to the amended provisions of Article 26.052(d), Texas Code of Criminal Procedure, effective September 1, 2005.

An attorney appointed to a death penalty case on or after November 15, 2005 must meet the revised standards. An attorney appointed to a death penalty case before November 15, 2005 is covered by the law and standards in effect when that lawyer was appointed and the former law and standards are continued in effect for that purpose.

I am enclosing a copy of each of the following:

1. Revised Standards for Qualification of Attorneys for Appointment to Death Penalty Cases pursuant to Article 26.052, Texas Code of Criminal Procedure, adopted by the Local Selection Committee, effective November 15, 2005;

2. Application to Be Placed on the List of Attorneys Qualified for Appointment as Lead Trial Counsel in Death Penalty Cases;
3. Application to Be Placed on the List of Attorneys Qualified for Appointment as Second Chair in Death Penalty Cases;
4. Application to Be Placed on the List of Attorneys Qualified for Appointment as Lead Appellate Counsel in Death Penalty Cases;
5. Application to Be Maintained on the List of Attorneys Qualified for Appointment as Lead Trial Counsel in Death Penalty Cases;
6. Application to Be Maintained on the List of Attorneys Qualified for Appointment as Second Chair in Death Penalty Cases; and
7. Application to Be Maintained on the List of Attorneys Qualified for Appointment as Lead Appellate Counsel in Death Penalty Cases.

On behalf of the Local Selection Committee, I am requesting the District Clerks to prominently post the revised standards and the application forms in their offices.

Thank you for your attention in this matter.

**STANDARDS FOR QUALIFICATION OF ATTORNEYS FOR APPOINTMENT TO
DEATH PENALTY CASES PURSUANT TO ARTICLE 26.052, TEXAS CODE OF
CRIMINAL PROCEDURE**
Effective November 15, 2005

LEAD TRIAL COUNSEL

An attorney appointed as lead trial counsel in the trial of a death penalty case must:

1. Be a member in good standing of the State Bar of Texas
2. Exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.
3. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case. For good cause shown, the Local Selection Committee may grant a waiver of this requirement, except when the attorney has been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.
4. Have at least ten years experience in criminal trial or appellate litigation or board certification in criminal law for at least five years.
5. Have tried a significant number of felony cases to a verdict as lead defense counsel, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies.
6. Have experience as counsel in at least one death penalty case that was handled to conclusion.
7. Have previous experience as a member of the defense trial counsel team in:
 - (a) the direct examination or cross-examination of mental health or forensic expert witnesses; and
 - (b) the investigation and presentation of mitigating evidence at the penalty phase of a death penalty trial.
8. Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

SECOND CHAIR

An attorney appointed as second chair in the trial of a death penalty case must:

1. Be a member in good standing of the State Bar of Texas.
2. Exhibit proficiency in criminal law and commitment to providing quality representation to defendants in death penalty cases.
3. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case. For good cause shown, the Local Selection Committee may grant a waiver of this requirement, except when the attorney has been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.
4. Have at least five years of experience in criminal trial or appellate litigation or board certification in criminal defense.
5. Have participated in continuing legal education courses or other training related to criminal defense.

LEAD APPELLATE COUNSEL

An attorney appointed as lead appellate counsel in the direct appeal of a death penalty case must:

1. Be a member in good standing of the State Bar of Texas
2. Exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.
3. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case. For good cause shown, the Local Selection Committee may grant a waiver of this requirement, except when the attorney has been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.
4. Have at least ten years experience in criminal trial or appellate litigation or board certification in criminal law for at least five years.
5. Have tried a significant number of felony cases to a verdict as lead defense counsel, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies.

6. Have experience as counsel in at least one death penalty case that was handled to conclusion.
7. Have previous experience as a member of the defense trial counsel team in:
 - (a) the direct examination or cross-examination of mental health or forensic expert witnesses; and
 - (b) the investigation and presentation of mitigating evidence at the penalty phase of a death penalty trial.
8. Have participated in the preparation of appellate briefs for the prosecution or defense, or in the drafting of appellate opinions as a staff attorney for an appellate court, in felony cases, including homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first or second degree.
9. Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

PROCEDURE FOR APPLICATION

An applicant for inclusion on a list shall complete the application form promulgated by the committee and attach the applicant's resume or professional vita to the application.

