

In the Supreme Court of the United States

JOHN H. RAMIREZ, PETITIONER

v.

BRYAN COLLIER, EXECUTIVE DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, ET AL.

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

RESPONDENTS' RULE 32.3 MATERIAL

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Attorney General of Texas

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AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF WALKER §

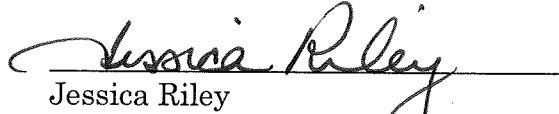
BEFORE ME, the undersigned authority, on this day personally appeared Jessica Riley, who, being by me duly sworn, deposed as follows:

My name is Jessica Riley and I am an employee of the Texas Department of Criminal Justice (TDCJ), a governmental agency. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the director of the Resolution Support/Offender Grievance department of the Administrative Review and Risk Management Division, for the TDCJ, with my office located in Huntsville, Texas. Attached are true and correct copies of ***grievance records submitted by inmate John Henry Ramirez TDCJ# 00999544 from January 1, 2020 to present date***, which are kept by the TDCJ in the regular course of its business activity. The entries of such records were made as a regularly conducted activity and as a regular practice of the TDCJ and were made at or near the time of the occurrence of the matters set forth by or from information transmitted by a person with knowledge of those matters.

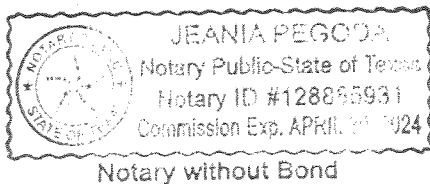
I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."


 Jessica Riley
 Resolution Support/Offender Grievance, ARRM
 Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 14th day of September, 2021.


 NOTARY PUBLIC, STATE OF TEXAS



Jeania Pegoda
 Notary's Printed Name

My Commission Expires (Date):

April 30th, 2024



02a
"Accept As Original"
Texas Department of Criminal Justice

STEP 1

OFFENDER
GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2020133615

Date Received: JUN 09 2020

Date Due: 06/24/2020

Grievance Code: 706, 930

Investigator ID #: I1954

Extension Date: _____

Date Ret'd to Offender: _____

Offender Name: John Henry Ramirez TDCJ# 999544

Unit: Polunsky Housing Assignment: 12AA11

Unit where incident occurred: Started w/ the March 13th shut-
down of the prison visitation!

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Rosado, Warden Dickerson, Capt. Carter When? During routine
walk-throughs & when I saw Capt. Carter when I was told I was given execution date!
What was their response? That attorney phone calls would be provided!

What action was taken? NONE!...I am still being denied attorney visits in violation of constitutional rights.

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

ON March 13th 2020 the prison visitation was shutdown STATEWIDE due to the pandemic of
COVID-19, & ALL visits were from there on CANCELLED until further notice. Since then
we have been allowed a EXTREMELY restrictive 30 minute phone call w/ our attorneys. These
calls SEVERELY hinder our legal work & coordination between me & my attorneys because our
usual visits before the shutdown were always 2 hours or more each time. W/ them able to
pass me all necessary paperwork there & then to aid us in our team work on my case & appeals.
It IS A CONSTITUTIONAL VIOLATION to not allow us our legal visits. The issue of visits
not being allowed is NOT true because we are allowed our last day visits the days before
our scheduled executions, EVEN W/ the shutdown in place! I understand that this shutdown
is per the Governor's order, but I still need to file this grievance for the preservation
of my legal issues.

Action Requested to resolve your Complaint: That I be allowed my attorney visits since I have an execution date scheduled for Sept. 9th, 2020 & have GREAT NEED of access to my attorneys!

Offender Signature: [Signature] Date: June 3, 2020

Grievance Response:

An investigation was conducted. At this time attorney visits have been suspended, however attorney phone calls are permitted. Attorneys can request up to one hour of phone time, in two thirty-minute increments. No further action is warranted by this office.

Warden

Signature Authority: [Signature]

Date: 6/10/20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 2nd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____

Accept AS original



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: John Henry Ramirez TDCJ # 999544
 Unit: Polinsky Housing Assignment: 12A405
 Unit where incident occurred: Polinsky

OFFICE USE ONLY

Grievance #: 2020156408Date Received: JUL 26 2020Date Due: 9-6-20Grievance Code: 300Investigator ID #: 12731Extension Date: AUG 14 2020

Date Sent to Offender: _____

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Chaplain GayWhen? In June 2020What was their response? They do NOT allow us to have spiritual advisor w/ us in the death chamber!What action was taken? None! And this is my 2nd attempt to grieve this issue, 1st wasn't replied to!

