

No. \_\_\_\_\_

---

IN THE  
SUPREME COURT OF THE UNITED STATES

---

EDWARD LEE BUSBY,  
*Petitioner,*

v.

TEXAS,  
*Respondent.*

---

On Petition for a Writ of Certiorari  
to the Texas Court of Criminal Appeals

---

**MOTION FOR LEAVE TO  
PROCEED *IN FORMA PAUPERIS***

---

Petitioner Edward Lee Busby asks for leave to file the attached Petition for a Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. On April 13, 2009, the United States Magistrate Judge Paul Stickney appointed undersigned Counsel Dow to represent Busby pursuant to 18 U.S.C. § 3599(a)(2). Order Appointing Counsel, *Busby v. Quarterman*, No. 4:09-cv-00160-Y (N.D. Tex. Apr. 13, 2009), ECF No. 3. Busby was also allowed to proceed *in forma pauperis* in the state courts. The June 8, 2021, Order appointing Counsel to represent Busby in the state habeas proceeding which resulted in Busby's present Petition is attached as an exhibit to this motion.

DATE: July 3, 2025

Respectfully submitted,

/s/ David R. Dow

---

David R. Dow\*  
Texas Bar No. 06064900  
Jeffrey R. Newberry  
Texas Bar No. 24060966  
University of Houston Law Center  
4604 Calhoun Rd.  
Houston, Texas 77204-6060  
Tel. (713) 743-2171  
Fax (713) 743-2131

*Counsel for Edward Lee Busby*

\*Member of the Supreme Court Bar

# Exhibit 1

**IN THE CRIMINAL DISTRICT COURT NUMBER TWO,  
OF TARRANT COUNTY, TEXAS**

**Ex parte  
Edward Lee Busby, Jr.,  
  
Applicant**

**Cause No. CDC2-W011911-00**

**MOTION FOR THE APPOINTMENT OF COUNSEL**

**TO THE HONORABLE JUDGE WAYNE SALVANT:**

Comes now, the indigent applicant, Edward Lee Busby, Jr., by and through undersigned Counsel and pursuant to sections 2 and 6(b-1) of Article 11.071 of the Texas Code of Criminal Procedure to move this Court to appoint the undersigned Counsel, David R. Dow and Jeffrey R. Newberry, to represent him in proceedings pursuant to the Court of Criminal Appeals' February 3, 2021 Order remanding Busby's claim that he is ineligible for execution because he is intellectually disabled this Court.

Busby is not represented by retained counsel and has not elected to proceed pro se. Undersigned counsel Dow represents Busby before the federal courts and has since 2009, when he was appointed to

represent Busby in his federal habeas proceeding by United States District Judge Terry Means. Newberry has worked with Dow on Busby's case since 2015. Both Dow and Newberry appear on the list of Approved Attorneys for 11.071 Appointment. Dow and Newberry represented Busby in his section 5 proceeding and seek appointment in this proceeding. As such, the Code recognizes they are the attorneys who should be appointed to represent Busby in this proceeding. Tex. Code Crim. Proc. art. 11.071, § 6(b-1)(1)

Accordingly, Counsel request the Court appoint them to represent Applicant Edward Lee Busby in this proceeding.

Respectfully submitted,

/s/ David R. Dow

---

David R. Dow  
Texas Bar Number 06064900  
University of Houston Law  
Center  
4604 Calhoun Road  
Houston, Texas 77204-6060  
Tel. (713) 743-2171  
Fax (713) 743-2131  
Email ddow@central.uh.edu

/s/ Jeffrey R. Newberry

---

Jeffrey R. Newberry  
Texas Bar Number 24060966  
University of Houston Law  
Center  
4604 Calhoun Road  
Houston, Texas 77204-6060  
Tel. (713) 743-6843  
Fax (713) 743-2131  
Email jrnewber@central.uh.edu

## **Certificate of Service**

I certify that a true and correct copy of this document was served on Counsel for the State, Jeanette E. Walston Strange on June 7, 2021 via an email sent to JEStrange@tarrantcountytexas.gov.

/s/ Jeffrey R. Newberry

---

Jeffrey R. Newberry

**IN THE CRIMINAL DISTRICT COURT NUMBER TWO,  
OF TARRANT COUNTY, TEXAS**

**Ex parte  
Edward Lee Busby, Jr.,  
  
Applicant**

**Cause No. CDC2-W011911-00**

**ORDER APPOINTING COUNSEL**

On February 3, 2021, this Court received notice that the Texas Court of Criminal Appeals found that the claim raised in Applicant's Application for a Post-Conviction writ of Habeas Corpus satisfied the criteria contained in section 5 of Article 11.071 of the Texas Code of Criminal Procedure. As directed by section 6(b-1) of Article 11.071, this Court hereby appoints the attorneys who represented Applicant in the proceedings under Section 5, David R. Dow and Jeffrey R. Newberry, to represent Applicant Edward Lee Busby, Jr. in further proceedings pursuant to the CCA's February 3 Order.

**SIGNED AND ENTERED** this 8<sup>th</sup> day of June 2021.



Hon. Wayne Salvant  
Judge Presiding  
Criminal District Court No. 2