

Writ Number-

Trial Court Cause Number:

EX PARTE

¶ IN THE DISTRICT COURT

¶ ___ JUDICIAL DISTRICT

[PETITIONER'S NAME]

¶ _____ COUNTY, TEXAS

**EX PARTE MOTION REQUESTING APPOINTMENT OF COUNSEL TO
REPRESENT [HIM/HER/THEM] IN HABEAS PROCEEDINGS**

Petitioner, [insert petitioner's name], pursuant to Article 1.051 (d) (3) and article 11.074 (b), and Article 11.07 (4)(a)(1) the Texas Code of Criminal Procedure, respectfully requests that this Honorable Court appoint counsel to represent [him/her/them] in [his/her/their] efforts to obtain relief from [his/her/their] sentence of [life without parole]. As outlined below, appointment is appropriate because it is unquestionable that [petitioner's name], who is indigent, is entitled to relief under controlling United States Supreme Court precedent.

I. Procedural History

On [insert date], the jury returned its verdicts at the punishment phase of trial and, based on the jury's answers to the [sentencing issues], the trial court sentenced [petitioner's last name] to [sentence].

II. Appointment of counsel is required by Article 11.074

The following statute went into effect on May 23, 2015:

SECTION 1. Chapter 11, Code of Criminal Procedure, is amended by adding Article 11.074 to read as follows:

Art. 11. 074. COURT-APPOINTED REPRESENTATION REQUIRED IN CERTAIN CASES.

(a) This article applies only to a felony or misdemeanor case in which the applicant seeks relief on a writ of habeas corpus from a judgment of conviction that:

- (1) imposes a penalty other than death; or
- (2) orders community supervision.

(b) If at any time the state represents to the convicting court that an eligible indigent defendant under Article 1.051 who was sentenced or had a sentence suspended is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the United States Supreme Court, the court shall appoint an attorney to represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if an application has not been filed, or to otherwise represent the indigent defendant in a proceeding based on the application for the writ.

Clearly, this statute is applicable to [petitioner's name] in these circumstances.

Petitioner has been confined in a secure facility since [his/her/their] arrest.

[He/She/They] [does/do] not have the means to hire an attorney. [cite to the

guidelines and standards]; STANDING COMM. ON THE LEGAL SERV. TO THE POOR IN

CRIM. MATTERS, PERFORMANCE GUIDELINES FOR JUVENILE REPRESENTATION IN

DELINQUENCY PROCEEDINGS, 2 (State Bar Board of Directors eds., 2017); TRIAL

DEFENSE GUIDELINES: REPRESENTING A CHILD CLIENT FACING A POSSIBLE LIFE

SENTENCE, 13, (Campaign for the Fair Sent'g of Youth eds., 2015).

Appointment of counsel of both [insert names of legal counsel] is necessary due to the numerous legal and factual issues that need to be developed and presented. Appointment of these two attorneys is appropriate because: (1) the complex and novel legal issues that will be litigated and (2) the fact that this case is equivalent to a death penalty case. *Graham v. Florida*, 560 U.S. 48, 90 (2011) (Roberts, J. concurring) (complaining of the majority's equation of life without parole to the death penalty). Indeed, the different strengths and backgrounds of prospective counsel will result in greater efficiency in the investigation and prosecution of these claims.

These issues are of national significance and will ultimately reach the Supreme Court of the United States.

[Insert second chair name and qualifications].

Respectfully submitted,

[name]

[SBOT #]

[address]

[Office Phone Number]

[fax]

[e-mail address]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Ex Parte Motion Requesting Appointment of Counsel to Represent [Him/Her/Them] in Habeas Proceeding has been delivered via electronic service to the [County Name] County District Attorney's Office, [insert address], on [insert date].

/s/ _____

Writ Number WR-_____

Trial Court Cause Number _____

EX PARTE

¶

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¶

____ JUDICIAL DISTRICT

[Petitioner's name]

¶

____ COUNTY, TEXAS

**ORDER ON EX PARTE MOTION REQUESTING APPOINTMENT OF
COUNSEL TO REPRESENT [HIM/HER/THEM] IN HABEAS
PROCEEDINGS**

On _____ xx, 20xx, the court took up the Ex Parte Motion Requesting Appointment of Counsel to Represent [Him/Her/Them] in Habeas Proceedings filed herein by [legal counsel] and requesting second chair [insert second chair counsel].

The motion is GRANTED, and [LEGAL COUNSEL] are appointed to represent [PETITIONER'S NAME].

SIGNED _____, [insert year].

JUDGE PRESIDING