



Second Administrative Judicial Region of Texas

Olen Underwood
Presiding Judge

Nathan Jensen
Administrative Assistant
Nathan.jensen@mctx.org

Melanie Sipes
Administrative Assistant
Melanie.sipes@mctx.org

May 9, 2012

Dear Attorney:

The Committee for Qualified Counsel in Death Penalty Cases has approved the enclosed Appellate and Trial Applications for the Second Administrative Judicial Region of Texas.

This application and contact information form will need to be completed and faxed or emailed to this office on or before **July 1, 2012**. You may apply at anytime after July 1, 2012 with the understanding that the list will only be updated on a quarterly basis.

Please specify the CLE hours relating to death penalty by placing a check mark next to the applicable hours. A highlighter should not be used as it may not show up on copies or scans.

If you have any questions you may contact this office at (936) 538-8176.

Sincerely,

A handwritten signature in cursive script that reads "Olen Underwood".

Olen Underwood

cc: District Judges – Second Administrative Judicial Region of Texas



Second Administrative Judicial Region of Texas

Olen Underwood

Presiding Judge

Nathan Jensen
Administrative Assistant

Melanie Sipes
Administrative Assistant

QUALIFIED COUNSEL IN DEATH PENALTY CASES CONTACT INFORMATION

Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____



Second Administrative Judicial Region of Texas

APPLICATION FOR APPROVAL AS QUALIFIED TRIAL COUNSEL

IN DEATH PENALTY CASES

This application is only for those applicants opting to be on the list for qualified trial counsel for appointment in death penalty cases in the Second Administrative Judicial Region of Texas. Each applicant will need to apply in the counties of choice to be placed on their list.

I, _____, Texas Bar License Number _____, a resident of _____ County with offices in _____ County(ies), do request approval by the Presiding Judge of the Second Administrative Judicial Region of Texas or his/her designee of this judicial region to be qualified for appointment in death penalty cases as:¹

(Check all that apply)

- First chair Second chair

I certify that I meet all of the following requirements as required by Tex. Code Crim. Proc. Art. 26.052 for such appointments in the following respects:

(A through G required of all applicants)

- (A) Member of the State Bar of Texas;
- (B) Have exhibited proficiency and commitment to providing quality representation to defendants in death penalty cases;
- (C) Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the Local Selection Committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects my ability to provide effective representation;
- (D) Have at least five years of criminal law experience;
- (E) Have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as first or second degree felonies or capital felonies;
- (F) Have trial experience in:
 - (i) the use of and challenges to mental health or forensic expert witnesses; and
 - (ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and
- (G) Have participated in continuing education courses or other training relating to criminal defense in death penalty cases approved by the Presiding Judge for MCLE for at least twenty hours (of which no more than five hours may be self study) within the previous two years. **[Attach proof of CLE, specifying which portions of the CLE course(s) relate to criminal defense in death penalty cases and the number of CLE hours for those portions of the CLE course(s)]**

Required for First Chair (In addition to items A through G above, I meet or exceed **three or more** of the following criteria as indicated below.)

Required for Second Chair (In addition to items A through G above, I meet **two** of the following criteria as indicated below. Further I agree, unless and until I have participated in more than one capital murder trial I will not accept an appointment unless first chair counsel has tried or handled two or more death penalty cases.)

¹ Additional Counsel: In order to promote quality representation and to expand and maintain a pool of qualified attorneys, nothing in this plan shall be construed to preclude the appointment of additional compensated or *pro bono* counsel who shall, under the supervision of first and second chair, serve as trial counsel in any death penalty case. Attorneys applying to a court to serve in such a capacity are exempt from complying with the qualification requirement of this plan.

(List and check all that apply)

Within the previous ten years,

- I have been counsel in one or more death penalty cases as first or second chair;
- I have been counsel in two or more cases of post-conviction writ of habeas corpus in death penalty cases;
- I have been appellate counsel in one or more cases on direct appeal of death penalty case;
- I have been counsel in ten or more felony cases tried to a jury verdict as first chair;
- I have been appellate counsel in five or more felony direct appeals as lead counsel;
- I have attained Board Certification in Criminal Law by Texas Board of Legal Specialization; or
- I have ten years experience during which 25 % or more of practice is devoted to practice of criminal law.

Peer Review

I submit the following 3 to 5 lawyers and/or judges, not partners or associates of mine, who may be contacted and who can attest to my competence in criminal law.

