

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 91-0041

APPROVAL OF AMENDMENTS TO LOCAL RULES OF WEBB COUNTY

ORDERED:

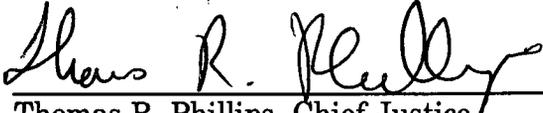
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following amendments to local rules, which have been previously approved by the presiding judge of the appropriate administrative judicial region and submitted to this Court:

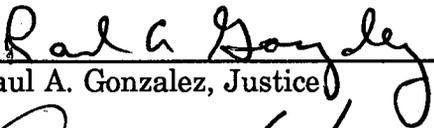
Amended Rules 3.24 and 3.31, Civil Rules, of the Local Rules of the District Courts of Webb County, dated December 5, 1990.

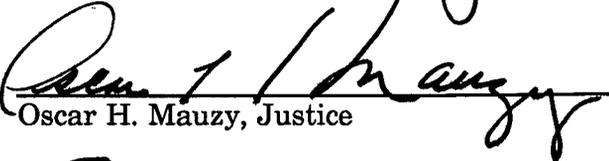
New Rule 6, Criminal Cases, of the Local Rules of the District Courts of Webb County, dated January 2, 1991.

The approval of these rules is temporary, pending further orders of the Court.

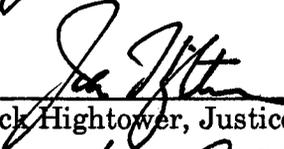
SIGNED AND ENTERED this 10th day of June, 1991.


Thomas R. Phillips, Chief Justice

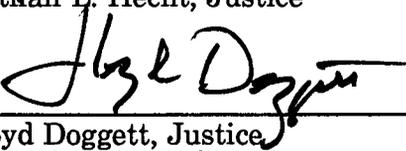

Raul A. Gonzalez, Justice

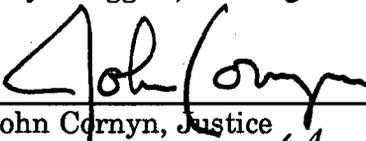

Oscar H. Mauzy, Justice

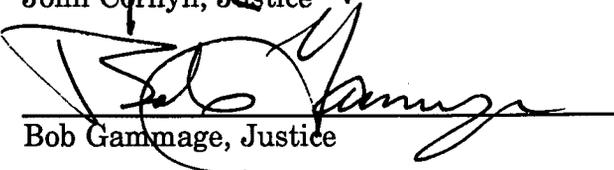

Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice

AMENDMENTS TO RULE 3

THE FOLLOWING RULES WERE AMENDED OR ADOPTED ON DECEMBER 5,
1990 AT THE ADMINISTRATIVE JUDGES MEETING.

RULE 3.24

OLD TEXT:

E. Waiver of Hearings: Hearings on any motion may be waived if all counsel of record agree and notice of same is given to the court. Argument in summary judgment matters may be waived by agreement of counsel and court by written notice to the court. (See Rule 3.31) Original Text

NEW TEXT:

E. Waiver of Hearings. Hearings on any motion may be waived if all counsel of record agree and notice of same is given to the court. Summary judgment motions and special exceptions will be considered by the court without oral argument unless counsel specifically requests a hearing.
(Second sentence was substituted on 12/5/90)

ADDED TEXT:

G. Motions in Limine: Motions in limine shall be filed before the scheduled pre-trial date. They will be taken up at the final pre-trial hearing. (Text added on 12/5/90)

RULE 3.31

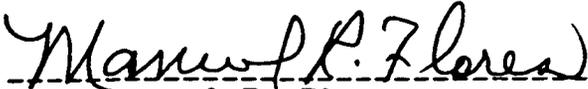
OLD TEXT:

B. Counsel of record may agree to submit the motion for summary judgment without oral argument by filing jointly, a written waiver five (5) days prior to the setting.

