

**IN THE SUPREME COURT OF TEXAS**

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Misc. Docket No. 14 - **9076**

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**APPROVAL OF AMENDMENTS TO THE ATTORNEY  
STANDARDS FOR CERTIFICATION OF THE  
TEXAS BOARD OF LEGAL SPECIALIZATION**

**(PART II - SPECIFIC AREA REQUIREMENTS)**

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ORDERED that:

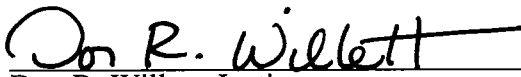
The following amendments to the Attorney Standards for Certification of the Texas Board of Legal Specialization concerning Part II - Specific Area Requirements are approved:

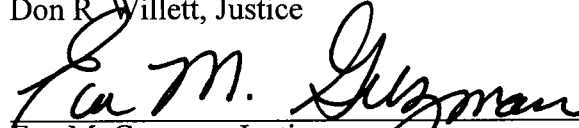
SIGNED this 18<sup>th</sup> day of March, 2014.

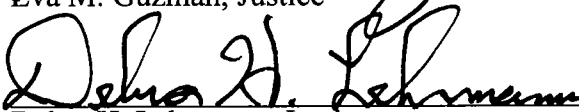
  
Nathan L. Hecht, Chief Justice

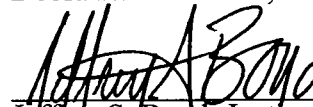
  
Paul W. Green, Justice

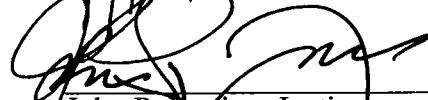
  
Phil Johnson, Justice


  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

  
Jeffrey S. Boyd, Justice

  
John P. Devine, Justice

  
Jeffrey V. Brown, Justice

**TEXAS BOARD OF LEGAL SPECIALIZATION**  
**STANDARDS FOR ATTORNEY CERTIFICATION**

**PART II**  
**SPECIFIC AREA REQUIREMENTS**

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

**SECTION XVIII**  
**CRIMINAL APPELLATE LAW**

*(Area ID: CA / Year Started: 2010)*

**A. DEFINITIONS.**

1. Criminal appellate law is the practice of law in a criminal appellate case, which includes the following proceedings:
  - a. Appeal or defense of a judgment or order in a criminal law matter, or juvenile adjudication, to an appellate court;
  - b. Preparation of, or responding to, a petition for discretionary review or related brief to the Texas Court of Criminal Appeals,
  - c. Prosecution or defense of an application for an extraordinary matter, such as Petition for Writ of Mandamus or Application for Original Habeas Corpus, to the Texas Court of Criminal Appeals, a Texas Court of Appeals, United States District Court, or United States Circuit Court of Appeals, in a criminal matter,
  - d. Prosecution or defense of an application for post-conviction writ of habeas corpus from a misdemeanor conviction to a statutory county court exercising habeas corpus jurisdiction, or from a final felony conviction in Texas state court, either capital or non-capital,
  - e. Prosecution or defense of an application for habeas corpus from a final felony conviction, either capital or non-capital, in United States District Court under 28 USC §2254, or 28 USC §2255;
  - f. Prosecution or defense of an appeal to a United States Circuit Court of Appeals from the judgment of a United States District Court in an action under 28 USC §2254 or 28 USC §2255; or
  - g. Prosecution or defense of any criminal law matter at the United States Supreme Court
2. Applicable appellate courts include the
  - a. United States Supreme Court;
  - b. United States Circuit Courts of Appeals,
  - c. Texas Supreme Court exercising jurisdiction over adjudications in a juvenile case;
  - d. Texas Court of Criminal Appeals;
  - e. Texas Courts of Appeals;
  - f. Texas District Courts exercising post-conviction habeas corpus jurisdiction under Article V §8, Texas Constitution, or Articles 11.07, 11.071 or 11.072, Code of Criminal Procedure,
  - g. United States District Courts exercising post-conviction habeas corpus jurisdiction under 28 USC §2254 or 28 USC §2255; and
  - h. Statutory Texas county courts sitting as Courts of Appeals in cases under Title II, Chapter 30, Government Code or exercising post-conviction habeas corpus jurisdiction under Article V §16, Texas Constitution, or Article 11.072, Code of Criminal procedure

**B. SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in criminal appellate law practice by providing such information as may be required by TBLS

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing criminal appellate law during each year of the 3 years immediately preceding application as defined in Section XVIII, A of the Specific Area Requirements for Criminal Appellate Law.

b. **Task Requirements** Applicant must provide information concerning specific tasks he or she has performed in criminal appellate law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant shall provide information regarding his or her participation in each of the following types of criminal appellate cases during his or her entire practice:

(a) Appeal or defense of a judgment or order in a criminal law matter, or juvenile adjudication, to a criminal appellate court,

(b) Preparation of, or responding to, a petition for discretionary review or related brief to the Texas Court of Criminal Appeals,

(c) Prosecution or defense of an application for an extraordinary matter, such as petition for writ of mandamus or application for original habeas corpus, to the Texas Court of Criminal Appeals, a Texas Court of Appeals, United States District Court, or United States Circuit Court of Appeals, in a criminal matter;

(d) Prosecution or defense of an application for post-conviction writ of habeas corpus from a misdemeanor conviction to a statutory county court exercising habeas corpus jurisdiction, or from a final felony conviction in Texas state court, either capital or non-capital,

(e) Prosecution or defense of an application for habeas corpus from a final felony conviction, either capital or non-capital, in United States District Court under 28 USC §2254, or 28 USC §2255;

(f) Prosecution or defense of an appeal to a United States Circuit Court of Appeals from the judgment of a United States District Court in an action under 28 USC §2254 or 28 USC §2255; and

(g) Prosecution or defense of any criminal law matter at the United States Supreme Court

(2) *Anders* briefs shall not satisfy any task requirement.

(3) Applicant, as lead appellate counsel, shall have performed a minimum of 50 tasks as defined in B, 1, b, (1) (a-g) of these during his or her entire practice. Of these 50 tasks, applicant shall have:

(a) handled at least 25 tasks within the 3 years immediately preceding application, and

(b) performed a minimum of 5 oral arguments at a Court of Appeals, the Texas Court of Criminal Appeals, a United States Circuit Court of Appeals, or the United States Supreme Court during his or her entire practice

(4) Service for an appellate court as a briefing attorney and/or staff attorney for at least 5 years may be considered by TBLS as the equivalent of the requirements set out in Section XVIII, B, 1, b, (1) (a-g) above. Service for less than 5 years may be considered proportionally.

2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing criminal appellate law during each year of the 5 year period of certification as defined in Section XVIII, A of the Specific Area Requirements for Criminal Appellate Law except as provided for in Part I—General Requirements, Section VI, C, 1, (b)

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in criminal appellate law. These persons must be substantially involved in criminal appellate law, and be familiar with applicant's criminal appellate law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving criminal appellate law matters within the 3 years immediately preceding application
2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving criminal appellate law matters since certification or the most recent recertification.
3. **Reference Types.** Applicant must submit the following types of references:
  - a. Four Texas attorneys who are substantially involved in criminal appellate law. Applicant must have tried a criminal appellate law matter with or against one of these attorneys
  - b. One judge of any court of record in Texas whom applicant has appeared before as an advocate in a criminal appellate law matter