

IN THE SUPREME COURT OF TEXAS

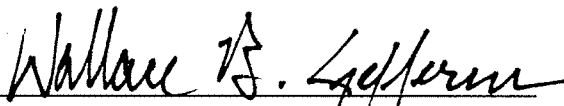
Misc. Docket No. 08- **9082**


**APPROVAL OF AMENDED LOCAL RULES
OF ADMINISTRATION FOR NUECES COUNTY**

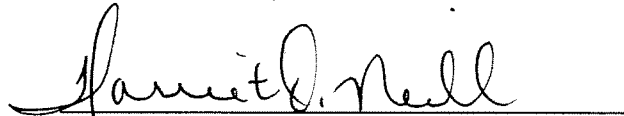
ORDERED that:

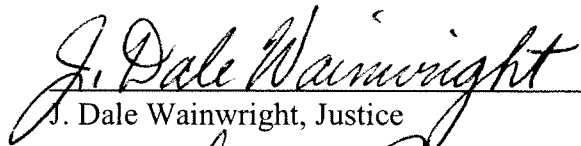
Pursuant to Texas Rule of Civil Procedure 3a, the following Amended Local Rules of Administration for Nueces County are approved.

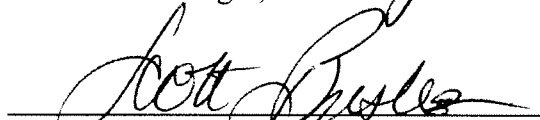
In Chambers, this 16th day of June, 2008.

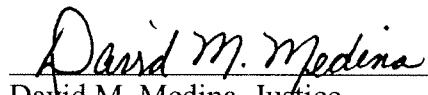

Wallace B. Jefferson, Chief Justice

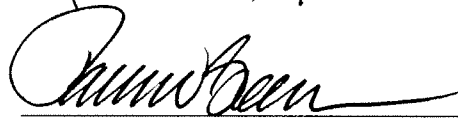

Nathan L. Hecht, Justice

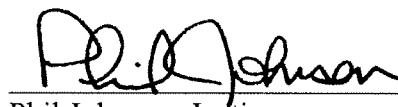

Harriet O'Neill, Justice

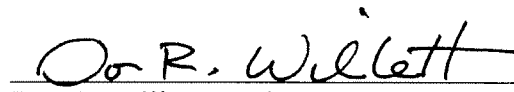

J. Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

NELVA GONZALES RAMOS
JUDGE



A. DENISE GUAJARDO
COURT MANAGER
361-888-0593

ARNOLD J. GUERRA
COURT BAILIFF
361-888-0378

MYRA G. HANEY
COURT REPORTER
361-888-0379

SYLVIA CUEVA
COURT CLERK
361-888-0648

347TH DISTRICT COURT
NUECES COUNTY COURTHOUSE
901 LEOPARD STREET
CORPUS CHRISTI, TEXAS 78401
OFFICE 361-888-0593 • FACSIMILE 361-888-0795

April 1, 2008

J. Manuel Banales
Presiding Judge, Fifth Administrative Judicial Region
901 Leopard Street; 5th Floor
Corpus Christi, TX 78401

Re:

Dear Judge Banales:

Enclosed is the Rule Regarding Office of Criminal Law Magistrates of Nueces County, Texas which was approved by the Judges on April 1, 2008.

Sincerely,

A handwritten signature in black ink that reads "Nelva Gonzales Ramos".

Nelva Gonzales Ramos
Local Administrative District Judge

NGR/adg
Enclosure



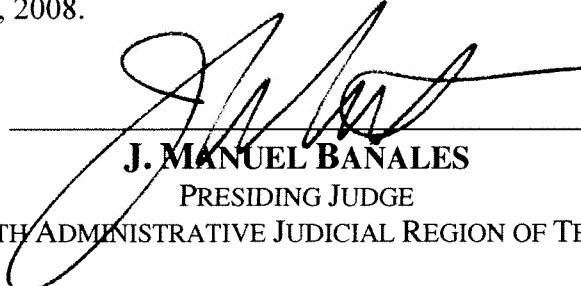
**BEFORE THE PRESIDING JUDGE
OF THE FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS
NO. 08-5AJR- 68**

