

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

David C. Guaderrama
David Campos Guaderrama
David Guaderrama

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Western District of Texas

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Albert Armendariz Sr. United States Courthouse
525 Magoffin Avenue, Suite 451
El Paso, Texas 79901

4. **Birthplace**: State year and place of birth.

1954; Las Cruces, New Mexico

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1976 – 1979, University of Notre Dame Law School; J.D., 1979

1972 – 1975, New Mexico State University; B.A., 1975

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2010 – Present
United States Courts
Albert Armendariz Sr. United States Courthouse
525 Magoffin Avenue, Suite 451
El Paso, Texas 79901
United States Magistrate Judge

1995 – 2010
State of Texas
500 East San Antonio, Suite 901
El Paso, Texas 79901
District Court Judge for the 243rd Judicial District

1987 – 1994
County of El Paso, Texas
500 East San Antonio
El Paso, Texas 79901
Chief Public Defender

1980 – 1986
Guaderrama and Guaderrama
407 East Nevada
El Paso, Texas 79902
Partner

1979 – 1980
David C. Guaderrama
300 East Main, Suite 640
El Paso, Texas 79901
Sole practitioner

Summer 1978
Southern New Mexico Legal Services
600 Montana Avenue #D
Las Cruces, New Mexico 88001
Law clerk

Spring 1978
University of Notre Dame
Hesburgh Library
Notre Dame, Indiana 46556
Research assistant to Professor Rudy Sandoval

Summer 1977
El Paso Legal Assistance Society
109 North Oregon
El Paso, Texas 79901
Law clerk

1975
Ponca Wholesale
3000 Harrelson, 1N
Las Cruces, New Mexico 88005
Delivery/warehouseman

Other Affiliations (uncompensated):

2002 – Present
El Paso Criminal Law Group, Inc.
728 Camino Real
El Paso, Texas 79922
President and Board Member

1998 – 1999
El Paso Association for the Performing Arts
P.O. Box 512351
El Paso, Texas 79901
Board Member

1992 – 1993
El Paso Legal Assistance Society
1301 North Oregon Street
El Paso, Texas 79902
Board Member

1988 – 1990 (approximation)
Mexican American Bar Association
500 East San Antonio, Suite L-112
El Paso, Texas 79901
Board Member

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. military. I registered for selective service upon turning 18 years of age.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Senate Proclamation No. 45, State of Texas Senate, sponsored by Senator Eliot Shapleigh of District 29, recognized me as "one of the hardest-working judges in the state" and my service to the community, *inter alia*, hosting deaf and hearing-impaired students in the Hillside Elementary School mock trial program (2010)

2004 Community Service Award, Texas Association of Parents and Educators for the Deaf (2004)

Young Lawyer's Jurist of the Year (2000)

Board Certified in Criminal Law by the Texas Board of Legal Specialization (1991)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

El Paso Bar Association

Federal Bar Association, El Paso Chapter

Mexican-American Bar Association

Board member (1988 – 1990) (approximation)

Probate Bar Association

State Bar of Texas

Texas Center for the Judiciary

Capital Crimes Bench Book Committee (2007 – 2008)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Texas, 1979

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1993

United States Court of Appeals for the Fifth Circuit, 1982

United States District Court for the Western District of Texas, 1981

Courts of the State of Texas, 1979

My membership in the United States Court of Appeals for the Fifth Circuit lapsed in 2000. Apparently, the renewal application was sent to an old address; I never received it and thus did not renew my membership. Similarly, my membership in the District Court for the Western District of Texas lapsed in 2003. The renewal notice was again sent to an old address, and thus I did not renew my membership. There have been no other lapses.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Ducks Unlimited (2002 – 2006) (approximation)

El Paso Association for the Performing Arts
Board Member (1998 – 1999)

El Paso Community College, Office Administration and Information Processing
Advisory Committee (1996 – 1997) (approximation)

El Paso Criminal Law Group, Inc.
President and Board Member (2002 – Present)

El Paso Justice Council (1995 – 2010) (approximation)

El Paso Legal Assistance Society
Board Member (1992 – 1993)

National Rifle Association (1998 – 2007) (approximation)

Notre Dame Club of El Paso (1980 – Present)

Project Safe Neighborhoods
Committee member (2004 – 2011)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion

or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations of which I am a member or have been a member currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

“The El Paso Criminal Defense Lawyers’ Bar Association,” EL PASO BAR JOURNAL, Feb./Mar. 2011, at 17. Copy supplied.

“Drug Courts Revisited,” EL PASO BAR JOURNAL, Sept. 2009, at 18. Copy supplied.

David Guaderrama & Phillip Wischkaemper, “Pre-Indictment and Pre-Trial Management,” in CAPITAL CASES BENCH BOOK (2008) (the Bench Book is put together by Texas Center for the Judiciary, Inc., an independent, non-profit 501(c)(3) organization that serves as the administrative arm of the Judicial Section of the State Bar of Texas and that provides judicial education and training opportunities for Texas judges). Copy supplied.

In 2008, I maintained a campaign web site while running for the 8th Court of Appeals. I have been unable to obtain a full copy of the web site, but I have supplied the available archived page.

