



**TEXAS COURT OF CRIMINAL APPEALS’
AMENDED RULES
FOR THE APPOINTMENT OF ATTORNEYS
AS COUNSEL UNDER ARTICLE 11.071
SEC. 2(d), TEXAS CODE OF CRIMINAL PROCEDURE**

Per Curiam.

ORDER

_____ The following rules are adopted by the Court of Criminal Appeals regarding the appointment of attorneys as counsel under **TEX. CODE CRIM. PROC.** art. 11.071, Sec. 2(d):

1. The Court of Criminal Appeals will maintain a list of those attorneys eligible for appointment by the convicting court for purposes of representing an applicant on an initial application for writ of habeas corpus under art. 11.071. The list will provide the name, address, telephone number, and administrative judicial region from which an attorney will accept appointments.
2. The convicting court will appoint an attorney from the list of eligible attorneys maintained by the Court of Criminal Appeals.
3. Those attorneys seeking to be added to the list of attorneys

eligible for appointment under art. 11.071, shall complete and submit an Application for Appointment as Counsel pursuant to art. 11.071, to the Court of Criminal Appeals. Counsel will be notified by the Court of Criminal Appeals of eligibility for appointment. Any attorney seeking to be removed from the list of those eligible for appointment shall make a written request to the Court of Criminal Appeals.

4. An attorney on the list of attorneys eligible for appointment under art. 11.071, shall exhibit continued proficiency and commitment to providing quality representation to defendants in death-penalty cases.
5. An attorney on the list of attorneys eligible for appointment under art. 11.071, shall certify, on a biennial basis, that he has completed a minimum of six hours of CLE devoted to the law and practice of writs of habeas corpus, with an emphasis on death-penalty cases.
6. Attorneys on the list of attorneys eligible for appointment under art. 11.071, have a continuing duty to report to the Clerk of the Court of Criminal Appeals (1) a finding by any federal or state court of ineffective assistance of counsel during any criminal case, or (2) a public disciplinary action by any federal or state licensing authority. Such an attorney shall notify the Court within thirty days of any such finding or action.

7. The Court of Criminal Appeals may at any time, by majority vote, remove an attorney from the list of attorneys eligible for appointment under art. 11.071, if it determines that the attorney has: (1) in any application for writ of habeas corpus filed in the trial court or forwarded to this Court exhibited substandard proficiency in providing quality representation to defendants in death-penalty cases; (2) been found by any federal or state court to have rendered ineffective assistance of counsel in any criminal case; (3) engaged in a practice of unprofessional or unethical behavior; or (4) failed to inform this Court of reportable actions under section 6 of these rules.
8. (a) There is no appeal from the Court's discretionary decision to remove an attorney from the list of attorneys eligible for appointment under art. 11.071. However, an attorney may request reconsideration within 15 days of receipt of the Court's removal notice.

(b) If an attorney is removed solely for failure to complete the required MCLE, that attorney may reapply after completing the required MCLE and providing proof to the Court.

(c) If an attorney is removed from the art. 11.071 appointment list for any reason other than failure to complete the required MCLE, that attorney may reapply for inclusion in the list after 24 months. An attorney who reapplies under this subsection

must demonstrate that his current level of proficiency, effectiveness and professionalism as defense counsel meets the required standards in all respects (see 7(1), (2), (3), and (4) above), and the attorney must certify that, since the time of his removal from the list, he has handled at least three non-death-penalty writs of habeas corpus. He shall submit copies of the materials he has filed in those cases with the Clerk of the Court of Criminal Appeals

9. The convicting court may not appoint an attorney as counsel if the attorney represented the applicant at trial or on direct appeal unless (1) the applicant and the attorney request the appointment on the record, and (2) the convicting court finds good cause to make the appointment.
10. The list of those attorneys eligible for appointment by the convicting court shall be available from Louise Pearson, Clerk, Court of Criminal Appeals, P. O. Box 12308, Capitol Station, Austin, Texas, 78711 and shall be posted on the Court's website at www.cca.courts.state.tx.us.
11. Upon receiving notice of an appointment by the convicting court, the Court of Criminal Appeals will promptly notify the convicting court whether the appointment is approved or rejected.
12. These rules become effective on December 15, 2006.

IT IS SO ORDERED THIS THE 11th DAY OF DECEMBER, 2006.