1. _____ AC()
Name Office Telephone

Address City/State/Zip

2. _____ AC()
Name Office Telephone

Address City/State/Zip

3. _____ AC()
Name Office Telephone

Address City/State/Zip

4. _____ AC()
Name Office Telephone

Address City/State/Zip

5. _____ AC()
Name Office Telephone

Address City/State/Zip

I, certify that the above representations are true and correct and I make these representations in order to gain approval by the Presiding Judge of the Second Administrative Judicial Region of Texas to be qualified for appointment as trial counsel in death penalty cases.ⁱⁱ

Applicant Signature

Date

**Note: This appointment will expire on July 1, 2013
(Each applicant will be required to re-apply annually on or before July 1st)**

ⁱⁱ To be approved as qualified trial counsel in death penalty cases, applicant also must obtain approval from the Local Administrative Judge of the counties in which applicant seeks appointment. Attach to this application a list of all the counties in which applicant seeks approval for appointment.

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**APPROVAL BY THE PRESIDING JUDGE
OF THE SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS**

Having reviewed the application of _____, attorney at law, Texas Bar License Number _____, is hereby approved for appointment in this judicial region as trial counsel in death penalty cases, as indicated below, and the District Clerk of each county is hereby ordered to add the name of said counsel to the list of approved counsel for appointment as trial counsel in death penalty cases pursuant to Article 26.052 of the Texas Code of Criminal Procedure:

Counsel is approved for appointment as:

- First chair Second chair

*Honorable Olen Underwood, Presiding Judge
Second Administrative Judicial Region of Texas*

Date



Second Administrative Judicial Region of Texas

APPLICATION FOR APPROVAL AS QUALIFIED APPELLATE COUNSEL IN DEATH PENALTY CASES

This application is only for those applicants opting to be on the list for qualified appellate counsel for appointment in death penalty cases in the Second Administrative Judicial Region of Texas. Each applicant will need to apply in the counties of choice to be placed on their list.

I, _____, Texas Bar License Number _____, a resident of _____ County with offices in _____ County(ies), do request approval by the Presiding Judge of the Second Administrative Judicial Region of Texas or his/her designee of this judicial region to be qualified for appointment in death penalty cases as appellate counsel.

I certify that I meet all of the following requirements as required by Tex. Code Crim. Proc. Art. 26.052 for such appointments in the following respects:

(A through G required of all applicants)

- (A) Member of the State Bar of Texas;
- (B) Have exhibited proficiency and commitment to providing quality representation to defendants in death penalty cases;
- (C) Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the Local Selection Committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects my ability to provide effective representation;
- (D) Have at least five years of criminal law experience;
- (E) Have authored a significant number of appellate briefs, including appellate briefs for homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first degree or an offense described by Section 3g(a)(1), Article 42.12;
- (F) Have trial or appellate experience in:
 - (i) the use of and challenges to mental health or forensic expert witnesses; and
 - (ii) the use of mitigating evidence at the penalty phase of a death penalty trial; and
- (G) Have participated in continuing education courses or other training relating to criminal defense in appealing death penalty cases approved by the Presiding Judge for MCLE for at least twenty hours (of which no more than five hours may be self study) within the previous two years. **[Attach proof of CLE, specifying which portions of the CLE course(s) relate to criminal defense in death penalty cases and the number of CLE hours for those portions of the CLE course]**

In addition to items A through G above, within the previous five years I meet or exceed one or more of the following criteria

- Have tried five criminal felony jury trials as first chair;
- Have handled three or more capital appeals;
- Have handled ten appeals;
- Have had one year experience as a briefing or staff attorney for an appellate court;
- Have attained Board Certification in Criminal Appellate Law by Texas Board of Legal Specialization;

Peer Review

I submit the following 3 to 5 lawyers and/or judges, not partners or associates of mine, who may be contacted and who can attest to my competence in criminal law.

1. _____ AC()
Name Office Telephone

Address City/State/Zip

2. _____ AC()
Name Office Telephone

Address City/State/Zip

3. _____ AC()
Name Office Telephone

Address City/State/Zip

4. _____ AC()
Name Office Telephone

Address City/State/Zip

5. _____ AC()
Name Office Telephone

Address City/State/Zip

I, certify that the above representations are true and correct and I make these representations in order to gain approval by the Presiding Judge of the Second Administrative Judicial Region of Texas to be qualified for appointment as appellate counsel in death penalty cases.ⁱ

Applicant Signature

Date

**Note: This appointment will expire on July 1, 2013
(Each applicant will be required to re-apply annually on or before July 1st)**

ⁱ To be approved as qualified appellate counsel in death penalty cases, applicant also must obtain approval from the Local Administrative Judge of the counties in which applicant seeks appointment. Attach to this application a list of all counties in which applicant seeks approval for appointment.

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***APPROVAL BY THE PRESIDING JUDGE
OF THE SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS***

Having reviewed the application of _____, attorney at law, Texas Bar License Number _____, is hereby approved for appointment in this judicial region as appellate counsel in death penalty cases and the District Clerk of each county is hereby ordered to add the name of said counsel to the list of approved counsel for appointment as appellate counsel in death penalty cases pursuant to Article 26.052 of the Texas Code of Criminal Procedure.

***Honorable Olen Underwood, Presiding Judge
Second Administrative Judicial Region of Texas***

Date