

# Death row lawyers get paid while messing up

## Attorneys who continue to miss appeal dates are still getting cases

By LISE OLSEN  
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Texas lawyers have repeatedly missed deadlines for appeals on behalf of more than a dozen death row inmates in the last two years — yet judges continue to assign life-or-death capital cases and pay hundreds of thousands in fees to those attorneys, a Chronicle records review shows.

Missing deadlines means their clients can be automatically denied constitutionally mandated reviews before their execution. Houston lawyer Jerome Godinich missed three recent federal deadlines, the Chronicle reported in March. One client was executed in February after the federal appeal was filed too late. In March, the 5th Circuit Court of Appeals chastened Godinich for using the same excuse — a malfunctioning after-hours filing machine — for missing another deadline for a man still on death row.

A recent review of the Harris County Auditor's billing records and district court records shows Godinich remains one of the county's busiest appointed criminal attorneys, billing for \$713,248, including fees for 21 capital cases. He was appointed to handle 1,638 Harris County cases involving 1,400 different defendants from 2006-March 2009, court records show.

He refused comment.

Godinich is not the only attorney to miss death row deadlines. A San Antonio lawyer failed to file four state appeals on time, according to opinions last year by the Texas Court of Criminal Appeals. A Fort Worth lawyer has missed both state and federal deadlines in at least five recent cases, though he sought and was granted more time to prepare on four of them, according to court records reviewed by the Chronicle.

The failure to file such appeals, called writs of habeas corpus, means death row inmates risk missing their last chance to submit new claims of innocence or evidence that could alter their conviction — or death sentence. State judges can be flexible, but federal judges follow tight and sometimes confusing deadlines.

Only one of three Texas lawyers who repeatedly missed such death row deadlines has faced fines or been forced to forgo fees by judges.

Suzanne Kramer, of San Antonio, was removed in October 2008 from three state appeals she failed to file on time and was fined \$750 by the Texas Court of Criminal Appeals. She is handling a fourth case over protests.

"I know if this lawyer stays on my case I'll definitely get executed," death row inmate Juan Castillo wrote the Chronicle. "She's refused to respond to any of my letters ... she's never come to see me to discuss my case (and) my writ was due Dec. 11, 2006 and she never filed it."

### Appeal filed incorrectly

The CCA allowed Kramer to continue representing Castillo after criticizing her claim that she mailed in his appeal on a Saturday to the office of a Bexar County judge. The appeal was never filed with the county clerk, as required. "Judges don't file lawsuits. I guess that would go on her credibility as a lawyer," said Gerry Rickhoff, district court clerk in Bexar County.

Kramer, who did not return phone calls to her office, has been paid \$86,577 in fees by Bexar County since 2007, but went unpaid for the three late appeals by CCA order.

Jack V. Strickland Jr., a Fort Worth lawyer who specializes in capital case law, also has repeatedly missed death row deadlines. However, judges accepted his explanations and allowed late filings for four of five appeals.

Being overwhelmed on capital cases was the excuse for two late 2008 filings.

Strickland told the court that he'd been hospitalized several months before the appeals were due, then "began a new death penalty trial right after his recuperation period, was in the process of preparing another death penalty writ application which was due mid-September, was preparing for trial in

another case, and had presented five lectures and papers in the previous sixty days," according to a CCA opinion.

In another case, Strickland missed both state and then federal deadlines for the death row inmate, Quintin Jones. Before losing his federal appeal due to lateness, Jones repeatedly tried to get another attorney.

Strickland said he "almost begged the magistrate judge to appoint someone else. Jones and I had a very unpleasant relationship." He was left on the case anyway.

Strickland blamed the deadline error on miscalculating the due date.

He earned \$428,850.62 in court-appointed fees in Tarrant County from 2006-2009. More than a quarter were bills for late appeals, auditor's records show.