



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-66,977-02

IN RE JIM MARCUS AND RICHARD BURR

**ORDER TO APPEAR AND SHOW CAUSE FOR UNTIMELY FILED
PLEADINGS IN APPLICANT GARCIA'S CASE
FROM CAUSE NO. 2001CR4925-W2
IN THE 290TH JUDICIAL DISTRICT COURT
BEXAR COUNTY**

Per Curiam. PRICE and ALCALA, JJ., dissent. HERVEY, J., not participating.

ORDER

Applicant Frank Martinez Garcia was set for execution on Thursday, October 27, 2011. Counsel filed in the trial court on applicant's behalf on October 26, 2011, a subsequent writ application. He filed a motion for stay of execution on October 27, 2011. Pursuant to our Miscellaneous Rule 11-003 setting out the requirements and possible consequences of filing pleadings within the seven days preceding an applicant's execution, counsel Jim Marcus and Richard Burr filed with the untimely pleadings a declaration

purporting to explain the untimely filings.

Before we take any action pursuant to Miscellaneous Rule 11-003, we want to hear from counsel in person. Therefore, we order both counsel to appear before this Court at 9:00 a.m. on Wednesday, January 11, 2012, to offer further explanation and address any questions propounded by the Court about the matter.

It is further ordered by this Court that the Clerk of this Court shall issue Notice to Appear and Show Cause commanding Jim Marcus and Richard Burr to appear and show cause, in the manner and within the time specified in this order, why counsel should not be sanctioned by this Court for failing to adequately justify the untimely filings. A copy of this Order shall accompany the Notice.

IT IS SO ORDERED THIS THE 23rd DAY OF NOVEMBER, 2011.

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