An application for inclusion on a list shall be submitted for approval first to the local administrative district judge of the jurisdiction within which the applicant primarily practices. If the local administrative district judge certifies the applicant for inclusion on an appropriate list, the local administrative district judge shall submit the approved application to the Presiding Judge of the Sixth Administrative Judicial Region of Texas.

The Presiding Judge of the Sixth Administrative Judicial Region shall submit the name of the applicant, a copy of the applicant's application and the certification by the local administrative district judge to the committee for approval. An applicant shall be included on an appropriate list by the vote of a majority of the members of the committee.

PERIODIC REVIEW BY COMMITTEE

Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training related to the defense of death penalty cases. Proof shall be submitted in a manner determined by the committee.

The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

The local selection committee shall annually review the list of attorneys posted to ensure that each listed attorney satisfies the foregoing requirements.

If at any time prior to recertification an attorney no longer complies with one or more requirements to be maintained on a list for which the attorney has previously qualified, the attorney shall report, in writing, the attorney's noncompliance to the Presiding Judge of the Sixth Administrative Judicial Region, whereupon, the attorney shall be removed by the committee from any list for which the attorney no longer qualified.

**APPLICATION TO BE PLACED ON THE LIST OF ATTORNEYS QUALIFIED
FOR APPOINTMENT AS LEAD TRIAL COUNSEL IN CAPITAL CASES IN
WHICH THE DEATH PENALTY IS SOUGHT**

I, _____, State Bar Card Number _____, request that the Local Selection Committee place my name on the list of attorneys qualified for appointment as lead trial counsel in death penalty cases.

Therefore, in compliance with the provisions of Article 26.052, Texas Code of Criminal Procedure, I swear or affirm that I meet the following standards promulgated by the Local Selection Committee:

1. I am a member in good standing of the State Bar of Texas. **A letter of good standing from the State Bar of Texas dated within the thirty days prior to my application is attached.**
2. I have exhibited proficiency and I am committed to providing quality representation to defendants in death penalty cases.
3. I have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case.

 I request a waiver of this requirement and have attached documentation in support of the request.
4. I have _____ years experience in criminal trial or appellate litigation, and/or I am board certified in criminal law.
5. I have tried to verdict as lead counsel _____ felony cases, including: _____ homicide trials and _____ other trials for offenses punishable as second or first degree felonies or capital felonies.
6. I have experience as counsel in at least one death penalty case that was handled to conclusion.

7. I have previous experience as a member of the defense trial counsel team in: (1) the direct examination or cross-examination of mental health or forensic expert witnesses; and (2) the investigation and presentation of mitigating evidence at the penalty phase of a death penalty trial.
8. I have participated in the following continuing legal education courses or other training relating to criminal defense in death penalty cases:

Name of Course/Training	Name of Provider	Date Attended
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_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

A copy of my most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department is attached.

Signature of Affiant

Mailing Address

City/State/Zip

() _____
Office Telephone Number

() _____
Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires: _____

APPROVED:

Name Printed: _____
Local Administrative District Judge for _____ County

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application;
2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department; and
3. Approval of the local administrative district judge of the jurisdiction within which you primarily practice.

TO LOCAL ADMINISTRATIVE DISTRICT JUDGE:

If you have approved the applicant for placement on the referenced list, please submit this approved application and all attachments to the Presiding Judge of the Sixth Administrative Judicial Region of Texas.

**APPLICATION TO BE PLACED ON THE LIST OF ATTORNEYS QUALIFIED
FOR APPOINTMENT AS SECOND CHAIR IN CAPITAL CASES IN WHICH THE
DEATH PENALTY IS SOUGHT**

I, _____, State Bar Card Number _____, request that the Local Selection Committee place my name on the list of attorneys qualified for appointment as second chair in death penalty cases.

Therefore, in compliance with the provisions of Article 26.052, Texas Code of Criminal Procedure, I swear or affirm that I meet the following standards promulgated by the Local Selection Committee:

1. I am a member in good standing of the State Bar of Texas. **A letter of good standing from the State Bar of Texas dated within the thirty days prior to my application is attached.**
2. I have exhibited proficiency and I am committed to providing quality representation to defendants in death penalty cases.
3. I have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case.

 I request a waiver of this requirement and have attached documentation in support of the request.
4. I have _____ years experience in criminal trial or appellate litigation, and/or I am board certified in criminal law.
5. I have participated in the following continuing legal education courses in criminal law:

Name of Course/Training	Name of Provider	Date Attended
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A copy of my most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department is attached.

