

IN THE SUPREME COURT OF TEXAS

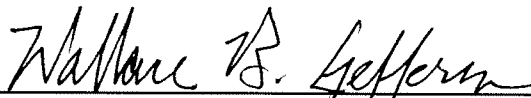
Misc. Docket No. 07- 9133

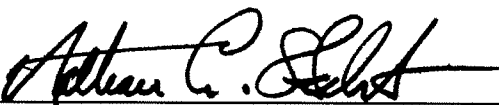
**APPROVAL OF AMENDED LOCAL RULES FOR THE DISTRICT COURTS
OF HARRIS COUNTY TRYING CRIMINAL CASES**

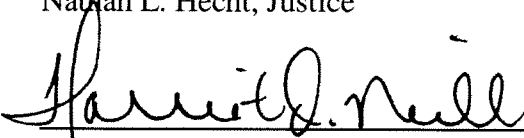
ORDERED that:

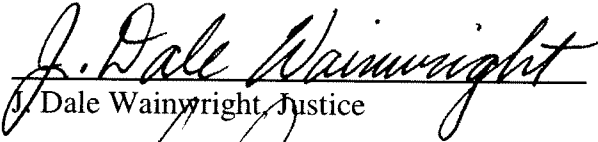
Pursuant to Texas Rule of Civil Procedure 3a, the following Amended Local Rules for the District Courts of Harris County Trying Criminal Cases are approved.


In Chambers, this 21st day of August, 2007.

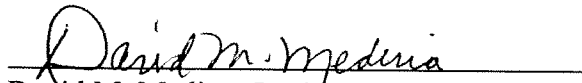

Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice

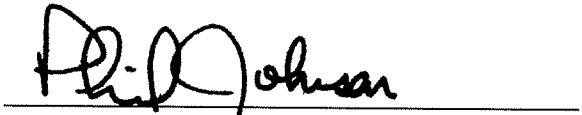

Harriet O'Neill, Justice

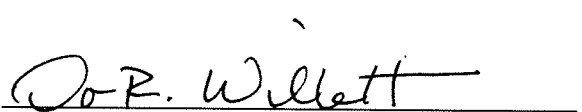

J. Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

**RULES OF THE JUDICIAL DISTRICT COURTS OF HARRIS COUNTY
DISTRICT COURTS TRYING CRIMINAL CASES**

Adopted by Board of Judges-9/12/96; Approved by Supreme Court-9/13/96 Amended 4/12/07

The rules of the Judicial District Courts of Harris County, District Courts Trying Criminal Cases, as recorded in Volume 1759, Page 537 of the General Minutes of said Courts, read as follows:

Rule 6.10. Grand Jury

**Rule 6.11. Filings
Return of Indictment**

**Rule 6.12. Arraignment
Initial Appearance**

The preliminary initial appearance shall be held in each of the District Courts sitting as a magistrate at 9:00 a.m. Monday through Friday.

Preliminary Initial Appearance Dockets will be conducted by the Presiding Judge on each Saturday, Sunday and official holiday observed by the Court pursuant to procedures adopted by the Board of District Judges Trying Criminal Cases.

The Magistrate shall inform the defendant of the accusation and any affidavits filed therewith, and require the State to establish probable cause for further detention or restraint of the defendant. If the Magistrate does not find that probable cause exists, the Magistrate shall order discharge of the defendant.

If the Magistrate finds probable cause exists, the Magistrate shall inform the defendant of his/her statutory rights as required by Art. 15.17 of the Texas Code of Criminal Procedure; the Magistrate shall identify the defendant's counsel and if the defendant is without counsel and is indigent, appoint counsel to represent defendant; and inform the defendant of the defendant's right to waive indictment as provided in Art. 1.141 of the Texas Code of Criminal Procedure. The Magistrate shall set bail, and if bond has been posted in amount of set bail, order such bond shall continue in effect; if bond in the amount of set bail has not been posted, the Magistrate shall determine whether the defendant is eligible for release on personal recognizance, and commit defendant to custody of the Sheriff subject to defendant's posting bond in the amount of set bail.

The Magistrate may at that time consider any waiver of statutory rights by the defendant and defendant's counsel and

rule on same or reschedule the case for not to exceed two court days to consider and/or rule on any such waivers.

Should the defendant desire to waive indictment, same may be accomplished at this time.

This hearing will be to determine the attorney of record. The defendant will be formally arraigned, or the defendant may waive formal arraignment. Pleas of guilty will be accepted, or the case will be rescheduled appropriately. The defendant will also have the opportunity to waive the right to a speedy trial at the arraignment setting.

**Rule 6.13. Appointment
of Counsel**

The appointment of counsel for indigent defendants is handled individually in each of the District Courts. The procedure for the appointments should be checked with each District Court Coordinator. The appointments for appeals are made at the time a pauper's oath has been filed with the District Clerk.

The Harris County Auditor shall not pay any lawyer for legal services rendered on a case to which the lawyer has been appointed unless, prior to the appointment and the performance of legal services, the lawyer has successfully completed the training program and passed the examination promulgated by the District Courts Trying Criminal Cases and prescribed for the level of case, felony or capital, in which the legal services were rendered.