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate.

I have been visiting w/ my spiritual advisor for quite some time now during my incarceration

on Texas Death Row. I asked to be able to have my spiritual advisor present w/ me in

the death chamber. In the past Christian ministers have been allowed to be present.

& now are not being allowed which is a direct violation of my Constitutional Rights to

Freedom to practice my religion. I am grieving that violation of my rights to practice

my religion. This is my 2nd attempt to grieve this issue, the 1st was not replied to

so I am not sure if it was turned into the Grievance Dept. since they do not pick up

our grievances anymore???

And/or Requested to resolve your Complaint. That I be allowed to have my spiritual advisor present
at the time of execution when Texas is scheduled to execute me on Sept. 9th, 2020?

Offender Signature: [Signature]

Date: July 25, 2020

Grievance Response:

This office has investigated your grievance. At this time spiritual advisors are not allowed in the death chamber. Grievances are picked up daily from boxes and no record was found of a previous grievance from you on this issue. No further action is required by this office and we will consider this step 1 grievance closed at this time.

Signature Authority: [Signature]

Date: 8/13/20

If you are dissatisfied with the Step 1 response, you may submit a Step 1 (J-125) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. Step the response for appeal on the Step 2 form.

Refused because: *Resubmit this form when the circumstances are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days.
- ☐ 3. Originals not submitted.
- ☐ 4. Inappropriate/Excessive attachments.
- ☐ 5. No documented attempt at informal resolution.
- ☐ 6. No requested relief stated.
- ☐ 7. Malicious use of vulgar, obscene, or physically threatening language.
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Refusant Refers to grievance # _____
- ☐ 10. Illegible/Incomprehensible.
- ☐ 11. Inappropriate.

UCI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

L-127 Back (Revised 11-2019)

OFFICE USE ONLY	
Total Submissions:	UCI Initial: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Read from Offender:	_____
Date Returned to Offender:	_____
1 st Submission:	UCI Initial: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Read from Offender:	_____
Date Returned to Offender:	_____
2 nd Submission:	UCI Initial: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Read from Offender:	_____
Date Returned to Offender:	_____

Appendix F



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2021095145
Date Received: APR 12 2021
Date Due: 5-22-21
Grievance Code: 300
Investigator ID #: I2731
Extension Date:
Date Retd to Offender: APR 14 2021

Offender Name: John Henry Ramirez TDCJ # 999544
Unit: Polunsky Unit Housing Assignment: 12AA01
Unit where incident occurred: Polunsky Unit

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Chaplain Gay/ Head Chaplain When? April 2, 2021

What was their response? We're NOT allowed to have our spiritual advisor in the death chamber

us at the time of execution!
What action was taken? NONE!

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I am scheduled to be executed on Sept. 8, 2021 & have requested that I be allowed to have my spiritual advisor present in the death chamber w/ me during my execution by State. I was told I was NOT allowed that, & that is a violation of my Constitutional Rights!

Action Requested to resolve your Complaint.

That I be allowed to have my spiritual advisor in the death chamber w/ me at the time of my execution? THANK YOU!

Offender Signature: [Signature]Date: 4-11-21Grievance Response: [Signature]

Your grievance has been investigated. At this time, a religious authority is not permitted to be present in the execution chamber with an inmate. No further action is warranted by this office.

Signature Authority: [Signature]B. Riggsby, AWDate: APR 14 2021

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**

Offender Name: John Henry Ramirez TDCJ # 999544
 Unit: Polunsky Unit Housing Assignment: 12AA01
 Unit where incident occurred: Polunsky Unit

OFFICE USE ONLY

Grievance #: 2021095145
 UKJ Recd Date: APR 21 2021
 HQ Recd Date: APR 26 2021
 Date Due: 5-31
 Grievance Code: 300
 Investigator ID#: 12620
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response in Step 1 because,

I am dissatisfied w/ the response to my Step 1 grievance because the issue was not addressed or remedied, on the violation of my Constitutional rights. NOT being allowed a spiritual advisor in the death chamber w/ me during execution IS a violation of my right's to exercise my religious right's! I ask that I be allowed my spiritual advisor in the death chamber present at the time of execution? THANK YOU!