Guest Column, “Race, Ethnic Background Needed for Jury Selection,” EL PASO TIMES, Feb. 22, 1998, at 13A. Copy supplied.

With Matthew DeKoatz, “Recent Cases on Charging Instruments,” VOICE FOR THE DEFENSE (published by Texas Criminal Defense Lawyers Association), vol. 24, no. 8, Oct. 1995, at 14. Copy supplied.

With Bruce Weathers, “Professional Conduct – When Should You Squeal on Your Client?: A View from the Defense,” VOICE FOR THE DEFENSE (published by Texas Criminal Defense Lawyers Association), Jan. 1994, at 22. Copy supplied.

With Matthew DeKoatz, "Jury Charge," VOICE FOR THE DEFENSE (published by Texas Criminal Defense Lawyers Association), vol. 22, no. 5, June 1993, at 26. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

On April 27, 1993, I submitted a brief titled "Duty of Candor v. Attorney-Client and Self-Incrimination Privileges" to the Professional Ethics Committee of the Supreme Court of Texas. Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On August 12, 2010, I appeared before the El Paso County Commissioners Court to discuss proposed judicial budget cuts. Video is available at <http://www.epcounty.com/video/budget/archives.htm>.

On July 13, 2010, I spoke before the El Paso County Commissioners Court in support of a new position for a jail magistrate judge who would hear drug court cases. Video is available at <http://www.epcounty.com/video/special/archives.htm>.

I have made several other presentations to the Commission but do not have records of when I appeared. Furthermore, I have searched the Commission agendas and meeting minutes for mention of my appearances, but the documents do not detail whether I would have spoken or not. I have made these appearances while serving as a judge and as the El Paso County Public Defender.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

November 22, 2010: I addressed family and friends of and administered the oath of office to Judge Hicks in the courtroom of the 243rd Judicial District Court, El Paso, Texas. Notes supplied.

November 19, 2010: I addressed the gathering at the Naturalization Ceremony for new citizens at the El Paso Civic Center, El Paso, Texas. Notes supplied.

November 2, 2010: I addressed family and friends of late Judge Woodrow Bean, Jr., at a memorial service in the courtroom of the Eighth Court of Appeals of Texas, El Paso County Courthouse, El Paso, Texas. Notes supplied.

October 22, 2010: I addressed family, friends, and the local federal judiciary at my investiture ceremony in the Special Events Courtroom of the Albert Armendariz Sr. Federal Courthouse, El Paso, Texas. Notes supplied.

February 21, 2010: I spoke about drug courts during a reception dinner of the West Texas Area Chiefs Conference. I have no notes, transcript or recording. The address of the West Texas Community Supervision and Corrections Department is 800 East Overland, Suite 100, El Paso, Texas 79901.

September 21, 2009 (approximation): I addressed the crowd at the Chamizal National Memorial, El Paso, Texas, on the occasion of a candlelight vigil sponsored by the West Texas Community Corrections and Supervision Department, El Paso, Texas. Notes supplied.

April 14, 2009: I sat on a panel of judges discussing drug courts during an El Paso Bar Association meeting at the El Paso Club, El Paso, Texas. Notes supplied.

December 31, 2008: I swore in Richard Wiles as the Sheriff of El Paso County. I have no notes, transcript or recording. The address of the Sheriff's Office is 3850 Justice Drive, El Paso, Texas 79938.

September 7, 2008: I spoke about drug and alcohol abuse during the Rally for Recovery sponsored by the Recovery Alliance. I have no notes, transcript or recording. The address of the Recovery Alliance is P.O. Box 9669, El Paso, Texas 79995.

February 20, 2008: I spoke on drug courts for the East Side Civic Association. I have no notes, transcript or recording. The address of the East Side Civic Association is c/o Ray Graham, 10142 Stoneway Drive, El Paso, Texas 79925.

May 12, 2007 (approximation): I addressed students at El Dorado High School, El Paso, Texas. Notes supplied.

May 11, 2007 (approximation): I addressed the graduates of the “Substance Abuse Felony Punishment” program of the 384th Judicial District Court at the El Paso County Courthouse, 500 East San Antonio, El Paso, Texas. Notes supplied.

April 4, 2007: I addressed the Rio Grande Council of Governments regarding drug courts at 1100 North Stanton, Suite 610, El Paso, Texas. Notes supplied.

February 22, 2007 (approximation): I addressed the Appellate Section of the El Paso Bar Association on comparisons between advocacy decision making at trial and on appeal, at the El Paso County Courthouse, El Paso, Texas. Notes supplied.

March 18, 2005: I addressed and administered the oath of office to new probation officers at the El Maida Temple, 6331 Alabama, El Paso, Texas. Notes supplied.

May 14, 2004: I sat on a panel of judges discussing a judicial perspective on various practice aspects of appointed counsel at an event of the Texas Minority Counsel Program of the State Bar of Texas held in the Commissioner’s Courtroom, El Paso County Courthouse, El Paso, Texas. Notes supplied.

April 27, 2004: I addressed the graduates of the “Cognitive Thinking” program at the Carolina Happiness Senior Center, 563 North Carolina Street, El Paso, Texas. Notes supplied.

