

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

JUL 23 1987

MURRAY W. HARRIS, CLERK
By

Deputy

87-11: GENERAL ORDER CONCERNING

PETITIONS TO STAY EXECUTION OF STATE COURT JUDGMENTS

In accordance with the agreement of the judges of this district, it is ORDERED, effective immediately, that the rules, as set forth below, relating to petitions to stay execution of state court judgments shall be, and are hereby,

ADOPTED:

1. A plaintiff who seeks a stay of enforcement of a state court judgment or order shall attach to the petition a copy of each state court opinion and judgment involving the matter to be presented. The petition shall also state whether or not the same plaintiff has previously sought relief arising out of the same matter from this court or from any other federal court. The reasons for denying relief given by any court that has considered the matter shall also be attached. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcript shall be supplied.
2. If any issue is raised that was not raised, or has not been fully exhausted, in state court, the petition shall state the reasons why such action has not been taken.
3. This court's opinion in any such action shall separately state each issue raised by the petition and rule expressly on each issue stating the reasons for each ruling made.
4. If a certificate of probable cause is issued in any such case, the court will also grant a stay of execution to continue until such time as the Court of Appeals expressly acts with reference to it.
5. If the same petitioner has previously filed in this court an application to stay enforcement of a state court judgment or for habeas corpus relief, the case shall be allotted to the judge who considered the prior matter.

6. A second or successive petition for habeas corpus may be dismissed if the court finds that it fails to allege new or different grounds for relief, if the failure of the petitioner to assert those grounds in a prior petition constitutes an abuse of the writ, or if the petition is frivolous and entirely without merit. Even if it cannot be concluded that a petition should be dismissed on these grounds, the court will expedite consideration of any second or successive petition.

SIGNED and ENTERED this 23rd day of July, 1987, for the Court.


CHIEF JUDGE