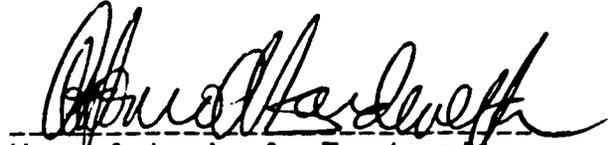
NEW TEXT:

B. Counsel of record will have deemed to waive oral argument on the motion for summary judgment if there is not a specific request for a hearing before the court. (Language substituted on 12/5/90)

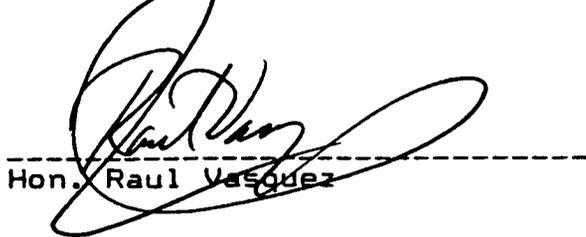
The changes above were approved for submission on the 5th day of December, 1990.



Hon. Manuel R. Flores



Hon. Antonio A. Zardenetta

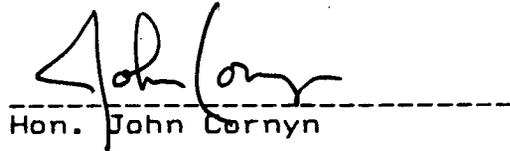


Hon. Raul Vasquez



Hon. Elma Teresa Salinas Ender

APPROVED BY, Hon. John Cornyn, Administrative Judge, Fourth Administrative Region, on the 4th day of March, 1991.



Hon. John Cornyn

APPROVED BY, the Supreme Court, State of Texas, on this _____ day of _____, 1991.

Hon. Thomas R. Phillips

RULE 6

CRIMINAL CASES

RULE 6.10.1 Felony and Misdemeanor Cases:

No local rule under this subsection.

RULE 6.10.2 Grand Jury:

No local rule under this subsection.

RULE 6.11 Filings/Return of Indictments:

A. When several indictments are returned simultaneously against an individual, the court in which the first indictment is filed shall receive, by filing or transfer, all such indictments against the said individual.

B. When an indictment is returned against an individual who has an indictment pending in one court, that court shall receive, by filing or transfer, the subsequent indictment.

C. When an indictment is returned against an individual who is on felony probation, the Court which granted probation shall receive, by filing or transfer, such indictment.

D. The criminal court in which a case is pending shall receive, by filing or transfer, any related motion such as writ of habeas corpus, bond reductions, etc.

E. The district clerk's or county clerks offices shall receive directly from the magistrates, copies of the original bonds and shall maintain them until an indictment or complaint is returned. The district attorney's office shall file a copy of the bond in the file when the indictment is returned.

RULE 6.12 Arraignment/Initial Appearance:

A) Time, Date and Place: After indictment, an arraignment shall be held during the next week after the indictment was returned. The arraignments shall be held on the Thursday of the next week at 9:00 a.m. for cases indicted in the 341st District Court and on the Friday of the next week at 9:00 a.m. for cases indicted in the 49th District Court unless it conflicts with judicial conferences, commitments or county holidays.

B) Presence Required: Presence of all defendants and attorneys is required. If a defendant does not have an attorney, the bondsman shall notify the defendant that his/her presence is required in the courtroom. Failure of the defendant to appear will result in bond forfeiture. If a defendant is bonded out before arraignment, the bondsman shall be responsible for the defendant's appearance.

C) Written Waiver: In its discretion, the court may accept a written waiver of arraignment signed by the defendant and his attorney, accompanied by an order for the judge's signature. Defense counsel must mail, hand deliver or fax a copy to the district attorney's office. The court coordinator may provide an acceptable format/form to counsel upon request. The attorney filing the waiver shall notify his client of all the required court appearances.

D) Announcement/Settings: At the time of the formal arraignment, each defendant must appear and announce his plea to the indictment. Defense counsel shall carry their calendars to court to advise of a possible conflict. Following his announcement, and depending on his plea, each defendant case will be set as follows:

- a. Guilty Plea: Immediately following arraignments or at a specific subsequent date set by the court. (See Rule 3.14)
- b. Not Guilty Plea: Deadlines, hearings and trial on the merits at specified dates and times as set by the court either in writing or in open court.

RULE 6.13 Appointment of Counsel:

A. Sworn Application. Defendants claiming inability to employ counsel must file a sworn application.

B. Appointment.

1. The court may in its discretion appoint attorneys from the private bar when the public defender's office has a conflict of interest or for any other good reason.

2. Attorneys who file a motion to withdraw based on the client's failure to pay attorney's fees may be subject to appointment by the court.

C. Appointment Continues: If an attorney was appointed by a magistrate to represent a defendant, that attorney shall represent the defendant throughout the proceedings. The attorney should continuously monitor the status of the defendant's case. Counsel is directed to follow the directives in local rule 6.14.