Offender Signature: _____

Date: 4-18-21

Grievance Response: _____

An investigation has been conducted by the Central Grievance Office. The Texas Department of Criminal Justice (TDCJ) Execution Procedure was amended in April 2021. Section I reads:

"(D) Upon the inmate's receipt of the Notification of Execution Date (Form 1), the inmate shall have thirty (30) days to submit a request in writing to the Death Row Unit Warden to have a TDCJ Chaplain or the inmate's spiritual advisor present inside the execution chamber during the inmate's scheduled execution.

(E) The inmate's requested spiritual advisor must be included on the inmate's visitation list and have previously established an ongoing spiritual relationship with the inmate demonstrated by regular communications or in-person visits with the inmate before the inmate's scheduled execution date.

(F) If an inmate requests to have a spiritual advisor present inside the execution chamber during the inmate's scheduled execution, the inmate will provide the Death Row Unit Warden with contact information for the spiritual advisor. Upon receipt of the spiritual advisor's contact information, the Death Row Unit Warden shall contact the spiritual advisor."

You will need to follow the process described above. Given the time constraints, the 30-day requirement to submit a request in Section I(D) will not be enforced against you. However, you must submit a request as soon as possible. No further relief can be granted by this department.

Signature Authority: _____

J. RILEY

Date: 5/4/2021

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

Accept as original
OFFENDER

STEP 1 - GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2021122334

Date Received: JUN 14 2021

Date Due: 7-24-21

Grievance Code: 300

Investigator ID #: I 2731

Extension Date: _____

Date Retd to Offender: JUL 05 2021

Offender Name: John Henry Ramirez TDCJ #: 999544

Unit: Polunsky Housing Assignment: 12AA01

Unit where incident occurred: Polunsky

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Chaplain Hazelwood (Director of Chaplaincy TDCJ) When? June 8, 2021

What was their response? That I would NOT be allowed to have our Spiritual Advisor "touch" me during my execution!

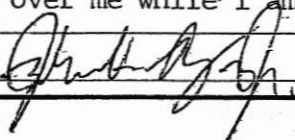
What action was taken? NONE!

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I requested to have my Spiritual Advisor "lay hands on me" during my upcoming execution, & was told that he would NOT be allowed to do so. It is part of my faith to have my spiritual advisor lay hands on me anytime I am sick or dying. TDCJ not allowing me that, is a violation of my Constitutional rights to practice my Religious Freedoms.

Action Requested to resolve your Complaint.

That I be ALLOWED to have my Spiritual Advisor "lay hands on me" & pray over me while I am being executed? THANK YOU!

Offender Signature: 

Date: 6-11-21

Grievance Response:

Your grievance has been investigated. At this time, a Spiritual Advisor is not allowed to touch an inmate while inside the execution chamber. No further action is warranted.

Signature Authority: 

Date: JUL 02 2021

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☒ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

Offender Name: John Henry Ramirez TDCJ# 999544
 Unit: Polunsky Housing Assignment: 12AA01
 Unit where incident occurred: Polunsky

OFFICE USE ONLY	
Grievance #	<u>2021122334</u>
LCI Reed Date:	<u>JUL 12 2021</u>
HQ Reed Date:	<u>JUN 19 2021</u>
Date Due:	<u>8-21-21</u>
Grievance Code:	<u>300100</u>
Investigator ID#:	<u>0660</u>
Extension Date:	

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because

The entire issue of my Constitutional Rights being violated by TDCJ NOT allowing me to
have my Spiritual Advisor "lay hands on me" at the time of my upcoming execution, WAS
NOT addressed, nor remedied! The laying on of hands during a time of sickness OR at
the time of death, is a practice in my Faith & denying me my religious freedoms to practice
my Faith, is in direct violation of my Constitutional Rights. I am dissatisfied because
I wish to have my Spiritual Advisor "lay hands on me" to pray over me during my upcoming
execution.

Offender Signature: _____

Date: July 8, 2021

Grievance Response: _____

Your grievance has been investigated. At this time, a Spiritual Advisor is not allowed to touch an inmate while inside the execution chamber. No policy violations have been noted and no further action is warranted by this office.

