



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

**NO. WR-94,432-01**

**IN RE STATE OF TEXAS EX REL. KEN PAXTON, Relator**

**ON MOTION FOR LEAVE TO FILE A WRIT OF PROHIBITION  
IN RELATION TO DALLAS COUNTY CASE OF EX PARTE WESLEY RUIZ,  
POTTER COUNTY CASE OF EX PARTE JOHN LEZELL BALENTINE, and  
HARRIS COUNTY CASE OF EX PARTE ROBERT ALAN FRATTA  
TRAVIS COUNTY**

*Per curiam.* NEWELL, J., filed a dissenting opinion in which WALKER, J.,  
joined.

## **O P I N I O N**

We have before us a motion for leave to file an application for writ of prohibition filed by the Honorable Ken Paxton, Attorney General of the State of Texas. Therein, he asks this Court to order the Honorable Jan Soifer, Judge of the 345<sup>th</sup> District Court of Travis County to refrain “from enjoining, staying, or otherwise interfering with [Wesley] Ruiz’s and [John Lezell] Balentine’s [and Robert Alan Fratta’s] execution[s] in any way.”

Ruiz, Balentine, and Fratta were all convicted of capital murder and sentenced to

death in their respective counties. This Court affirmed each of the separate convictions and sentences on direct appeal and issued mandate. Plus, each of the three inmates have filed Texas Code of Criminal Procedure Article 11.071 initial writs of habeas corpus, as well as at least two subsequent writs, in their respective convicting courts over the years. All of the writs were ultimately denied or dismissed by this Court.

Ruiz and Balentine have now filed what purports to be a civil suit in a Travis County District Court seeking injunctive or declaratory relief regarding the drugs to be used in their respective executions. Fratta subsequently intervened (or attempted to intervene) in the suit. Relator (Paxton) ~~has~~ asked this Court to stay the proceedings below and grant prohibition relief.

Initially, we stayed the proceedings below pending resolution of this prohibition and we invited the named Respondent, the Honorable Jan Soifer, to respond to the prohibition filed. Meanwhile, we discovered that the case had been transferred pursuant to Chapter 2.6 of the Travis County Local Rules to the 419<sup>th</sup> Judicial District Court, the Honorable Catherine A. Mauzy, presiding. Judge Mauzy acknowledged receipt of the order we issued in the case requesting a response, and she sent a response.

Leave to file the application is now granted and the Respondent, the Honorable Catherine A. Mauzy, is ordered to refrain from issuing any order purporting to stay the January and February executions of Harris County death row inmate Robert Alan Fratta, Dallas County death row inmate Wesley Ruiz, or Potter County death row inmate John

Lezell Balentine.

Delivered: January 4, 2023

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