D. Compensation: Counsel will be compensated according to the rate schedule pursuant to Tx. Code Crim. Pro. 26.25, adopted by the judges at their administrative meetings on an annual basis. District clerk's office shall mail a pre-numbered voucher form to the attorneys from the private bar when they are appointed. Attorneys shall submit a voucher for payment at the conclusion of the case for the work done before that particular court.

RULE 6.14 Appearance of Defendant and counsel/court attendance:

1. Immediately upon employment or upon court appointment the defense attorney shall give written notice to the district attorney and the district clerk stating the name of the accused, the date of and the offense(s) charged and cause number, if known. The clerk will note the attorney's name on the docket sheet and indicate whether he is retained or court appointed.

2. Any attorney who executes a bail bond or an appeal bond as a surety will be deemed to be the attorney for the person for whom the bond was made. People released from jail under such a bail bond will not ordinarily be assigned court appointed attorneys. If a court appointed attorney has previously been assigned to the person for whom a bail bond is posted, the court appointed attorney will ordinarily be allowed to withdraw from the case.

RULE 6.15 Withdrawal or Substitution of Counsel:

See Local Rule 10.12.

RULE 6.16 Bond and Bond Forfeitures:

Matters concerning bond forfeitures shall be governed by Chapter 22 of Texas Code of Criminal Procedure.

The assistant district attorney, the district clerk and the Sheriff's office shall cause service to be had on all the principles on a bond forfeiture.

RULE 6.17 Discovery:

A. Discovery shall be conducted in accordance with Article 39.14 of the Texas Code of Criminal Procedure.

B. Any motion for discovery shall state with particularity the items sought to be produced and shall be accompanied by an order that provides a space that are agreed to and for the granting or denying of each separate item that is contested (See 6.17 C).

C. Any motion for discovery shall be deemed premature unless counsel have made a good faith effort to obtain discovery from the District Attorney's office. Any motion before the court shall not be considered unless it is accompanied by a certification (1) that the district attorney and defense counsel have conferred/not conferred on each item in the motion/s; (2) the attempts made to confer in person or by telephone, including the dates and times those conferences or attempts took place; (3) whether there was/was not open file discovery; (4) that the district attorney and defense counsel have been unable to reach an agreement on the motion and require a hearing on the motion. See Rule 3.24A.

RULE 6.18 DOCKET CALLS/ANNOUNCEMENTS:

Docket Calls, Arraignments, Announcements and Pretrials. The times for docket calls, arraignments, and pretrial hearing on all cases shall be governed by the Judge of the court in which the case is docketed.

The final order of trial shall be determined in accordance with local Rule 6.22 and shall be announced by the court/court coordinator no later than the Thursday before jury selection at 3:00 p.m. In the event a case is not going to proceed to trial, the attorney(s) causing the cause not to go to trial, for whatever reason, shall notify the court coordinator no later than 3:00 p.m. on Thursday before the case is set for jury trial to obtain a setting for his/her motion for continuance. Should said attorney not obtain a continuance at that time and the case does not proceed to trial when called by the court, the court may assess the actual costs of the entire jury panel against the party(ies) represented by said attorney and/or any other party(ies) in such proportions as may be warranted, absent good cause. The court shall not assess any such costs if the panel is sworn for the trial of another case.

RULE 6.19 CONTINUANCE/RESETTING/POSTPONEMENTS:

- A. No trial setting shall be passed except by:
- a) Dismissal or plea bargain, in writing and/or on the record. When a case is dismissed or a plea bargain is reached the attorneys shall immediately notify the court coordinator to remove it from jury docket, even if the agreement is reached over a weekend; or
 - b) Written agreement/motion for continuance of all parties, with consent of the court, for good cause. See Chapter 29 of T.R.C.R.P.; and
 - c) Filing of a written waiver of speedy trial by defendant and defense counsel.
- B. An agreement to pass or continue a jury trial reached after 3:00 p.m. on the Thursday before trial may not be honored by the court and will be subject to sanctions as set out in Rule 6.18.
- C. Motions for continuance will be heard at pre-trial or at 3:00 p.m. on the Thursday afternoon before jury selection or at such other time as set by the court. Only matters arising subsequent to such date shall be considered as good grounds for filing a motion for continuance after that date.
- D. Attorneys shall report to court with their clients at 8:30 a.m. on the date set for jury selection and submit to the court, in proper written form, any final matters to be brought before the Court.