C.F. HAZLEWOOD
DIRECTOR OF RELIGIOUS SERVICE

Signature Authority: _____

Date: 16 Aug 2021Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

DECLARATION OF BOBBY LUMPKIN

1. My name is Bobby Lumpkin. I am over the age of 21 years, of sound mind, capable of making this declaration, and have personal knowledge of the facts stated herein. I am the Director of the Correctional Institutions Division (CID), a division of the Texas Department of Criminal Justice (TDCJ) located in Huntsville, Texas. I was appointed to this position on August 10, 2020. I began my career as a correctional officer with the TDCJ in 1990 and was promoted through the security ranks to assistant warden. In 2003, I was promoted to the Administrative Review and Risk Management Division to serve as the TDCJ's American Correctional Association Accreditation Manager. In 2007, I was promoted to Deputy Division Director of the Private Facility Contract Monitoring/Oversight Division. In 2013, I was promoted to Division Director of the Manufacturing and Logistics Division, which later became the Manufacturing, Agribusiness and Logistics (MAL) Division, and I held that position until I became the Director of the CID.

2. I have been asked to provide information and context regarding the TDCJ Execution Procedure as it relates to a spiritual advisor's presence in the execution chamber during an inmate's execution.

3. The process for developing or changing execution protocols is one of careful consideration. Execution policies and protocols are informed by the judgment of TDCJ officials, their past experiences, and their knowledge of human behavior in the prison and execution contexts. A policy change is often discussed among multiple TDCJ officials who have particularized expertise on the subject matter. Changing the Execution Procedure also involves coordination with other state agencies, including the Office of the Attorney General. Execution policies and protocols are developed to balance: (1) providing closure for the victims of the crime; (2) ensuring the security of TDCJ staff and witnesses; and (3) ensuring the highest level of dignity that the process will allow for the inmate.

4. In revising the TDCJ Execution Procedure in April 2021, I, along with Bryan Collier and others, determined that we could allow an approved non-TDCJ spiritual advisor ("outside spiritual advisor") to stand inside the execution chamber under the close supervision of a security escort standing next to him. This would allow the inmate a direct line of sight to his spiritual advisor, as the spiritual advisor would stand about three feet from the inmate. We determined that the revised procedure provided the most permissive accommodation of religion while still protecting the security of the execution process, those involved, and the interests of the victims, witnesses, and the public.

5. I understand Inmate John Ramirez has requested that his outside spiritual advisor be allowed to physically touch him and pray aloud during the execution. TDCJ cannot safely accommodate either of these requests without introducing substantial risk.

6. First, the Execution Procedure's prohibitions against physical touch of the inmate and audible speech help mitigate the risk that the outside spiritual advisor will attempt to frustrate the execution. Unlike the trusted TDCJ employees who participate in executions, an outside spiritual advisor is unknown to our agency. Outside spiritual advisors have no demonstrated loyalty to the mission of TDCJ or the State of Texas. They may, instead, feel a loyalty to the inmate. They may be intensely averse to the death penalty and may wish to prevent the execution, to cause a disruption to gain attention from media witnesses, or to take other actions against the imposition of the sentence. The three-foot separation between the spiritual advisor and the inmate and the spiritual advisor's silence are necessary to mitigate the risk introduced by permitting an outsider inside the execution chamber.

7. While the likelihood of any particular risk materializing may be low, the resulting harm could not be higher. A spiritual advisor touching the inmate would be within reach of the restraints securing at least one of the inmate's limbs and could attempt to release the inmate. The spiritual advisor could attempt to pull the IV lines as drugs are administered, which may inflict pain or suffering on the inmate. Any outburst in the execution chamber would cause emotional distress to the families of the victim and inmate, who are observing from the witness rooms. And in the event the condemned inmate escaped his restraints, smuggled in a weapon, or otherwise became a threat in the execution chamber, a spiritual advisor standing close enough to touch the inmate would be in harm's way or in a position to assist the inmate.

8. Second, the prohibitions on touch and audible speech are necessary to ensure the execution team notices and can respond to any indications of irregularities in the execution and can pronounce the inmate's death. The medical professionals participating in the execution, called the "drug team," observe the execution through a one-way window from a separate room adjacent to the execution chamber. The drug team observes the execution through the window to protect their identities. A microphone positioned above the inmate's body provides audio to the drug team from the execution chamber.