October 4, 2002: On behalf of the El Paso Criminal Law Group, Inc., I presented a plaque to Joe Calamia honoring his service to the legal community. Notes supplied.

June 10, 2001: I administered the oath of office to City Councilman Larry Medina at the El Paso Civic Center, El Paso, Texas. Notes supplied.

December 13, 2000: I co-presented County Commissioner Charles Hooten with an award for his role in forming the El Paso County Public Defender’s Office in the 1980s. Notes supplied.

May 19, 2000 (approximation): I sat on a panel of judges discussing a perspective from the bench on the do’s and don’ts in courtroom practice at an event sponsored by the Texas Criminal Defense Lawyers Association in El Paso, Texas. Notes supplied.

May 11, 2000 (approximation): I addressed fifth-grade students at Collins Elementary School, El Paso, Texas. Notes supplied.

April 7, 2000: I addressed a group of state probation officers at their annual meeting in El Paso, Texas. Notes supplied.

July 15, 1999: I addressed the graduates of the "Back on Track" program of the West Texas Community Corrections and Supervision Department El Paso, Texas. Notes supplied.

June 13, 1999: I administered the oath of office to City Councilman Larry Medina at the El Paso Civic Center, El Paso, Texas. Notes supplied.

January 4, 1999: I administered the oath of office to Julie Gonzalez to be County Court at Law Judge in the Commissioner's Courtroom of the El Paso County Courthouse, El Paso, Texas. Notes supplied.

January 1, 1999: I administered the oath of office to Yvonne R. Guaderrama (now Bonnie Rangel) to be a Texas District Court judge. The ceremony was held in the Ceremonial Courtroom of the El Paso County Courthouse. I have no notes, transcript or recording. The address of the courthouse is 500 East San Antonio, El Paso, Texas 79901.

December 1996: On behalf of the Council of Judges, I presented retiring Commissioner Sanchez with a plaque honoring his service. Notes supplied.

1995 – 2001: I gave numerous addresses to students of the Peace Officer Certification Class at the Law Enforcement Training Academy, El Paso Community College, El Paso, Texas. Notes supplied.

1994 – 2011: I presided over annual mock trials for the Deaf Education Regional Day School Program. I have no notes, transcripts or recordings. The contact for the program is Mr. Douglas Jackson, 7024 Cielo Vista Drive, El Paso, Texas.

1994 – 2010: I gave numerous campaign speeches while running for the 243rd judicial district and the 8th Court of Appeals. I typically did not speak from a prepared text, outlines, or notes, but may have occasionally used push cards that contained my name, the position for which I was running, and my legal and judicial qualifications. The following are examples of the locations where, to the best of my recollection, such speeches might have been made:

At Democratic Party organizations in El Paso County, Texas, including:

The Executive Committee of the Democratic Party
1401 Montana Avenue, #C
El Paso, Texas 79902

Black El Paso Democrats
P.O. Box 371425
El Paso, Texas 79937

Paso Del Notre Tejanos
3000 East Yandell
El Paso, Texas 79903

Mexican American Democrats
824 Bolivia Street
El Paso, Texas 79903

At senior citizens centers in El Paso County, Texas, including:

Friendly West Senior Center
2215 Murchison Drive
El Paso, Texas 79923

El Paso Sacramento Senior Center
3134 Jefferson Avenue
El Paso, Texas 79930

Washington Park
322 Washington Street
El Paso, Texas 79905

Hilos de Plata
4451 Delta Drive
El Paso, Texas 79905

Carolina Happiness Senior Center
563 North Carolina Drive
El Paso, Texas 79915

South El Paso Senior Center
600 South Ochoa Street
El Paso, Texas 79901

Fabens Senior Citizens Center
201 Camp Street
Fabens, Texas 79838

Clint Senior Citizens Center
200 San Elizario Road
Clint, Texas 79836

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I searched my files as well as publicly available Internet sources to create as comprehensive a response to this question as possible, but I may have given other interviews that I am unable to recall or identify.

Ramon Bracamontes, "Love Fest: Thousands in EP are Loyal Backers of Irish," EL PASO TIMES, Dec. 30, 2010. Copy supplied.

Adriana M. Chavez, "Guaderrama Appointed to Federal Magistrate Post," EL PASO TIMES, Sept. 21, 2010. Copy supplied.

Adriana M. Chavez, "Officials OK Drug-Court Magistrate Judge," EL PASO TIMES, July 13, 2010. Copy supplied.

Adriana M. Chavez, "Judges Put to Use Videoconferencing," EL PASO TIMES, July 6, 2010. Copy supplied.

Adriana M. Chavez, "Judge Sets Relentless Courtroom Pace," EL PASO TIMES, Dec. 15, 2009. Copy supplied.

September 18, 2009: Spanish language interview with Jerry Smola on KVIV (AM 1340), regarding Drug Courts. I have been unable to obtain a copy of the interview.

Guadalupe Silva, "Drug Court Funded," WEST TEXAS COUNTY COURIER, Oct. 23, 2008. Copy supplied.

