

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-11-00191-CV

Cleve Foster and Humberto Leal, Appellants

v.

Texas Department of Criminal Justice, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 200TH JUDICIAL DISTRICT
NO. D-1-GN-11-000917, HONORABLE STEPHEN YELENOSKY, JUDGE PRESIDING**

ORDER

PER CURIAM

In the above cause, appellant Cleve Foster has filed a motion for emergency relief seeking to enjoin appellee Texas Department of Criminal Justice from applying its March 2011 “Execution Procedure” at Foster’s execution, currently scheduled for April 5, 2011, and further “order that any execution taking place in the interim be conducted in accordance with the existing Execution Procedures adopted in 2008.” We deny the motion. *See State ex rel. Holmes v. Court of Appeals*, 885 S.W.2d 389, 392-96 (Tex. Crim. App. 2004); *see also* Tex. Const. art. V, § 5; Tex. Code Crim. Proc. Ann. art. 4.04, § 2 (West 2005); Tex. Gov’t Code Ann. § 2001.226 (West 2008).

It is ordered April 4, 2011.

Before Chief Justice Jones, Justices Puryear and Pemberton