9. The drug team must have a completely unobstructed view of the inmate and the IV lines so that they may monitor the inmate's physical reaction. They also must be able to hear any sound coming from the inmate. The slightest reaction, movement, or sound from the inmate could indicate regained consciousness or suffering. Once the lethal drugs are administered, the inmate is observed again for signs of life so that additional solution may be administered if necessary.

10. The spiritual advisor's physical contact or audible speech would hinder the drug team's ability to make these observations. If a spiritual advisor were permitted to stand immediately next to the gurney with a hand placed on the inmate, the drug team's view of the IV lines and/or the inmate's body would be obstructed. And physical contact between the spiritual advisor and inmate would create ambiguity regarding the source of any observed movements by the inmate.

11. Likewise, if the spiritual advisor were permitted to audibly pray during or after the administration of the drugs, the drug team's ability to listen for sounds from the inmate would be obstructed.

12. If the drug team fails to see, hear, or identify a problem with the IV lines or the inmate's reaction, the results could be dire. It would be unacceptable for a condemned inmate to experience pain or otherwise suffer from the administration of the lethal drugs. To my knowledge, none of the State of Texas's executions have resulted in an unintended reaction, pain, or suffering, though I am aware of reports of this occurring in other jurisdictions.

13. Third, witnesses from the victim's family, the inmate's chosen witnesses, and media witnesses—who report on the execution to the public—must have a line of sight to the inmate and the ability to hear any sounds coming from the inmate. The spiritual advisor's positioning next to the inmate and audible speech would obstruct the witnesses' observation.

14. Finally, the spiritual advisor's placement immediately next to the gurney would complicate the response of TDCJ personnel and the drug team in the event of a problem with the IV lines or an unintended reaction to the lethal drugs. The execution chamber is a small room. Its dimensions are approximately nine feet by 12 feet. During an execution, the chamber feels crowded, as it holds the inmate, the gurney, two TDCJ staff members, and the spiritual advisor. The drug team, the Warden, and the CID Director are trained to respond quickly in the event of a problem. Various scenarios may require members of the drug team, the Warden, or the CID Director to attend to the inmate quickly, and to speak to each other as they react. The spiritual advisor's location immediately beside the inmate, physical contact with the inmate, and audible prayer would inhibit the team's ability to quickly access the inmate, the IV lines, and to communicate with each other.

15. Though we cannot safely accommodate physical touch from or audible prayer by the spiritual advisor, the inmate may maintain eye contact with the spiritual advisor during his execution and can gain comfort from the spiritual advisor's presence. The spiritual advisor may pray in silence during the execution. And Mr. Ramirez may pray aloud when he makes his final statement.

16. In addition, Mr. Ramirez's chosen spiritual advisor will be able to pray and provide spiritual comfort audibly for up to six hours earlier in the execution day, including during the final hours before the execution.

17. Our prohibition against the spiritual advisor's physical touch is consistent with the policy for death row inmates during visitation. Death row inmates are not permitted to physically touch their visitors, whether the visitor is family, a friend, or a spiritual advisor. Because death row houses many of TDCJ's most violent, unpredictable, and dangerous inmates, who have nothing to lose by attempting to escape or taking and assaulting a hostage, the rule against physical touch increases the security of the institution and protects visitors and staff.

Pursuant to 27 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 19, 2021, in Huntsville, Texas.


Bobby Lumpkin

DECLARATION OF JESSICA RILEY

1. My name is Jessica Riley. I am over the age of 21 years, of sound mind, capable of making this declaration, and have personal knowledge of the facts stated herein. I am employed by the Texas Department of Criminal Justice ("TDCJ") as the manager of the Resolution Support/Offender Grievance Department of the Administrative Review and Risk Management Division. I have worked for TDCJ for over 12 years, and I have provided management and oversight of the inmate grievance program since February 2018.

2. I have been asked to provide information regarding TDCJ's grievance process.

3. The TDCJ grievance policy applies to all inmates, including those on death row. TDCJ currently has 100 prison units, including 10 privately operated facilities. The current inmate population is approximately 120,000. TDCJ employs a staff of 118, including grievance analysts, program supervisors, and investigators to investigate and respond to inmate grievances. During Fiscal Year 2021, TDCJ inmates filed an average of 9,527 Step 1 grievances and 2,188 Step 2 grievances per month.