Cynthia Romero, "Addicts Get Support to Recover in Drug Court," EL PASO TIMES, Oct. 7, 2008. Copy supplied.

May 27, 2008: Spanish language interview with Jerry Smola on KXPL (AM 1060), regarding Drug Courts. I have been unable to obtain a copy of the interview.

April 2008: I gave an interview to someone who I now believe was with the Crystal Darkness 2008 Campaign on the subject of drug abuse in our community. I have been unable to obtain a copy of the interview.

January – March 2008 (approximation): Interview with Paul Strelzin, Radio KHRO (AM 1650), regarding my campaign for the Eighth Court of Appeals of Texas. I have been unable to obtain a copy of the interview.

February 9, 2008: Interview with Professor Blevins for Perspectives, El Paso Community College, regarding my involvement in Mock Trials for hearing-impaired students. Video recording supplied. Although there are two separate interviews on the disc, I am only featured in the first.

February 2008: Greater El Paso Prosperity Project Voter's Guide, at 35 (self-prepared candidate information sheet). Copy supplied.

"Surfing the Courts; Low-Income Students Awarded Scholarships," County Insider, 2008. Copy supplied.

2008 (approximation): Interview with Heidi Renpenning, KINT Univision Channel 26. I have been unable to obtain a copy of the interview.

February 2007: I provided a public service address about "El Paso Pride" carried on Time Warner cable channels in the local viewing area over the time period between February 2007 and December 2007. Script supplied and video available at http://www.youtube.com/watch?v=8AoEK62nn_0.

2006 (approximation): Interview with police spokesman Javier Sambrano on a cable channel, regarding Drug Courts. I have been unable to obtain a copy of the interview.

Tammy Fonce-Olivas, "Initiative Targets EP Gun Crimes," EL PASO TIMES, Apr. 8, 2005. Copy supplied.

Charles K. Wilson, "Commissioners Refuse to Hire Court Reporter," EL PASO TIMES, Jan. 11, 2005. Copy supplied.

Daniel Borunda, "7 Receive Diplomas for Graduating from Intense Drug Rehabilitation Program," EL PASO TIMES, Mar. 26, 2004. Copy supplied.

David Crowder, "Charged Demo is Asked to Quit," EL PASO TIMES, Feb. 14, 2004. Copy supplied.

Editorial, "Drug Court is a Success," EL PASO TIMES, Mar. 12, 2003. Copy supplied.

Louie Gilot, "Helping Hand: Program Offers Drug Users New Way of Dealing with Addiction," EL PASO TIMES, Mar. 11, 2003. Copy supplied.

Jennifer Shubinski and David Crowder, "Sex-Crime Penalties Questioned," EL PASO TIMES, Dec. 6, 2001. Copy supplied.

Jennifer Shubinski, "Court Puts Cases, Docket Online," EL PASO TIMES, July 20, 2001. Copy supplied.

Douglas Jackson, "Mock Trials for Deaf Students," Law Matters, Winter 2001. Copy supplied.

Jodi Garber, "Deaf Students Learn about Legal System at Mock Trial," EL PASO TIMES, Nov. 22, 2000. Copy supplied.

Jennifer Shubinski, "El Paso's Courts Have More Cases," EL PASO TIMES, Nov. 20, 2000. Copy supplied.

Press release, "First Virtual Corporation Wins I.T.C.A. Teleconferencing Excellence Award for County of El Paso Installation," FIRST VIRTUAL CORPORATION, June 30, 1997. Copy supplied.

Raul Hernandez, "No New Trial for Singleton," EL PASO TIMES, Aug. 14, 1996. Copy supplied.

Victor Venegas, "Your Jury Duty is About to Change," EL PASO HERALD-POST, Mar. 27, 1996. Copy supplied.

Juan A. Lozano, "El Pasoans Say Yes to Non-Runner," EL PASO HERALD-POST, Nov. 9, 1994. Copy supplied.

Editorial, "243rd District Court Clearly Needs Guaderrama as Judge," EL PASO TIMES, Nov. 4, 1994. Copy supplied.

David Sheppard, "Candidate and Wife in Dispute," EL PASO TIMES, Oct. 25, 1994. Copy supplied.

"Candidates Line Up for Judicial Seats," EL PASO CITIZEN, Dec. 16, 1993. Copy supplied.

"People to Watch – David C. Guaderrama: 'Thanks El Paso – You've Been Good to Me,'" EL PASO HERALD-POST, May 5, 1993. Copy supplied.

Raul Hernandez, "Public Defenders Taking on More Work," EL PASO HERALD-POST, Aug. 6, 1991. Copy supplied.

Raul Hernandez, "Appeals Court Rules against Magistrate," EL PASO HERALD-POST, Nov. 9, 1989. Copy supplied.

Berta Rodriguez, "Appeals Court Rules Magistrate Delayed Defendants Too Long," EL PASO TIMES, Nov. 9, 1989 (on or about). Copy supplied.

Allison Ring, "New Defender Addresses Challenges," LAS CRUCES SUN-NEWS, Jan. 28, 1988 (on or about). Copy supplied.