**Rule 6.14. Appearance of
Defendant & Counsel
Court Attendance**

Defendant and defendant's attorney must be present during docket call.

Permission for the defendant not to be present must be obtained by the attorney prior to the setting.

Attorney must notify the Judge or Court Coordinator prior to 9:00 a.m. if the attorney anticipates not being present at docket call.

**Rule 6.15. Withdrawal or
Substitution of Counsel**

If, prior to the disposition of a case, an appointed or retained attorney wishes to withdraw pursuant to DR 2-110, Code of Professional Responsibility, Vernon's Ann. Civ. Stat., Title 14 App., Art. 12, Sec. 8, or for any other reason, the attorney must file a written motion to that effect with the Court. Such motion must be filed at least 15 days prior to a trial setting. If an attorney is retained to replace existing counsel, the attorney must file a motion to substitute counsel, naming both himself and the attorney to be relieved.

A retained attorney of record at the time of trial will be considered the attorney of record in the event of an appeal unless the attorney files a written motion to withdraw when notice of appeal is given.

**Rule 6.16. Bond and
Bond Forfeiture**

Rule 6.17. Discovery

**Rule 6.18. Docket Calls
Announcements**

Held at 9:00 a.m. unless otherwise directed by the Court.

Attorneys must announce "ready" or "not ready" upon call of trial or motion docket. The Court will not accept an announcement of "hold" by either party. If a case is placed on call, the attorneys must be readily available within one hour after notification from the Court that their case is ready to proceed.

**Rule 6.19. Continuance
Resetting
Postponement**

When a case is to be rescheduled, a reset agreement must be prepared by the attorney seeking the reset and concurred in by opposing counsel. Reset agreement forms may be obtained in the courtroom or Coordinator's office. Upon completion, the reset agreement must be submitted for approval to the Judge or the Coordinator of the Court in which the case is pending, after which it is filed with the Court Clerk (District Clerk). Future dates must be obtained from the Coordinator or Judge prior to leaving the courtroom.

Off docket resets must be handled in person by the attorney of record. A reset agreement must be prepared by the attorneys and approved by the Judge or

Coordinator of the Court where the case is pending.

Rule 6.20. Plea Bargains

Any setting prior to the motion hearings or trial setting shall be for the purpose of pretrial negotiations. Cases should be resolved at the negotiation setting by either an agreement or a plea to the Court without recommendation. Except with permission of the Trial Judge, conferences and negotiations by and between the attorney for the State and the attorney for the defendant while Court is in session will not be permitted.

**Rule 6.21. Guilty Plea
Nolo Contendere
Open Pleas**

Where cases are set for guilty or nolo pleas, all plea papers must be filed prior to the time the case is set for the plea. The assistant district attorney handling the case will prepare the plea papers and submit them to the defense attorney for formal filing with the Court Clerk (District Clerk).

Rule 6.22. Speedy Trial

**Rule 6.23. Motions
Pre-Trial Hearings
Pre-Trial Matters**

This setting is for the purpose of hearing all pre-trial motions. All motions must be filed in accordance with the statute, and motions not timely filed may be filed only with permission of the Court. Failure to comply with this rule will result in a trial setting if the case is not otherwise disposed of.

All applications for subpoenas must be filed at least ten days prior to trial. Failure to comply will be cause for the Court to find a failure to exercise due diligence.

Rule 6.24. Settings/Scheduling

**Rule 6.25. Order of Trial
Preferential Settings
Conflicting Engagements**

Rule 6.26. Witnesses/Evidence

Rule 6.27. Non-Jury Trials

Rule 6.28. Jury Trials

Rule 6.29. Jury Selection/Voir Dire

**Rule 6.30. Probation Applications/
Deferred Adjudications**

Rule 6.31. Pre-Sentence Report

Court's Proposed Sentence

Rule 6.32. Judgements/Orders

**Rule 6.33. Occupational
Driver's Licenses**

The Court in which a defendant has been convicted will maintain continuing jurisdiction for the purpose of Occupational / Restricted Drivers License. Petitioners seeking Occupational / Restricted Drivers License must file a pleading indicating that they have not previously filed for application for the same in any County or District Court of Harris County.

**Rule 6.34. Probation Revocations
Motions to Adjudicate
Habeas Corpus**

Where applicant has pending case.

Application for writ of habeas corpus involving a pending case shall be filed with and heard by the Court in which that case is pending. Either the Judge or Coordinator will set the writ for hearing.

Where applicant does not have pending case.

Application for writ of habeas corpus involving matters not pre-assigned to a court shall be filed with and heard by the Presiding Judge, and in the absence of the Presiding Judge, the Co-Presiding Judge.

Post conviction writs.

Application for writ of habeas corpus following a final conviction is processed in accordance with Art. 11.07, Texas Code of Criminal Procedure.