**ORDER APPROVING LOCAL RULE
FROM NUECES COUNTY
REGARDING OFFICE OF CRIMINAL LAW MAGISTRATE**

On April 1, 2008 I received a letter from Judge Nelva Gonzales Ramos, Local Administrative District Judge of Nueces County, informing me that the Council of Judges of Nueces County had modified a local Rule on March 25, 2008 regarding the office of Criminal Law Magistrate of Nueces County. Attached to the letter was the local Rule signed by her and Judge Robert Vargas, Local Administrative County Court at Law Judge of Nueces County. The Rule modifies the Rule previously adopted by said Council of Judges on January 14, 2008.

I have reviewed the submitted modified Rule. Pursuant to §§74.046 and 74.047, Tx.Govt.C., I hereby approve the Rule as modified. I direct the Administrative Assistant to send said letter and Rule and this Order to the Supreme Court for its review and approval pursuant to Rule 3a, Tx.R.Civ.P.

Signed on April 4, 2008.



J. MANUEL BANALES
PRESIDING JUDGE
FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS



RULE REGARDING OFFICE OF CRIMINAL LAW MAGISTRATES OF NUECES COUNTY, TEXAS

RULE 2.1. CRIMINAL LAW MAGISTRATE

- a. Upon approval by Commissioners Court of Nueces County, the office of criminal law Magistrate is established pursuant to Chapter 54, Subchapter FF, Texas Government Code (§§54.1781-54.1794, Tx.Govt.C., as amended).
- b. The Council of Judges shall appoint, by majority vote, one or more Magistrates as authorized and funded by Commissioners Court. The Judge of County Court at Law No. 5 does not participate on matters concerning the office of Magistrate.
- c. To be eligible for appointment, an applicant must meet the qualifications set out by Sec. 54.1783, Tex.Gov't.C.
 1. Upon appointment, the Magistrate shall take the oath of office of appointed officials of this State. The Magistrate serves a term of one year. The term begins on October 1 of each year and ends on September 30 of the following year, subject to termination.
 2. On or after July 1 of each year but before July 31 of said year, the Council of Judges shall determine whether to reappoint a Magistrate for another term.
 - (a) If a Magistrate is reappointed, the Magistrate continues to serve without the necessity of retaking the oath of office for the next term.
 - (b) If a Magistrate is not reappointed or if a Magistrate does not seek reappointment, no later than August 15 of said year, the Council of Judges shall post notice that the office of Magistrate is open for appointment and shall invite applications for appointment. The application process shall close on August 31 of said year. With the assistance of the Human Resources office of Nueces County, the Council of Judges shall promulgate the application form for appointment. The Council of Judges shall appoint a Magistrate during the month of September of said year.

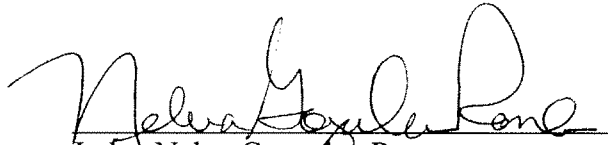
3. Upon a vacancy during the term of a Magistrate, the Council of Judges shall promptly appoint a Magistrate for the unexpired term. In doing so, the Council of Judges may expedite the process set out above.
 4. During a vacation, extended illness or a temporary inability to perform the duties of Magistrate, the Local Administrative Judges may appoint a Magistrate *pro tem*.
 - (a) A *pro tem* Magistrate must meet all the qualifications of a Magistrate.
 - (b) A *pro tem* Magistrate shall have the powers, duties and privileges of a Magistrate during such service
 - (c) A *pro tem* Magistrate may not engage in the practice of criminal law during such appointment.
 - (d) After the appointment of *pro tem* Magistrate expires, a former *pro tem* Magistrate may not accept an appointment of or agree to be retained by a person who appeared before said Magistrate on any case concerning that person.
 5. The Local Administrative District Judge and the Local Administrative County Court at Law Judge shall determine the services and the work schedule that the Magistrates may perform.
 - (a) The Administrative Judges shall meet as often as necessary and at their discretion to oversee and monitor the Magistrates.
 - (b) Notwithstanding the oversight authority of the Administrative Judges over the Magistrates, a Magistrate has independence and discretion to make findings, rulings or recommendations as any Judge has in any case.
 - (c) Upon direction from the Council of Judges, the Administrative Judges shall set the docket and the schedule of the Magistrates. The Administrative Judges may approve a docket and work schedule proposed by the Magistrates.
 - (d) In the event the Administrative Judges can not agree on any matter affecting one or more Magistrates, either Administrative Judge may refer the matter to the Council of Judges for resolution. If the Council of Judges cannot resolve the matter, any Judge may refer the matter in writing to the Presiding Judge of the Fifth Administrative Judicial Region for resolution.
- d. A Magistrate may be removed from office by majority vote of the Council of Judges.
1. A Magistrate Judge serves at the will of the Judges of the Nueces County District Courts and County Courts at Law.