Signature of Affiant

Mailing Address

City/State/Zip

() _____
Office Telephone Number

() _____
Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My Commission Expires: _____

APPROVED:

Name Printed: _____
Local Administrative District Judge for _____ County

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application;
2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department; and
3. Approval of the local administrative district judge of the jurisdiction within which you primarily practice.

TO LOCAL ADMINISTRATIVE DISTRICT JUDGE:

If you have approved the applicant for placement on the referenced list, please submit this approved application and all attachments to the Presiding Judge of the Sixth Administrative Judicial Region of Texas.

**APPLICATION TO BE PLACED ON THE LIST OF ATTORNEYS QUALIFIED
FOR APPOINTMENT AS LEAD APPELLATE COUNSEL IN CAPITAL CASES
IN WHICH THE DEATH PENALTY IS SOUGHT**

I, _____, State Bar Card Number _____, request that the Local Selection Committee place my name on the list of attorneys qualified for appointment as lead appellate counsel in death penalty cases.

Therefore, in compliance with the provisions of Article 26.052, Texas Code of Criminal Procedure, I swear or affirm that I meet the following standards promulgated by the Local Selection Committee:

1. I am a member in good standing of the State Bar of Texas. **A letter of good standing from the State Bar of Texas dated within the thirty days prior to my application is attached.**
2. I have exhibited proficiency and I am committed to providing quality representation to defendants in death penalty cases.
3. I have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case.

 I request a waiver of this requirement and have attached documentation in support of the request.
4. I have _____ years experience in criminal trial or appellate litigation, and/or I am board certified in criminal law.
5. I have tried to verdict as lead counsel _____ felony cases, including: _____ homicide trials and _____ other trials for offenses punishable as second or first degree felonies or capital felonies.
6. I have experience as counsel in at least one death penalty case that was handled to conclusion.

Mailing Address

City/State/Zip

() _____
Office Telephone Number

() _____
Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20_____.

Notary Public in and for the State of Texas

My commission expires: _____

APPROVED:

Name Printed: _____
Local Administrative District Judge for _____ **County**

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application;

2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department; and
3. Approval of the local administrative district judge of the jurisdiction within which you primarily practice.

TO LOCAL ADMINISTRATIVE DISTRICT JUDGE:

If you have approved the applicant for placement on the referenced list, please submit this approved application and all attachments to the Presiding Judge of the Sixth Administrative Judicial Region of Texas.

A copy of my most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department is attached.

Signature of Affiant

Mailing Address

City/State/Zip

() _____
Office Telephone Number

() _____
Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20_____.

Notary Public in and for the State of Texas

My commission expires: _____

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application; and
2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department.

**APPLICATION TO BE MAINTAINED ON THE LIST OF ATTORNEYS
QUALIFIED FOR APPOINTMENT AS SECOND CHAIR IN CAPITAL
CASES IN WHICH THE DEATH PENALTY IS SOUTH**

I, _____, State Bar Card Number _____, request that the Local Selection Committee maintain my name on the list of attorneys qualified for appointment as second chair in death penalty cases.

Therefore, in compliance with the provisions of Article 26.052, Texas Code of Criminal Procedure, I swear or affirm that I meet the following standards promulgated by the Local Selection Committee:

1. I remain qualified for appointment as second chair in death penalty cases pursuant to the Standards for Qualification of Attorneys for Appointment in Death Penalty cases, as adopted and revised by the Local Selection Committee for the Sixth Administrative Judicial Region of Texas.
2. I am a member in good standing of the State Bar of Texas. **A letter of good standing from the State Bar of Texas dated within the thirty days prior to my application is attached.**
3. I have participated in the following continuing legal education courses in criminal law:

Name of Course/Training	Name of Provider	Date Attended

A copy of my most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department is attached.

Signature of Affiant

Mailing Address

City/State/Zip

() _____
Office Telephone Number

() _____
Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires: _____

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application; and
2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department.

A copy of my most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department is attached.

Signature of Affiant

Mailing Address

City/State/Zip

()

Office Telephone Number

()

Facsimile Number

SWORN TO and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires: _____

NOTE

TO APPLICANT:

For this application to be complete, you must include:

1. A letter of good standing from the State Bar of Texas dated within the thirty days prior to your application; and
2. A copy of your most recent Annual Verification Report from the State Bar of Texas-Minimum Continuing Legal Education Department.