RULE 6.20 PLEA BARGAINS:

The district attorney and defense counsel shall advise the judge, at the end of pre-trial (plea conference) of the results of any plea bargain negotiations in a pending criminal case. This shall be reduced to writing in a form approved by the court and filed with clerk of the court.

RULE 6.21 GUILTY PLEA/NOLO CONTENDERE/OPEN PLEAS:

Forms, procedures and preparation of guilty plea forms may be obtained from the court coordinator of each court.

RULE 6.22 SPEEDY TRIAL:

A. Justice demands the speedy disposition of all criminal cases.

1. **Felony:** All felony cases should be set for trial within twelve (12) months of arrest or service and return of indictment, whichever is earlier.
2. **Misdemeanors:** Misdemeanor cases shall be set for trial within six (6) months of arrest or filing of complaint, whichever is earlier. See the local practices adopted by the Webb County Court at Law.
3. **Order of Trial:** The trial preference for docketed cases shall be as follows:
 - a. The Defendant is incarcerated in the Webb County Jail;
 - b. A child is the victim;
 - c. A crime of violence is alleged;
 - d. All other cases will be tried in order of their age, the oldest being tried first.
4. **Revocations:** Probation revocation cases shall be tried or pled within ninety (90) days from filing after service.

B. It is the policy of the District Courts of Webb County to dispose of cases as quickly as possible consistent with justice.

1. The courts of record in Webb County will work with the justice of the peace courts to encourage a monthly call of the docket for all defendants in jail awaiting trial who have not been charged by indictment or by information.
2. The courts of record in Webb County will work with the Personal Bond Program Coordinator and the Webb County Public Defender's Office to encourage them to interview defendants in jail within 2 days of arrest.

RULE 6.23 MOTIONS/PRE-TRIAL HEARINGS/PRE-TRIAL MATTERS:

A. Settings: The court may set deadlines for filing motions, plea conferences, pre-trial conferences, jury docket calls and jury trial settings at arraignment. Additional pre-trial hearings may be set by the Court as needed.

B. Certificates:

1. Service of Copy on Opposing Counsel: Whenever any attorney files any pleading or motion, he shall at the same time either deliver, mail or fax a copy to opposing counsel. The motions must be accompanied with a certificate stating that a copy/ies have been sent to opposing counsel. The certificate must state the name, address, of opposing counsel and how it was delivered. Counsel shall send copies of all communications sent to the court to opposing counsel.
2. Rule 3.24A Certificate: Motions must be accompanied with a certificate as set out in local rule 3.24A.
3. A motion will be considered unless counsel complies with rule 6.23B 1 and 2, and when applicable, Rule 6.17C.

C. Communications: Defense counsel and assistant district attorney/s may arrange for informal conferences by telephone or in person with the court by contacting the court coordinator to obtain an appointment or a setting.

RULE 6.24 SETTINGS/SCHEDULES:

Criminal cases will be set by request or on motion of the court. They can be removed from the docket only with the consent of the court. Hearings on any motion by a defendant may be waived if all counsel of record agree and notice of same is given to the defendant and the court.

RULE 6.25 ORDER OF TRIAL/PREFERENTIAL SETTINGS/ CONFLICTING ENGAGEMENTS:

A. Notice of the order of trial shall be available from the court coordinator the week before the trial. See Rule 6.18.

B. See Rule 3.20 for preferential settings.

C. See Rule 3.19 for conflicting settings.

RULE 6.26 WITNESSES/EVIDENCE:

A. Witnesses: Examination of witnesses should normally be made from counsel table. If the witness is to be examined about certain physical evidence, counsel may approach the witness after asking and receiving permission from the court. Alternatively, the witness may be examined from the lectern if counsel so desires.

B. Evidence: If evidence tables are provided in the courtroom then all exhibits admitted into evidence should be deposited on the table and remain there except when needed for purposes of examination of a witness.

RULE 6.27 NON-JURY TRIALS:

A defendant may withdraw a request for a jury trial by signing a waiver of jury form. The case may be set on motion of attorneys or on the court's motion.

RULE 6.28 JURY TRIALS:

Jury panels, including special venires, for the trial of criminal cases shall be selected and summoned (with return on summons) in the same manner as the selection of panels for the trials of civil cases except as otherwise provided in the Code of Criminal Procedure.

RULE 6.29 JURY SELECTION/VOIR DIRE:

No local rule under this subsection.

