

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 17-9061

ORDER ADOPTING TEXAS RULE OF APPELLATE PROCEDURE 4.6

ORDERED that:

1. The Supreme Court of Texas joins the Court of Criminal Appeals' Misc. Docket No. 17-007, which adopts Rule 4.6 of the Rules of Appellate Procedure effective September 1, 2017.
2. Public comments should be submitted to the Court of Criminal Appeals as directed in that Court's order. The final version of the rule may change in response to public comments received.
3. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

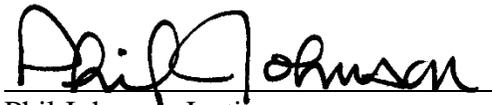
Dated: June 13, 2017.



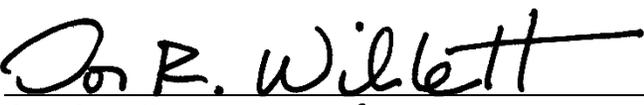
Nathan L. Hecht, Chief Justice



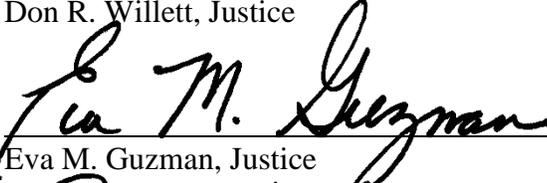
Paul W. Green, Justice



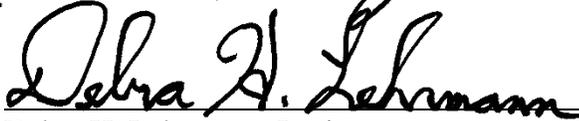
Phil Johnson, Justice



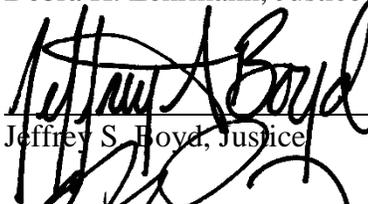
Don R. Willett, Justice



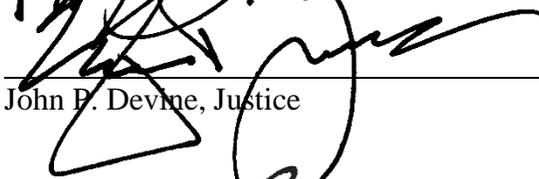
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

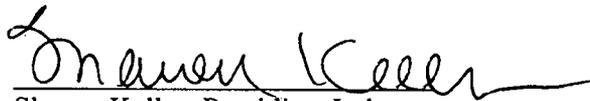
Misc. Docket No. 17-007

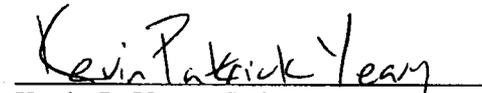
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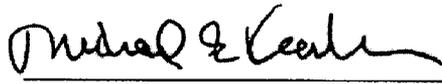
ORDERED that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals promulgates Rule of Appellate Procedure 4.6, effective September 1, 2017.
2. This rule may be changed in response to public comments received before July 21, 2017. Any interested party may submit written comments to the Court of Criminal Appeals at txccarulescomments@txcourts.gov.
3. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

Dated: June 5, 2017.


Sharon Keller, Presiding Judge


Kevin P. Yeary, Judge


Michael Keasler, Judge

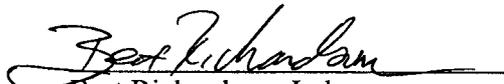

David Newell, Judge


Barbara Hervey, Judge


Mary Lou Keel, Judge


Elsa Alcalá, Judge


Scott Walker, Judge


Bert Richardson, Judge

4.6. No Notice of Trial Court's Order on Motion for Forensic DNA Testing

(a) *Additional Time to File Notice of Appeal.* Notwithstanding Rules 26.2 and 26.3, a defendant may move for additional time to file a notice of appeal under Code of Criminal Procedure chapter 64 (Motion for Forensic DNA Testing) if the defendant neither received notice nor acquired actual knowledge that the trial judge signed an appealable order before the time for filing a notice of appeal had expired.

(b) *Contents of Motion for Additional Time.* The motion must be in writing and sworn, state the earliest date when the defendant first received notice or acquired actual knowledge that the appealable order had been signed, and comply with Rule 10.5(b)(2).

(c) *When and Where to File.*

(1) The motion must be filed within 30 days of the date upon which the defendant first received notice or acquired actual knowledge of the trial court's signing of the appealable order. But in no event may the motion be filed more than 120 days after the date the appealable order was signed.

(2) The motion must be filed in the proper court of appeals.

(d) *Order of the Court.* The court of appeals must grant a motion for additional time if it finds that the defendant neither received notice nor acquired actual knowledge of the trial judge's signing of an appealable order before the time for filing a notice of appeal had expired and that the defendant timely filed the motion for additional time. The time for filing the document will begin to run on the date when the court grants the motion.