**Rule 6.35. Appeals from
Lower Courts**

Rule 8.10. Absence of Judges

In the event that a District Court Judge is absent for vacation, sick leave, attendance at conferences, or similar matters, the Administrative Judge of the respective Trial Division (Civil, Criminal, Family or Juvenile) shall in writing notify the Local Administrative Judge, who in turn will cause the request to be transmitted to the Administrative Judge of the 2nd Administrative Judicial Region of Texas. The form for this request shall be made available through the Administrative Office of the District Courts.

A Visiting Judge will be assigned only with the approval of the Administrative Judge of the respective Trial Division.

**Rule 10. Emergencies &
Special Matters**

The responsibility for emergencies and special matters will become the function of a Judge on Duty:

- A. Term. The function of the Judge on Duty is rotated among the District Judges Trying Criminal Cases. Each Judge will serve two weeks as Judge on Duty. Judge on Duty terms commence at 7:00 a.m. on the first Monday of the term of service. Schedule of Judges on Duty is published by the Administrative Office.
- B. Judicial Function of the Judge on Duty.
 1. Hear writs not pre-assigned or where the pre-assigned Court Judge is unavailable.
 2. Meet with the Administrative Judge when emergencies dictate.
 3. Substitute for the Administrative Judge in his or her absence.
 4. Appointment of attorney prior to PIA hearing.
 5. Available to sign warrants twenty-four hours a day, seven days a week during Judge on Duty term.
 6. Handles all waivers of extradition, writs of habeas corpus (where charges are not pending in the District Court), out-of-state witness.
 7. Handle their own docket.
 8. Authorized, upon receipt of motion for assignment, to approve assignment of cases and/or transfers of cases among the undersigned district courts.
 9. Has authority to sign Pre-Trial Bonds.



Second Administrative Judicial Region of Texas

Olen Underwood

Presiding Judge

Kassi Cranfill
Regional Administrator

Nathan Jensen
Regional Assistant

April 12, 2007

Honorable Nathan L. Hecht
Justice, Supreme Court of Texas
Attn: Jody Hughes, Rules Attorney
P.O. Box 12248
Austin, Texas 78711

Re: Rules of the Judicial District Courts of Harris County
District Courts Trying Criminal Cases
Amended 04/12/07

Dear Judge Hecht:

Pursuant to, and in accordance with Rule 3a, Texas Rules of Civil Procedure, and Rule 8, Regional Rules of Administration, Second Administrative Judicial Region of Texas, I am requesting that the Justices approve the enclosed, Rules of the Judicial District Courts of Harris County, District Courts Trying Criminal Cases.

I hereby approve the amendments to the above referenced rules. Please advise this office of the Courts actions.

Thank you for your usual courtesies.

Sincerely,

A handwritten signature in black ink that reads "Olen Underwood". The signature is written in a cursive, flowing style.

Olen Underwood
OU/kc

cc: Jack Thompson, Harris County District Court Administrator

Administrative Office of the District Courts
Harris County, Texas

Jack E. Thompson
DISTRICT COURT ADMINISTRATOR
Fax No. 713-755-8973

1201 Franklin, 7th Floor
Houston, Texas 77002-2022
713-755-6575

April 9, 2007

Hon. Olen Underwood
Montgomery County Courthouse
207 W. Phillips, 3rd Floor
Conroe, TX 77301

Dear Judge Underwood:


At the April 4, 2007 meeting of the Board of District Judges Trying Criminal Cases, the Board approved the attached amended Local Rules. The change is in Rule 10 as follows:

The responsibility for emergencies and special matters will become the function of a ~~Presiding and Co-Presiding~~ Judge [on Duty]:

- A. Term. The function of the ~~Presiding~~ Judge [on Duty] is rotated among the District Judges Trying Criminal Cases. Each Judge will serve two weeks as ~~Presiding~~ Judge [on Duty], ~~followed by two weeks as Co-Presiding Judge.~~ ~~Presiding and Co-Presiding~~ Judge [on Duty] terms commence at 7:00 a.m. on the first Monday of the term of service. Schedule of ~~Presiding~~ Judges [on Duty] is published by the Administrative Office.
- B. ~~Co-Presiding.~~ ~~The Co-Presiding Judge presides in the absence of the Presiding Judge.~~
- C. Judicial Function of the ~~Presiding~~ Judge [on Duty].
 1. Hear writs not pre-assigned or where the pre-assigned Court Judge is unavailable.
 2. Meet with the Administrative Judge when emergencies dictate.
 3. Substitute for the Administrative Judge in his [or her] absence.
 4. Appointment of attorney prior to PIA hearing.
 5. Available to sign warrants twenty-four hours a day, seven days a week during ~~Presiding~~ [Judge on Duty] term.
 6. Handles all waivers of extradition, writs of habeas corpus (where charges are not pending in the District Court), out-of-state witness.
 7. Handle their own docket.
 8. Authorized, upon receipt of motion for assignment, to approve assignment of cases and/or transfers of cases among the undersigned district courts.
 9. Has authority to sign Pre-Trial Bonds.
 10. ~~Hold Weekend/Holiday PIA Hearings.~~

I am requesting your approval on the attached local rules. If so approved, please transmit them to the Chief Justice of the Supreme Court of Texas for his consideration for approval.

Sincerely,



Jack Thompson

JT:lr
Enclosures