Michael Scanlon, "Ex-Crucan Defends El Paso's Poor," EL PASO TIMES, Jan. 26, 1987. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On November 8, 1994, I was elected Judge of the 243rd Judicial District Court of Texas, and I took office on January 1, 1995, for a four-year term. I was subsequently re-elected to this post on four occasions. The Court has general jurisdiction, state felony criminal jurisdiction, and civil jurisdiction. I resigned on September 30, 2010 to become a United States Magistrate Judge.

On October 1, 2010, I was appointed by the United States District Court for the Western District of Texas to serve an eight-year term as a United States Magistrate Judge. As set out in 28 U.S.C. § 636, the Court has jurisdiction to impose sentences in petty offenses and, upon the consent by the parties, in Class A misdemeanors; to determine bonds and order detention; and to conduct other criminal hearings when referred by the district court. In civil cases, the court can hear non-dispositive matters referred by the district court, and conduct trials and hear dispositive matters with the consent of the parties.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

I presided over approximately 300 trials at the state court. I have not presided over a trial as a Magistrate Judge.

- i. Of these, approximately what percent were:

jury trials:	>99%
bench trials:	<1%
civil proceedings:	1%
criminal proceedings:	99%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

I did not write any opinions as a state trial court judge. Below is a list of the opinions I have written either sitting by designation on the Texas Court of Appeals or as a Magistrate Judge.

Melendez v. Gutierrez, No. EP-11-CV-136-PRM (W.D. Tex. July 29, 2011), Docket No. 16 (recommending that the district court *sua sponte* dismiss inmate plaintiff's 42 U.S.C. § 1983 complaint).

Chung v. Bed Bath & Beyond, Inc., No. EP-09-CV-330-FM (W.D. Tex. July 7, 2011), Docket No. 47 (construing claims of U.S. Patent No. 6,511,199 in a patent infringement case).

Bazemore v. Castaneda, No. EP-10-CV-403-DB, 2011 WL 1675416 (W.D. Tex. Apr. 12, 2011) (recommending that the defendant's motion for summary judgment in a *Bivens* action filed by inmate plaintiff be granted).

United States v. Rodriguez, No. EP-08-CR-1865-PRM DB (W.D. Tex. Feb. 18, 2011), Docket No. 91 (recommending that the felon defendant's Federal Rule of Criminal Procedure 41(g) motion for return of seized firearms be granted in part and denied in part).

Parra-Mendez v. United States, No. EP-08-CR-1049-KC, 2011 WL 1101053 (W.D. Tex. Feb. 14, 2011) (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

Villa-Escarcega v. United States, No. EP-08-CR-2643-PRM (W.D. Tex. Dec. 30, 2010), Docket No. 56 (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

Hernandez v. United States, No. EP-07-CR-2399-KC (W.D. Tex. Dec. 7, 2011), Docket No. 42 (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

Huerta-Lopez v. United States, No. EP-08-CR-1272-DB (W.D. Tex. Dec. 1, 2010), Docket No. 45 (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

Valladolid-Lerma v. United States, EP-06-CR-1869-DB (W.D. Tex. Nov. 23, 2010), Docket No. 47 (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be granted).

Zhao v. Holder, EP-10-CV-164-PRM (W.D. Tex. Nov. 12, 2010), Docket No. 15 (recommending that Respondent's Motion For Summary Judgment be granted in a § 2241 habeas petition involving an immigration issue).

Herrera-Rodriguez v. United States, No. EP-08-CR-0618-PRM (W.D. Tex. Nov. 8, 2010), Docket No. 44 (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

State v. Alderete, 314 S.W.3d 469 (Tex. App.—El Paso 2010) (dissenting opinion) (Guaderrama, J. sitting by assignment).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *State v. Bradley*, Cause No. 950D01517 (243rd Dist. Ct., El Paso County, Tex.) (Murder)

The defendant was accused of killing his wife. For some time, the identity of the victim, whose body was dismembered and strewn all across the city, was unknown. The police asked the media to help by broadcasting a picture of the victim's face on the evening news. Shortly after the broadcast, the police received tips that revealed her identity and led to her husband, the defendant. I presided over pretrial motions hearings, jury selection, and the trial on the merits, rendering rulings on motions or objections raised by counsel. I denied the defendant's motion to suppress his confession, finding that he was not in custody when he gave the statement. The jury found the defendant guilty and sentenced him to life in the penitentiary, and the appellate court affirmed. *Bradley v. State*, 960 S.W.2d 791 (Tex. App.—El Paso 1997).

For the State:

District Attorney Jaime Esparza
El Paso County Courthouse
500 East San Antonio, 2nd Floor
El Paso, Texas 79901
(915) 546-2059

Frank J. Gonzalez
Attorney at Law
Texas Tech University Health Science Center
4801 Alberta Avenue, Suite B09
El Paso, Texas 79905
(915) 545-8839

For the Defendant:

Gary Hill
Attorney at Law
801 North El Paso Street, Suite 200
El Paso, Texas 79902
(915) 544-9459

Louis E. Lopez
Attorney at Law
416 North Stanton, Suite 400
El Paso, Texas 79901
(915) 543-9800

2. *State v. Singleton*, Cause No. 960D01611 (243rd Dist. Ct., El Paso County, Tex.) (Aggravated Assault)

The defendant, who was an outstanding college athlete and had been invited to try out with the Tampa Bay Buccaneers, was charged with aggravated assault for punching and breaking the jaw of a young man outside a bar for no apparent reason. The jury found the defendant guilty and sentenced him to twelve years in the penitentiary. I presided over pretrial motions hearings, jury selection, and the trial on the merits, rendering rulings on motions or objections raised by counsel. I denied a motion for new trial alleging that the verdicts as to guilt and punishment were invalid because my instructions to the jury in response to jury notes were confusing. The appellate court affirmed the judgment. *Singleton v. State*, 986 S.W.2d 645 (Tex. App.—El Paso 1998).