4. The TDCJ grievance procedure is a multistep process. It is intended to facilitate quick and efficient resolution where possible and collaborative and measured consideration where it is not. Considering the volume of inmate grievances filed and the process and staff required for response, our grievance policy imposes deadlines that both inmates and grievance staff must follow.

5. Before an inmate invokes the formal grievance process, our policy requires an inmate to attempt informal resolution. This prerequisite facilitates in-unit resolution where possible, expediting resolution for inmates while also allowing TDCJ to avert unnecessary burdens. To initiate a request for informal resolution, an inmate may make a verbal request or submit a written request using an I-60 form.

6. If informal resolution is unsuccessful, an inmate may assert his complaints formally through the grievance process. TDCJ inmates have access to the grievance procedures in the Offender Orientation Handbook and unit grievance investigators to help them comply. All inmates receive a copy of the Handbook upon arrival and may obtain a replacement copy upon request. A copy is also available in each unit law library. The Handbook is publicly available online at:

https://www.tdcj.texas.gov/documents/Offender_Orientation_Handbook_English.pdf

An excerpt of the relevant policy is attached as Exhibit "A." This version has been in effect since February 2017.

7. The Step 1 grievance process occurs entirely at the unit level. To initiate the grievance process, an inmate must file a Step 1 grievance within 15 days of the problem. Inmate grievances are collected every business day. The unit grievance investigator investigates all Step 1 grievances, except for medical grievances. If the Step 1 grievance alleges a medical problem, it is referred to the unit's medical provider for a response.

For all non-medical grievances, the Senior Warden or the Assistant Warden signs off on the response. The unit typically has 40 days from the date an inmate's grievance is received to respond to the grievance. If necessary, the unit may request an extension of time to respond. The extension provides an additional 40 days to respond to the grievance. Once the Warden or Assistant Warden signs off on the response, the inmate's Step 1 grievance is returned to the inmate with the unit's written response.

8. If an inmate does not understand the office's response, the inmate may contact the unit grievance investigator for assistance/explanation. In some cases, our initial investigation and review enable us to resolve the complaint, marking the end of the process for those inmates.

9. But in other cases, where an inmate is unsatisfied with the Step 1 grievance response, he has 15 days to file a Step 2 grievance. All Step 2 grievances are referred to the TDCJ Central Grievance Office (CGO) in Huntsville, Texas. Similar to the Step 1 grievance process, TDCJ typically has 40 days to respond and may request a single extension of 40 days. In most cases, a CGO grievance analyst reviews the Step 1 investigation and response for accuracy and completeness. The CGO grievance analyst may conduct additional investigation if warranted. The CGO grievance analyst will then draft a response to the Step 2 grievance. The response is reviewed by a program supervisor before it is returned to the inmate. Certain categories of Step 2 grievances, e.g., medical or religious grievances, are referred to other TDCJ divisions for review and response. These grievance responses are then returned to the CGO for processing imaging before the response is sent to the inmate.

10. TDCJ's grievance policy applies to inmates with scheduled executions. When an inmate with a pending execution date files a Step 1 or Step 2 grievance, the unit notifies the CGO and the Office of General Counsel. TDCJ's practice is to move these grievances to the top of the stack, so they may be resolved more quickly than the grievance policy would otherwise permit.

11. Due to the relative volume of offenders compared to prison staff, inmate compliance with proper grievance procedures is an important part of maintaining orderly, efficient dispute resolution and conservation of TDCJ resources.

Pursuant to 27 U.S.C. § 1746 I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 19, 2021, in Huntsville, Texas.

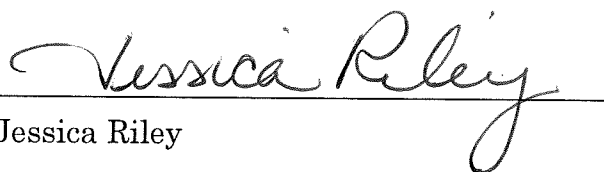

Jessica Riley

EXHIBIT A

3. Offenders shall be provided with Counsel Substitutes before a major hearing when any of the following are met:
 - a. The offender is developmentally disabled as defined in the Developmental Disabilities Program (DDP) (has an IQ of 73 or below) or if the offender's mental ability to understand and respond to disciplinary charges and proceedings is questionable;
 - b. The offender's educational achievement score is below 5.0 on reading or his literacy or understanding of English is questionable;
 - c. The offender's case is very complex;
 - d. The offender is confined to any form of segregation before the disciplinary hearing;
 - e. The offender requests a counsel substitute; or
 - f. A witness requested by the accused offender is on a different unit or facility.
4. Special Procedures for Psychiatric Patients

When a psychiatric offender is charged with a disciplinary infraction, psychiatric clearance shall be obtained before proceeding with the disciplinary.

