

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 96-9154

*See 96-9224*

---

## POLICIES FOR TRANSFER OF CASES BETWEEN COURTS OF APPEALS

---

### **ORDERED:**

The transfer of cases between courts of appeals for the equalization of dockets pursuant to Chapter 73, Government Code, will in general be in accordance with these guidelines.

#### **General Guidelines**

- 1.01 The decision to transfer cases for equalization purposes will be made by the Supreme Court based on the relative number of cases filed in each of the courts of appeals during the preceding twelve months, compared to the statewide average per justice of cases filed. Other factors which may be considered include the availability of appropriated funds for reimbursing the travel and living expenses of the court to which cases are transferred to hear oral arguments at the location of the transferring court and the past or expected absence of justices from a court due to illness, disqualification, absence, or other good cause.
- 1.02 Cases transferred shall not include original proceedings, appeals from interlocutory orders, appeals from denial of writs of habeas corpus, extradition, bond cases, and those cases which in the opinion of the Chief Justice of the transferring court contain extraordinary circumstances or circumstances indicating that emergency action may be required.
- 1.03 Companion cases shall all be transferred, provided that cases which are companions to any case filed before the effective date of the Supreme Court's order of transfer shall be retained by the court in which originally filed.
- 1.04 The transferring court, through its clerk, shall transfer the original transcript and all filed papers in each case, and certify all orders made, to the court of appeals to which the cases are transferred. When a block of cases is transferred, the transferring court

will implement the transfer of the case files in groups not less than once a month, or after all the requisite number of cases have been filed, if that number of new filings is reached before 30 days after the transfer is effective.

- 1.05 Attorneys and parties in the cases transferred shall be notified immediately of the transfer and the court to which transferred.
- 1.06 Until the transfer of the first group of cases has been completed and the notices required by paragraph 1.05 have been issued, the existence and content of a proposed or final transfer order of the Supreme Court shall be a confidential record of the judiciary, and no justice or employee of the court from which cases are transferred, the court to which cases are transferred, the Supreme Court, the Office of Court Administration, or other employee of the judicial branch of government shall release to divulge any information concerning the transfer.
- 1.07 Upon completion of the transfer of a group of the cases ordered transferred, the transferring court shall submit a list of the cases transferred, identified by style and number, to the Supreme Court and the Office of Court Administration.

#### **Transfer of Cases Filed in the Future**

- 2.01 The Supreme Court may order transferred a block of cases consisting of a specified number of the cases next filed in the transferring court on and after a certain date in the future. The order of the Supreme Court may specify that the cases be all the next civil or all the next criminal cases filed, or all the next cases filed, regardless of whether civil or criminal.
- 2.02 The transferring court shall make the necessary orders for the transfer.

#### **Transfer of Blocks of Pending Cases**

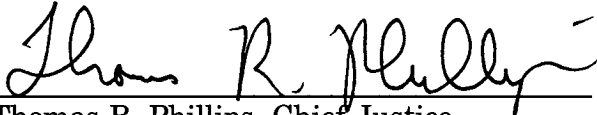
- 3.01 Upon the agreement of the Chief Justices of two courts of appeals, the Supreme Court may order the transfer of a specified number of cases pending in the transferring court. The Chief Justices shall communicate their agreement to the Supreme Court along with an agreed criteria for the selection of the cases to be transferred, such as the oldest pending cases ready for oral argument but unset. The Chief Justice of the court to which cases are proposed to be transferred shall provide the Supreme Court with an estimated month during which oral argument will be heard on the cases at the location of the transferring court pursuant to Sec. 73.003(a), Gov. Code, and the estimated number of days for which travelling and living expenses will be incurred by the court to which the transfer is to be made.

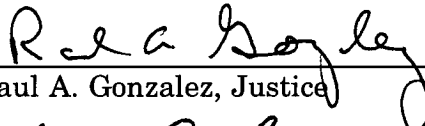
- 3.02 Upon approval by the Supreme Court, the Chief Justice of the proposed transferring court shall communicate to the Office of Court Administration a sequential list beginning with the oldest case meeting the agreed criteria proposed to be transferred, listed by docket number and style. In addition to those cases specified by paragraphs 1.02 and 1.03, cases may not be placed on this list if any of the following criteria apply:
- 3.021 the case has been set for oral argument within the next thirty days and all parties have been notified of the date of the setting;
  - 3.022 the clerk has been notified by both parties that a settlement has been reached in the case and that an agreed order is being prepared for submission to the court;
  - 3.023 Other similar circumstances exist which counsel against transfer of a particular case which would normally be included in the transfer order.
- 3.03 The transferring court shall make the necessary orders for the transfer of the specified list of cases.


#### **Re-Transfer of Individual Pending Cases**

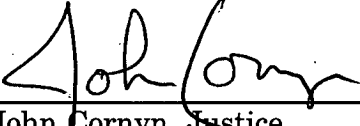
- 4.01 Any party to a case transferred to a court of appeals other than the one in which the case was filed may file a motion with the court of appeals in which the case is pending stating good cause for why the case should be returned to the court in which originally filed. Such a motion shall be forwarded to the Supreme Court with a letter from the Chief Justice of the court in which the case is pending stating the Chief Justice's concurrence or non-concurrence with the request to transfer the case.
- 4.02 The party shall send a copy of the motion and Chief Justice's letter to the Chief Justice of the court from which the case was transferred.
- 4.03 After receipt of a letter from the Chief Justice of the court from which the case was originally transferred commenting on the requested transfer, the Supreme Court will consider the motion.

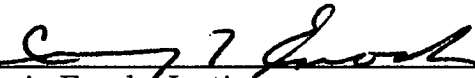
SIGNED this 17<sup>th</sup> day of June, 1996.

  
Thomas R. Phillips, Chief Justice


  
Raul A. Gonzalez, Justice

  
Nathan L. Hecht, Justice

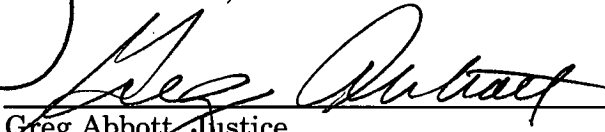
  
John Cornyn, Justice

  
Craig Enoch, Justice

  
Rose Spector, Justice

  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

  
Greg Abbott, Justice

office\orders\013196.jh