For the State:

Assistant District Attorney Rick Locke
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(915) 546-2059

Michael Pleters
Assistant Chief Counsel
Immigration and Customs Enforcement
1545 Hawkins Boulevard
El Paso, Texas 79925
(915) 782-7900

For the Defendant:

Danny Mena
Attorney at Law
3233 North Piedras Street
El Paso, Texas 79930
(915) 564-1336

3. *State v. Middaugh*, Cause Nos. 960D03375, 960D03497, 960D01341, 960D01342, 960D09894 (243rd Dist. Ct., El Paso County, Tex.) (Aggravated Robbery)

For a number of weeks, the defendant terrorized the city, targeting businesses operated by females. He would enter with a ski mask and hand gun, force the women to disrobe and turn over their valuables. Toward the end of his crime spree, he became bolder and progressed to fondling some of the women. He

was charged with multiple counts of aggravated robbery. I presided over pretrial motions hearings, jury selection, and the trial on the merits, rendering rulings on motions or objections raised by counsel. The jury found him guilty, but recommended a sentence of probation. No appeal was taken.

For the State:

Michael Pleters
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Immigration and Customs Enforcement
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(915) 782-7900

Tom Cloudt
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(512) 463-6588

For the Defendant:

Joe Spencer
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El Paso, Texas 79902
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4. *State v. Ortiz*, Cause No. 980D08993 (243rd Dist. Ct., El Paso County, Tex.) (Capital Murder)

The defendant, a “tank boss” at the county jail and with a long criminal history including a prior murder conviction, was charged with capital murder for killing another inmate by orchestrating an intentional heroin overdose of the victim. I presided over pretrial motions hearings and the trial on the merits, rendering rulings on motions or objections raised by counsel. The jury found the defendant guilty and assessed the death penalty, and the Texas Court of Criminal Appeals affirmed. *Ortiz v. State*, 93 S.W.3d 79 (Tex. Crim. App. 2002).

For the State:

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For the Defendant:

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(915) 546-8185

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(915) 838-7777

5. *State v. Berkley*, Cause No. 20000D05705 (243rd Dist. Ct., El Paso County, Tex.) (Capital Murder)

After staking out an ATM machine, the defendant attacked a young woman who came to withdraw \$20.00 for an evening on the town. He shot her in the face, ordered her to move into the passenger seat, and drove her to a desert where he repeatedly sexually assaulted her and shot and killed her. I presided over the pretrial motions hearings and the trial on the merits, rendering rulings on motions or objections raised by counsel. I overruled the defendant's objection to DNA profile evidence and photographs of the victim's body, and denied his motion to strike expert testimony about the DNA profile. The jury found the defendant guilty and assessed the death penalty. The Texas Court of Criminal Appeals affirmed. *Berkley v. State*, No. AP-74,336 (Tex. Crim. App. Apr. 16, 2005) (not designated for publication).

For the State:

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(915) 546-2059

Assistant District Attorney Lori Hughes
El Paso County Courthouse
500 East San Antonio, 2nd Floor
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Kelly Dickson
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6152 Strahan Road
El Paso, Texas 79932
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For the Defendant:

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Attorney at Law
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(915) 626-8833

Francisco Macias
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El Paso, Texas 79902
(915) 544-9047

6. *State v. Sandoval*, Cause No. 20070D01400 (243rd Dist. Ct., El Paso County, Tex.) (Murder)

After having too much to drink, the defendant stumbled out of a bar and drove off in his pickup. On his errant path home, he sped up to make a red signal light, and in the process, hit and killed two pedestrians on the crosswalk. He continued driving until his vehicle gave out. The defendant, who had two prior convictions for driving while intoxicated, was charged with two counts of felony murder, with both counts alleging driving while intoxicated a third time as the underlying felony. I presided over the pretrial motions hearings, jury selection, and trial on the merits, rendering rulings on motions or objections raised by counsel. I denied the defendant's motion to quash the

felony-murder counts in the indictment. The jury found the defendant guilty and assessed a sentence of 40 years' confinement for each count of felony murder, and the appellate court affirmed. *Sandoval v. State*, 310 S.W.3d 73 (Tex. App.—El Paso 2010).