D. Appeal Process

At the end of the disciplinary hearing, the disciplinary hearing officer shall advise the offender of his right to appeal the decision, with respect to guilt or the punishment given, through the offender grievance procedure.

Three Basic Grounds for Appeal:

1. One or more procedural rights were violated;
2. Insufficient evidence to find offender guilty; and
3. Penalty imposed by the hearing officer was too severe.

The disciplinary decision may be appealed by filing a grievance. If the offender is not satisfied with the decision, he may then file a Step 2 grievance for appeal purposes. The Counsel Substitute shall assist offenders with an appeal if they request assistance.

VIII. GRIEVANCE PROCEDURES FOR OFFENDERS

Instructions on How to Write and Submit Grievances.

- A. Grievance forms are available from the law library, housing area, shift supervisors, or by contacting the unit grievance office. After completely filling out the form, place it in the grievance box yourself or hand it directly to the grievance investigator on your unit. Step 2 appeals shall be accompanied by the original, answered Step 1.
- B. An attempt to informally resolve your problem shall be made before filing a grievance. Informal resolution is defined as any attempt to solve the issue at hand and shall be

noted on the Step 1 grievance form (I-127). You have 15 days from the date of the alleged incident or occurrence of the issue presented in which to complete the Step 1 grievance form and forward it to the unit grievance investigator (UGI). The Step 1 process may take up to 40 days from the date the unit grievance office receives the Step 1 form to respond or 45 days for medical grievances. If you are not satisfied with the Step 1 response, you may appeal the Step 1 decision by filing a Step 2 (I-128). You have 15 days from the "Date returned to the Offender" noted in the "OFFICE USE ONLY" box on the front of the grievance form to submit the Step 2 to the grievance investigator on the unit. The Step 2 process may take up to 40 days to provide you a written response or 45 days for medical grievances. Present only one issue per grievance.

- C. Additional time may be required in order to conduct an investigation at either Step 1 or Step 2 and in either case; you shall be notified of the extension in writing.
- D. Complete your grievance using a typewriter or dark ink. If you need assistance filing a grievance or understanding a response, contact your unit grievance investigator.
- E. The following issues are grievable through the Offender Grievance Procedure. Remember that you may only file a grievance on issues that PERSONALLY APPLY TO YOU, with the exception of SEXUAL ABUSE or PREA related issues.
 - 1. The interpretation or application of TDCJ policies, rules, regulations, and procedures.
 - 2. The actions of an employee or another offender, including denial of access to the grievance procedure.
 - 3. Any reprisal against you for the good faith use of the grievance procedure or Access to Courts.
 - 4. The loss or damage of authorized offender property possessed by persons in the physical custody of the TDCJ, for which the TDCJ or its employees, through negligence, are the proximate cause of any damage or loss.
 - 5. Matters relating to conditions of care or supervision within the authority of the TDCJ for which a remedy is available.
- F. **You may not grieve:**
 - 1. State or federal court decisions, laws and/or regulations;
 - 2. Parole decisions;
 - 3. Time-served credit dispute which should be directed to the Classification and Records, Time Section;
 - 4. Matters for which other appeal mechanisms exist; or
 - 5. Any matter beyond the control of the agency to correct.
- G. Grievances that do not meet the following established screening criteria may be returned to you unprocessed; however, most grievances may be corrected and resubmitted within 15 days from the "Date Returned to the Offender" noted in the "OFFICE USE ONLY" box on the back of the grievance form on the returned grievance.

