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A Guide to Article 11.07 Writs of Habeas Corpus and Other State Writs

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A GUIDE TO ARTICLE 11.07
WRITS OF HABEAS CORPUS AND OTHER STATE WRITS

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A GUIDE TO ART. 11.07 WRITS OF HABEAS CORPUS AND OTHER STATE WRITS

I. Introduction

This paper is designed to provide attendees with information regarding habeas corpus applications filed at the Court of Criminal Appeals (the Court) pursuant to Article 11.07 of the Texas Code of Criminal Procedure. The paper also briefly covers some of the other extraordinary writs which are commonly filed at the Court. Though I realize that for most attorneys this is a small part of their overall practice, I hope the following information provides some useful background and helpful guidance to assist in the drafting of successful Article 11.07 habeas applications filed in counties throughout our State, and original habeas applications, mandamus applications, prohibition applications, and certiorari petitions submitted to our State's highest criminal court.

II. Staff at the Court

The staff at the Court is divided into three sections:

A. Petitions for Discretionary Review;
B. Capital Appeals and Death Penalty Habeas;
C. Post-Conviction Writs (Non-death penalty)

While the staff in the post-conviction writs section works mainly on habeas applications filed pursuant to art. 11.07, we also have a significant docket consisting of original writs of habeas corpus, mandamus, and other writs under common law. The most voluminous of these other matters is our mandamus docket. When fully staffed, the section consists of seven lawyers including former prosecutors, defense lawyers, and appellate court staff attorneys. The current staff in the writ section has several decades of combined legal experience in the area of criminal law.

III. Numbers

Post-conviction writs comprise the most significant amount of cases ruled on by the Court.[1] Here are some representative numbers from Fiscal Year 2016:

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[1] The caseload of the Court of Criminal Appeals consists primarily of mandatory matters. These matters include review of applications for post-conviction habeas corpus relief in felony cases (capital and non-capital), original proceedings, and direct appeals. Mandatory matters filed at the Court are by far the largest component of the overall caseload. Leaving aside the voluminous amount of motions received by the Court, mandatory matters comprised 78.2% of the new cases added in FY 2013. And, in that same fiscal year, art. 11.07 habeas corpus applications accounted for 81.1% percent of the mandatory caseload at the Court. Recent trends

(continued...)

A. 11.07, New Filings - 4,009 applications;
B. 11.07, Disposed - 3,970 applications;
C. 11.07, Back from Remand - 377 applications;
D. Cert. Petitions, New Filings - 7 applications;
E. Original Habeas, New Filings - 80 applications;
F. Original Habeas, Back from Remand - 1 applications;
G. Mandamus, New Filings - 503 applications;
H. Mandamus, Back from Remand - 113 applications;
I. Prohibition, New Filings - 11 applications;
J. Prohibition, Back from Remand - 0 applications.

As you can see, there is a lot of paper! In FY 2016, the Judges, staff, and clerks at the Court handled thousands of art. 11.07 and non-capital original applications. This is in addition to the voluminous amount of motions, correspondence, and other filings that must be processed by the Court on a daily basis.

IV. 11.07 – THE STATUTE

Habeas corpus applications in non-capital felony cases fall under Chapter 11 of the Texas Code of Criminal Procedure. Article 11.01 defines the writ as follows:

> The writ of habeas corpus is the remedy to be used when any person is restrained in his liberty. It is an order issued by a court or judge of competent jurisdiction, directed to any one having a person in his custody, or under his restraint, commanding him to produce such a person, at a time and place named in the writ, and show why he is held in custody or under restraint.

There are several different kinds of habeas writs provided for in Chapter 11.

– Article 11.071 applications. This section pertains to final felony convictions which resulted in a death sentence.

– Article 11.072 applications. This section pertains to felony or misdemeanor cases in which an applicant seeks relief from a judgment ordering community supervision.

– Article 11.08 applications. This section pertains to applicants who are confined, after indictment, but before trial, on a felony charge.

– Article 11.09 applications. This section pertains to applicants who are confined on misdemeanor charges.

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[1](...continued)
reflect an increase in the Court's docket as it pertains to original applications.

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