2. The employment of a Magistrate judge may only be terminated by a majority vote of all the judges of the courts that the magistrate judge serves.
3. The appointment of a Magistrate automatically terminates if:
 - (a) the Magistrate judge vacates the office;
 - (b) the Magistrate judge becomes a candidate for election to any public office; or
 - (c) the commissioners court does not appropriate funds in the county's budget to pay the salary of the Magistrate.
- e. A Magistrate shall perform the duties and have the powers as provided by §§54.1786 and 54.1787, Tex.Gov't.C. A Magistrate is a judicial officer, is subject to the Code of Judicial Conduct, enjoys the privileges and immunities of a judge of this State, and may be addressed as "Judge."
- f. Nueces County shall provide a Court Coordinator, at least one prosecutor, a clerk, a bailiff or deputy Sheriff to act as a bailiff, and, in felony cases, a certified court reporter to serve the Magistrate.
- g. Nueces County shall provide adequate facilities for each Magistrate.
- h. Nueces County shall provide furnishings, materials and supplies, including a judicial robe, necessary for each Magistrate.
- i. A Magistrate shall not practice law in the court in which he or she serves or in any court subject to the appellate jurisdiction of the court which he or she serves, or act as a lawyer in a proceeding in which he or she has served as a Magistrate or in any other proceeding related thereto.
- j. The form of the judgment of conviction, deferred adjudication or adjudication of guilt; or of an order revoking community supervision; or of an order of pre-trial diversion shall plainly state whether a Magistrate heard the proceeding.
 1. If a Magistrate heard the proceeding, the judgment or order shall include a statement by the Magistrate recommending that the judgment or order be approved and be signed by the Judge of the referring court and a statement by the Judge of said court approving or not approving the recommendation of the Magistrate.
 2. If the referring Judge does not approve the judgment or order on a case, said Judge may modify, correct, reject, reverse, or recommit for further information any action taken by the Magistrate, or the Judge may hear the case *ab initio*. In a plea bargained proceeding on a plea of guilty or *nolo contendere*, if the referring Judge does not approve any part of the agreement, on motion of the defendant, the

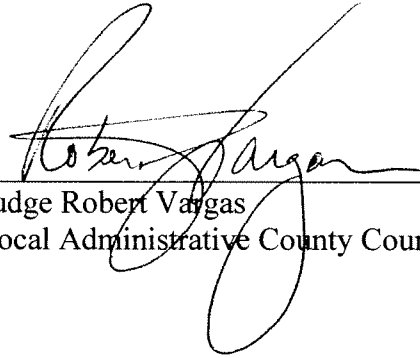
Judge shall permit the defendant to withdraw his or her plea of guilty or *nolo contendere*.

3. If the referring Judge is not available to act on the recommended judgment or order, the matter may be referred to the Local Administrative District Judge in a District Court case or the Local Administrative County Court at Law Judge in a County Court at Law case or to any other Judge authorized by the respective Local Administrative Judge.

The foregoing Rule is adopted unanimously by the Council of Judges at its meeting on January 14, 2008 and as modified on March 25, 2008.



Judge Nelva Gonzales Ramos
Local Administrative District Judge



Judge Robert Vargas
Local Administrative County Court Judge