1. Grievable time period has expired. (Step 1 grievances shall be submitted within 15 days from the date of incident and Step 2 Appeals shall be submitted within 15 days from the date of the signature on the Step 1.)
 2. Submission in excess of one every seven days. (All grievances received in the grievance office shall be reviewed; however, only one grievance shall be processed every seven days [with the exception of disciplinary and emergency grievances].)
 3. Originals not submitted. (Carbon copies are not considered originals even if they have an original signature. The original answered Step 1 shall be submitted with a Step 2 Appeal.)
 4. Inappropriate/excessive attachments. (Your grievance shall be stated on one form and in the space provided. Attach only official documents that support your claim, such as answered I-60's, sick call requests, property papers and other similar items).
 5. No documented attempt at informal resolution. (You are required to attempt to resolve issues informally with a staff member prior to filing a grievance. Remember, the attempt shall be documented in the space provided on the I-127 form.)
 6. No requested relief is stated. (The specific action required to resolve the complaint shall be clearly stated in the space provided on the I-127 form.)
 7. Malicious use of vulgar, indecent, or physically threatening language directed at an individual.
 8. The issue presented is not grievable (refer to Section E above).
 9. Disciplinary appeals shall not be processed until after the disciplinary hearing.
 10. Redundant. (You may not repeatedly grieve matters already addressed in a previous grievance.)
 11. The text is illegible or incomprehensible. (Write your grievance so that it can be read and understood by anyone.)
 12. Inappropriate. (You may not ask for monetary damages or any form of disciplinary action against staff.)
- H. Do not use a grievance form to comment on the effectiveness and credibility of the grievance procedure; instead, submit a letter or I-60 to the administrator of Offender Grievance Program.
- I. Grievances containing threats of violence against staff or other offenders or of escape are subject to disciplinary action. Disciplinary action taken as a result of one of these reasons is not considered a form of reprisal.

DECLARATION OF [REDACTED]

1. My name is [REDACTED] I am over the age of 21 years, of sound mind, capable of making this declaration, and have personal knowledge of the facts stated herein. I am employed by the Texas Department of Criminal Justice ("TDCJ") [REDACTED]

2. I hold the following degrees and certifications:

3. I have been asked to provide information regarding my interactions with Mr. Ramirez and Pastor Dana Moore in the weeks leading up to Mr. Ramirez's scheduled execution on September 8, 2021.

4. On August 26, 2021, I was present at Pastor Moore's mandatory spiritual advisor execution orientation. When Pastor Moore was asked to sign TDCJ's nondisclosure agreement, he initially refused. He explained that he could not promise to abide by TDCJ's rules prohibiting his physical contact with Mr. Ramirez and verbal prayer in the chamber because he did not agree with them and because of Mr. Ramirez's pending lawsuit challenging the policies. He ultimately signed the agreement.

5. When I received notice that Pastor Moore sent a photograph of the nondisclosure agreement to Mr. Ramirez's counsel, I asked [REDACTED] to schedule a meeting with Pastor Moore. This meeting took place on September 7, 2021, at 10:00 a.m. in a conference room at my office. Miguel Martinez, TDCJ Deputy Director of the Correctional Institutions Division, also attended. Mr. Martinez and I expressed our concern to Pastor Moore regarding his violation of the nondisclosure agreement. We explained to Pastor Moore that the violation gave TDCJ grounds to bar him from attending the execution or serving in any volunteer capacity. Pastor Moore acknowledged he had violated his nondisclosure agreement. He expressed remorse, apologized, and promised to abide by TDCJ's procedure. After considering his apology and the protocols designed to mitigate the risks he may pose in the chamber, along with TDCJ's obligation to restrict Mr. Ramirez's religious exercise as little as possible, TDCJ officials decided against revoking their approval of Pastor Moore's presence in the execution chamber.
6. On the day of his scheduled execution, September 8, 2021, I spent approximately 7 hours with Mr. Ramirez. During that time, I prayed with him and spoke with him about his faith. During one prayer, Mr. Ramirez took my hand and prayed.
7. Just before the afternoon's two-hour visitation period, which an inmate may elect to spend with his spiritual advisor or split between his lawyer and spiritual advisor, I asked Mr. Ramirez whether he would like to meet with his lawyer and/or Pastor Moore. Mr. Ramirez responded that he would like to meet with his lawyer but did not want to waste his time meeting with Pastor Moore because he wanted to make phone calls to his family.
8. After Mr. Ramirez ended his meeting with his lawyer, I asked again whether he would like to meet with Pastor Moore. He indicated that he did not want to but then stated, "I guess I probably should meet with him because I've got this thing in the courts." Mr. Ramirez then met with Pastor Moore for about five minutes.
9. Mr. Ramirez's execution was stayed later that evening.

Pursuant to 28 U.S.C. section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 20, 2021, in Huntsville, Texas.

[REDACTED]