

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 95- 9100

TRANSFER OF CASE FROM SEVENTH COURT OF APPEALS

ORDERED:

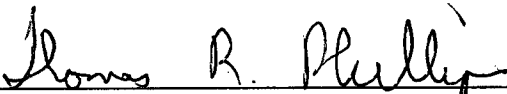
The following case now on the docket of the Court of Appeals for the Seventh Court of Appeals District, Amarillo, Texas, is transferred to the Court of Appeals for the Fifth Court of Appeals District, Dallas, Texas:

NUMBER	STYLE OF CASE
70-92-0160-CR	Michael Nichols, Jr. v. The State of Texas

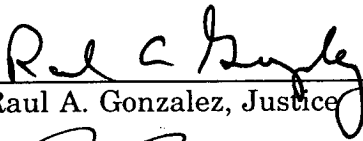
The Seventh Court of Appeals will make the necessary orders for the transfer of said case as directed hereby, and will cause the Clerk of that Court to transfer the original transcript and all filed papers in the case, and certify all Orders made, to the Court of Appeals to which the case is transferred.

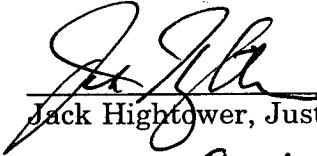
Any motion for extension of time to file Appellant's Briefs shall be filed with the Fifth Court of Appeals, Dallas, within ten (10) days after the parties have been notified that the original transcript and all filed papers in the case have been received from the Seventh Court of Appeals and filed by the Fifth Court of Appeals.

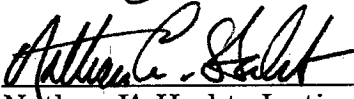
SIGNED AND ENTERED this 8th day of May, 1995.

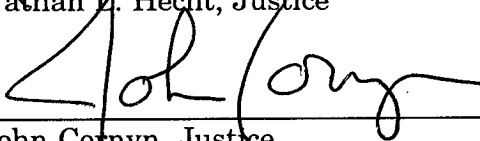


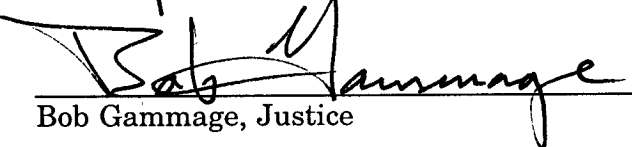
Thomas R. Phillips, Chief Justice

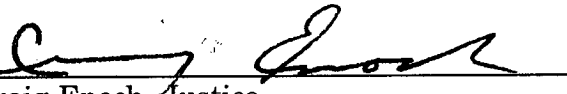

Raul A. Gonzalez, Justice

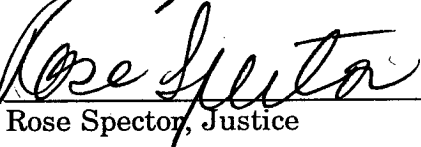

Jack Hightower, Justice

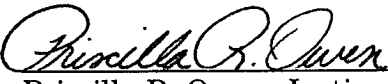

Nathan W. Hecht, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice

NO. 07-92-0160-CR

FILED
APR 24 1995

MICHAEL NICHOLS, JR.

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IN THE
COURT OF APPEALS
FOR THE
SEVENTH DISTRICT OF TEXAS
AT AMARILLO

VS.

THE STATE OF TEXAS

MOTION FOR TRANSFER AND FOR EXTENSION OF TIME TO FILE BRIEF

TO THE HONORABLE JUSTICES OF THE COURT:

Appellant, Michael Nichols, Jr. moves for consolidation of companion cases Cause No. 05-91-01446-CR and Cause No. 05-91-01447-CR, currently pending in the Court of Appeals for the Fifth District Court of Appeals at Dallas, by requesting the transfer of Cause No. 07-92-0160-CR, currently pending in the Court of Appeals for the Seventh District of Texas at Amarillo, and for an extension of time to file Appellant's Briefs in these causes.

I.

The Texas Supreme Court previously transferred the companion case now bearing Cause No. 07-92-0160-CR from the Dallas Court of Appeals to the Amarillo Court of Appeals. These causes have proceeded on separate briefing schedules. In preparing the Amarillo case briefing, counsel noted that at the end of the Statement of Facts, the record indicates that the evidence introduced in the two cases currently pending in the Dallas Court of Appeals was judicially noticed in the Amarillo case. Counsel has determined that an issue concerning the corroboration of an accomplice witness in the Amarillo case necessitates a review of all the evidence in all three cases.

II.

Counsel anticipates attending oral argument. Accordingly, counsel requests that Cause No. 07-92-0160-CR be transferred back to the Dallas Court of Appeals from the Amarillo Court of Appeals and be consolidated with the appeals of the causes currently pending in that Court, Cause Nos. 05-91-01446-CR and 05-91-01447-CR, and respectfully requests an extension of time for filing Appellant's Briefs, in the interest of justice and judicial economy.

Therefore, Appellant respectfully prays the Court to extend the deadline for filing of Appellant's Briefs in these cases to a date ten (10) days after the transfer of Cause No. 07-92-0160-CR back to the Dallas Court of Appeals.

Dated April 19, 1995.