For the State:

Assistant District Attorney Andy Ortega
Assistant District Attorney Jennifer Vandebosch
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For the Defendant:

Louis E. Lopez
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416 North Stanton, Suite 400
El Paso, Texas 79901
(915) 543-9800

7. *State v. Coulla*, Cause No. 20040D01265 (243rd Dist. Ct., El Paso County, Tex.) (Aggravated Promotion of Prostitution)

The defendant hired underage girls and promoted prostitution in a men's club. I presided over pretrial motions hearings, jury selection, and trial on the merits, rendering rulings on motions or objections raised by counsel. The jury found the defendant guilty of aggravated promotion of prostitution and assessed a sentence of 17 years' incarceration. The case is currently on appeal in Case No. 08-10-00039-CR at the Eighth Court of Appeals of Texas, and no opinion has been handed down as of this writing.

For the State:

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Assistant District Attorney Sherri Shapleigh
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For the Defendant:

Gary Hill
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801 North El Paso Street, Suite 200
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8. *State v. Torres*, Cause No. 20080D01730 (243rd Dist. Ct., El Paso County, Tex.) (Murder)

The defendant was charged with felony murder for shooting his friend (though not intentionally) while intending only to threaten him. At the moment he pointed his gun at his friend, the gun discharged, and the bullet struck his friend, killing him. I presided over pretrial motions hearings, jury selection, and trial on the merits, rendering rulings on motions or objections raised by counsel. I declined the defendant's request for a jury instruction on the lesser-included offense of manslaughter. The jury found the defendant guilty of felony murder and assessed his punishment at 8 years in the penitentiary, and the appellate court affirmed. *Torres v. State*, No. 08-09-00165-CR (Tex. App.—El Paso Sept. 1, 2010) (not designated for publication).

For the State:

Assistant District Attorney Rick Locke
Assistant District Attorney Amy Monsivais
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El Paso, Texas 79901
(915) 546-2059

For the Defendant:

Dolph Quijano
Attorney at Law
707 Myrtle
El Paso, Texas 79901
(915) 542-1051

9. *Chung v. Bed Bath & Beyond, Inc.*, No. EP-09-CV-330-FM (W.D. Tex. July 7, 2011), Docket No. 47, Report and Recommendation by the Magistrate Judge: The Claim Construction of U.S. Patent No. 6,511,199. Copy supplied.

Plaintiff brought this suit against defendant Bed Bath and Beyond, Inc., alleging infringement of his patent. The District Court referred this case to my court for a recommendation on construction of the asserted patent claim. I

held a hearing in accordance with *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996), to construe four disputed terms or phrases of Claim 1 of the patent. In my Report and Recommendation to the District Court, I provided my recommended constructions along with my claim construction analyses. The case is currently pending before the District Court.

For the Plaintiff:

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Rodolfo Mata, P.C.
1112 Montana Avenue
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(915) 613-0780

For the Defendant:

Gerard F. Dunne
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10. *United States v. Rodriguez*, No. EP-08-CR-1865-PRM DB (W.D. Tex. Feb. 18, 2011), Docket No. 91, Report and Recommendation by the Magistrate Judge. Copy supplied.

In this case, ATF agents executed a search warrant at the defendant's residence and seized approximately 100 weapons, including two modified pistols. The defendant had modified the two pistols by adding a plastic "butt stock" to allow shooting from the shoulder. The stock extension transformed each pistol into a "rifle" but with a barrel length less than sixteen inches, triggering his obligation to register the modified pistols with the National Firearms and Registration and Transfer Record, which he had not done. He was charged with possessing the two modified pistols without registration. The District Court adjudged him guilty and sentenced him to one year in prison. After serving his sentence, the defendant, now a convicted felon without the capacity to legally possess any firearm, moved the court, pursuant to Federal Rule of Criminal Procedure 41(g), for the return of the remaining firearms seized by the ATF. The District Court referred the motion to my court. In my Report and Recommendation to the District Court, I recommended that the defendant's motion be denied in part as to his request for the return of the firearms to him or his brother, and be granted in part as to allow a third-party independent trustee to sell the firearms and distribute the proceeds to the defendant. The District Court adopted my Report and Recommendations, approving an agreement reached by the parties consistent with my recommendations.

For the United States:

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For the Defendant:

Leon Schydlower
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210 North Campbell Street
El Paso, Texas 79901
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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *State v. Alderete*, 314 S.W.3d 469 (Tex. App.—El Paso 2010) (dissenting opinion) (Guaderrama, J. sitting by assignment).

For the State:

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For the Appellant:

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2. *Chung v. Bed Bath & Beyond, Inc.*, No. EP-09-CV-330-FM (W.D. Tex. July 7, 2011), Docket No. 47, Report and Recommendation by the Magistrate Judge: The Claim Construction of U.S. Patent No. 6,511,199 (construing

claims of U.S. Patent No. 6,511,199 in a patent infringement case). Copy supplied in response to 13c.

For the Plaintiff:

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For the Defendant:

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3. *United States v. Rodriguez*, No. EP-08-CR-1865-PRM DB (W.D. Tex. Feb. 18, 2011), Docket No. 91, Report and Recommendation by the Magistrate Judge (recommending that the felon defendant's Federal Rule of Criminal Procedure 41(g) motion for return of seized firearms be granted in part and denied in part). Copy supplied in response to 13c.