**RULE 6.30 PROBATION APPLICATIONS/DEFERRED
ADJUDICATION:**

No local rule under this subsection.

**RULE 6.31 PRE-SENTENCE REPORT/COURTS PROPOSED
SENTENCE:**

No local rule under this subsection.

RULE 6.32 JUDGMENTS/ORDERS:

The district court's staff shall prepare the judgment of conviction or revocation of probation at the time the judgment/order is rendered, and present same, without delay, to the trial judge for approval and signature.

Where probation is awarded to a defendant, the adult probation officer shall prepare the order of probation containing the conditions of probation, and shall cause the clerk of the court to deliver a certified copy of said order to the defendant.

The State may cause the dismissal of a case by filing a motion to dismiss containing the order of dismissal on the same document. If the defendant is in jail, documents required to effect the immediate release shall be prepared and delivered to effect the immediate release of the defendant from custody, if the defendant has no other charges pending against him.

If a defendant is acquitted the district attorney shall prepare the appropriate judgment. If the defendant is in jail, the defendant shall be released from custody immediately after his administrative discharge from the jail, if no other charges or holds are pending against him.

Upon disposition of the cause, the clerk of the court shall deliver a copy of the final judgment or order to all counsel of record.

RULE 6.33 OCCUPATIONAL DRIVER'S LICENSE:

No local rule under this subsection.

**RULE 6.34 PROBATION REVOCATIONS/MOTIONS TO ADJUDICATE/
HABEAS CORPUS:**

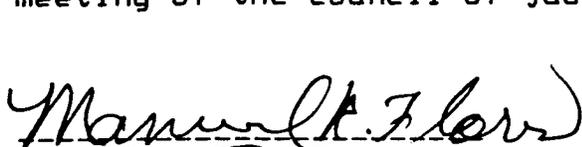
1. Motions to revoke probation shall be heard by the judge who granted probation and motions for shock probation shall be heard by the judge who heard the trial, unless such judge will be unavailable for such hearing or such matter is transferred to another court for hearing.
2. Except for defendants with pending indictments, all motions to revoke probation shall be heard by the same court in which probation was granted. The court handling a case pursuant to a new indictment shall also handle any pending motions to revoke probation filed against the defendant.
3. Probationers against who motions to revoke probation have been filed shall be admitted to bail only when technical,

administrative and non-drug violations are alleged; in all other cases, bail may be denied at the discretion of the court.

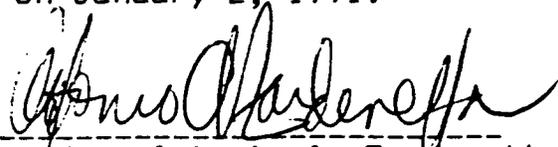
Rule 6.34

No local rule under this subsection.

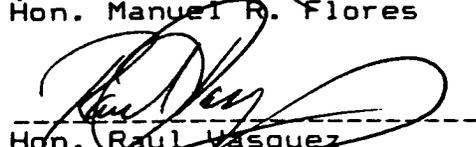
Rule 6 was adopted in its entirety at the administrative meeting of the council of judges on January 2, 1991.



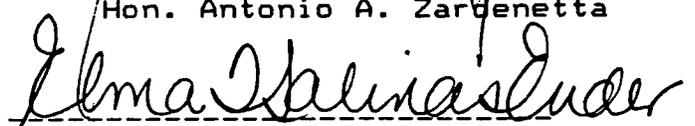
Hon. Manuel R. Flores



Hon. Antonio A. Zardenetta



Hon. Raul Vasquez



Hon. Elma Teresa Salinas Ender

APPROVED BY, Hon. John Cornyn, on this the 4th day of March, 1991.


Hon. John Cornyn
Administrative Judge
Fourth Administrative Region

APPROVED BY, the Honorable Members of the Supreme Court of the State of Texas, on this the _____ day of _____, 1991.

Hon. Thomas R. Phillips



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

P.O. BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
OSCAR H. MAUZY
EUGENE A. COOK
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
ROBERT A. "BOB" GAMMAGE

EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
MARY ANN DEFIBAUGH

June 11, 1991

Manuel Gutierrez
District Clerk
Webb County
P. O. Box 667
Laredo, Texas 78042

Please find enclosed, a copy of the order of this Court of June 10, 1991 that approved local rules for your county.

Sincerely,

John T. Adams
Clerk

Encl.

cc: Hon. John Cornyn
Fourth Admin Judicial Rgn

Mr. Raymond Judice
Office of Court Admin