Respectfully submitted,

KOLLMAN & KUBICKI, L.L.P.



RUTH A. KOLLMAN
State Bar I.D. No. 11668050
6517 Hillcrest, Suite 310
Dallas, Texas 75205
214-987-4715
214-987-4779 (FAX)

COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Transfer and Extension of Time to File Brief was mailed by U. S. Postal Service to Assistant District Attorney, Appellate Division, Frank Crowley Courts Building, 133 North Industrial Boulevard, LB19, Dallas, Texas, 75207-4314 on this the 19 day of April, 1995.



RUTH A. KOLLMAN



Court of Appeals

CHARLES L. REYNOLDS
Chief Justice

CARLTON B. DODSON
Justice

JOHN T. BOYD
Justice

BRIAN QUINN
Justice

Seventh District of Texas
Potter County Courts Building
501 S. Fillmore, Suite 2-A
Amarillo, Texas 79101-2449

PEGGY CULP
Clerk

MAILING ADDRESS:
P.O. Box 9540
79105-9540

(806) 342-2650

FAX: (806) 342-2675

April 25, 1995

Honorable Thomas R. Phillips
Chief Justice
The Supreme Court of Texas
P. O. Box 12248
Austin, TX 78711

Re: Transfer of Appeal Back to Fifth Court of Appeals

Dear Chief Justice Phillips:

In June of 1992, pursuant to an order of the Supreme Court, the Fifth Court of Appeals transferred to this Court the appeal in their cause no. 05-92-00726-CR, styled Michael Nichols, Jr. v. The State of Texas, which was docketed as our cause no. 07-92-0160-CR. As a result of our efforts to enforce the prosecution of the appeal by appellant's attorney on appeal, Ruth Kollman, it was revealed that attorney Kollman had filed a motion in the Supreme Court, requesting that the appeal be transferred back to the Fifth Court of Appeals because two companion appeals by appellant are pending in that court and a review of the evidence in all appeals is necessary to a decision in our cause.

The Clerk of the Supreme Court returned the motion to attorney Kollman on January 10, 1995, advising that her motion must first be filed in the courts of appeals in order that they may comment, should they choose to do so, before forwarding the motion to the Supreme Court. After some prodding on our part, attorney Kollman filed her motion in this Court yesterday.

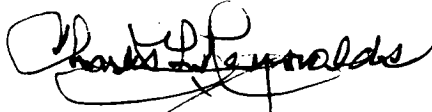
A copy of the motion and attorney Kollman's transmittal letter are enclosed for your information and appropriate action. We suggest that our cause no. 07-92-0160-CR be ordered transferred back to the Fifth Court of Appeals in order to consolidate all of

Honorable Thomas R. Phillips -2-

April 25, 1995

appellant's appeals and afford him the opportunity for resolution without further delay.

Respectfully submitted,



Charles L. Reynolds
Chief Justice

CLR\jg

xc: Honorable Linda Thomas
Chief Justice, Fifth Court of Appeals
2nd Floor, George L. Allen Sr. Courts Bldg.
600 Commerce St.
Dallas, TX 75202-4658

Ruth Kollman
KOLLMAN & KUBICKI, L.L.P.
6517 Hillcrest, Suite 310
Dallas, TX 75205

John C. Vance
Criminal District Attorney
Frank Crowley Courts Building
133 N. Industrial Blvd LB 19
Dallas, Texas 75207-4313

KOLLMAN & KUBICKI, L.L.P.

Attorneys and Counsellors

**6517 Hillcrest
Suite 310
Dallas, Texas 75205**

**(214) 987-4715
FAX (214) 987-4779**

April 19, 1995

VIA CERTIFIED MAIL # P 873 215 723

Ms. JoAnn Glover, Deputy Clerk
Court of Appeals
Seventh District of Texas
Potter County Courts Building
501 S. Fillmore, Suite 2-A
Amarillo, Texas 79101-2449

RE: Michael Nichols, Jr. vs. The State of Texas
Appellate No. 07-92-0160-CR

Dear Ms. Glover:

Attached please find the original and five copies of our Motion for Transfer and for Extension of Time to File Brief in the above-referenced cause, pursuant to your letter to me dated April 12, 1995. We originally filed the Motion with the Supreme Court, since it has jurisdiction over inter-court transfers. We apologize for any administration difficulties our attempt at consolidation have created. We are still unsure whether either of the courts of appeals involved have jurisdiction to effect the transfer. Nevertheless, please file our Motion, and return a file-marked copy in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and assistance in this regard. We have been talking to Bill Willis at the Supreme Court about this matter. He may have a better idea about how to proceed from here. Please feel free to contact me should you have any questions or comments.

Very truly yours,



Ruth A. Kollman

Encl.

cc: Mr. Al Jay
Dallas Court of Appeals



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

May 8, 1995

Ms. Peggy Culp, Clerk
Seventh Court of Appeals
Post Office Box 9540
Amarillo, Texas 79105-9540

Dear Ms. Culp,

Enclosed is a copy of an order of The Supreme Court of Texas of this date concerning a case to be transferred from your court to the Fifth Court of Appeals.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Ms. Melanie Keeton, Clerk
Fifth Court of Appeals

Office of Court Administration