

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

Misc. Docket No. 11-006

APPROVAL OF REVISIONS TO THE TEXAS RULES OF APPELLATE PROCEDURE

ORDERED that:

1. The Texas Rules of Appellate Procedure, Rule 31.4(b)&(c) and Appendix: Certification of Defendant's Right of Appeal are amended.
2. These amendments take effect immediately.
3. The Clerk of the Court of Criminal Appeals is directed to file an original of this Order with the Secretary of State forthwith, and to 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*.

SIGNED AND ENTERED October 17, 2011.

Sharon Keller

Sharon Keller, Presiding Judge

Lawrence E. Meyers

Lawrence E. Meyers, Judge

Tom Price

Tom Price, Judge

Paul Womack

Paul Womack, Judge

Cheryl Johnson

Cheryl Johnson, Judge

Michael Keasler

Michael Keasler, Judge

Barbara Hervey

Barbara Hervey, Judge

Cathy Cochran

Cathy Cochran, Judge

Elsa Alcalá

Elsa Alcalá, Judge

31.4. Stay of Mandate

(a) *When Motion for Stay Required.* Despite Rule 18 or any other of these rules, in the following circumstances a party who in good faith intends to seek discretionary review must — within 15 days after the court of appeals renders judgment — file with the court of appeals clerk a motion for stay of mandate, to which is appended the party's petition for discretionary review showing reasons why the Court of Criminal Appeals should review the appellate court judgment:

(1) when a court of appeals affirms the judgment of the trial court in an extradition matter and thereby sanctions a defendant's extradition; or

(2) when a court of appeals reverses the trial court's judgment in a bail matter — including bail pending appeal under Code of Criminal Procedure article 44.04(g) — and thereby grants or reduces the amount of bail.

(b) *Determination of the Motion.* The clerk must promptly submit the motion and appendix to the court of appeals, or to one or more judges as the court deems appropriate, for immediate consideration and determination.

(1) If the motion for stay is granted, the clerk will ~~file the petition for discretionary review and process the case in accordance with Rule 68.7~~ immediately forward the petition for discretionary review to the clerk of the Court of Criminal Appeals.

(2) If the motion is denied, the clerk will issue a mandate in accordance with the court of appeals' judgment.

(c) *Denial of Stay.* If the motion for stay is denied under 31.4(b)(2), the losing party may then present the motion and appendix to the clerk of the Court of Criminal Appeals, who will promptly submit them to the Court, or to one or more judges as the Court deems appropriate, for immediate consideration and determination. The Court of Criminal Appeals may deny the motion or stay or recall the mandate. If the mandate is stayed or recalled, the clerk of the Court of Criminal Appeals ~~court of appeals clerk~~ will file the petition for discretionary review and process the case in accordance with Rule 68.7.