For the United States:

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For the Defendant:

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4. *Valladolid-Lerma v. United States*, EP-06-CR-1869-DB (W.D. Tex. Nov. 23, 2010), Docket No. 47, Report and Recommendation by the Magistrate Judge (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be granted). Copy supplied.

For Petitioner Valladolid-Lerma:

Pro se (inmate): Eric Alberto Valladolid-Lerma
Last known address:
McRae Correctional Institution
P.O. Drawer 30
McRae, Georgia 31055

For Respondent United States:

Kristopher D. Jarvis
Assistant United States Attorney
700 East San Antonio, Suite 200
El Paso, Texas 79901
(915) 534-3481

5. *Melendez v. Gutierrez*, No. EP-11-CV-136-PRM (W.D. Tex. July 29, 2011), Docket No. 16 (recommending that the district court *sua sponte* dismiss inmate plaintiff's 42 U.S.C. § 1983 complaint). Copy supplied.

For the Plaintiff:

Pro se (inmate): Raymundo Melendez
(Last known address)
Huntsville Unit
815 12th Street
Huntsville, Texas 77348

For the Defendants:

No appearance (defendants were never served)

6. *Bazemore v. Castaneda*, No. EP-10-CV-403-DB, 2011 WL 1675416 (W.D. Tex. Apr. 12, 2011), Docket No. 28, Report and Recommendation by the Magistrate Judge (recommending that the defendant's motion for summary judgment in a *Bivens* action filed by inmate plaintiff be granted).

For Petitioner Bazemore:

Pro se (inmate): Vincent John Bazemore, Jr.
Last known address:
FCI La Tuna
P.O. Box 8000
Anthony, New Mexico 88021

For Respondent Castaneda:

Dimitri N. Rocha
Assistant United States Attorney
601 North West Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7396

7. *Parra-Mendez v. United States*, No. EP-08-CR-1049-KC, 2011 WL 1101053 (W.D. Tex. Feb. 14, 2011), Docket No. 49, Report and Recommendation by the Magistrate Judge (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied).

For Petitioner Parra-Mendez

Pro se (inmate): Raymundo Parra-Mendez
Last known address:
GW Dalby Correctional Facility
805 North Avenue F
Post, Texas 79356

For Respondent United States:

Michele C. Daly
Assistant United States Attorney
700 East San Antonio, Suite 200
El Paso, Texas 79901
(915) 534-6884

8. *Villa-Escarcega v. United States*, No. EP-08-CR-2643-PRM (W.D. Tex. Dec. 30, 2010), Docket No. 56, Report and Recommendation by the Magistrate Judge (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied). Copy supplied.

For Petitioner Villa-Escarcega:

Pro se (inmate): Margarito Villa-Escarcega
Last known address:
BSCC Big Spring
2001 Rickabaugh Drive
Big Spring, Texas 79720

For Respondent United States:

Kristopher D. Jarvis
Assistant United States Attorney
700 East San Antonio, Suite 200
El Paso, Texas 79901
(915) 534-3481

9. *Hernandez v. United States*, No. EP-07-CR-2399-KC (W.D. Tex. Dec. 7, 2011), Docket No. 42, Report and Recommendation by the Magistrate Judge (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied). Copy supplied.

For Petitioner Hernandez:

Pro se (inmate): Jose Francisco Hernandez
Last known address:
P.O. Box 5300
Adelanto, California 92301

For Respondent United States:

Michele C. Daly
Assistant United States Attorney
700 East San Antonio, Suite 200
El Paso, Texas 79901
(915) 534-6884

10. *Herrera-Rodriguez v. United States*, No. EP-08-CR-0618-PRM (W.D. Tex. Nov. 8, 2010), Docket No. 44, Report and Recommendation by the Magistrate Judge (recommending that the defendant's habeas corpus petition under 28 U.S.C. § 2255 be denied). Copy supplied.

For Petitioner Herrera-Rodriguez:

Pro se (inmate): Enrique Herrera-Rodriguez
Last known address:
2001 Rickabaug Drive
Big Spring, Texas 79720

For Respondent United States:

James C. Skillern
Assistant United States Attorney
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El Paso, Texas 79901
(915) 534-6884

- e. Provide a list of all cases in which certiorari was requested or granted.

State v. Berkley, Cause No. 20000D05705 (243rd Dist. Ct., El Paso County, Tex.), *aff'd*, No. AP-74,336 (Tex. Crim. App. Apr. 16, 2005) (not designated for publication). The Supreme Court denied the defendant's petition for writ of certiorari. *Berkley v. Texas*, 546 U.S. 1077 (2005) (mem).

State v. Ortiz, Cause No. 980D08993 (243rd Dist. Ct., El Paso County, Tex.), *aff'd*, *Ortiz v. State*, 93 S.W.3d 79 (Tex. Crim. App. 2002). The Supreme Court denied the defendant's petition for writ of certiorari. *Ortiz v. Texas*, 538 U.S. 998 (2003) (mem).

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have had no reversal of an opinion I prepared. I have had rulings reversed, and I have described these instances below.

REPORTED REVERSALS

City of El Paso v. Granados, 334 S.W.3d 407 (Tex. App.—El Paso 2011). In a sexual discrimination and retaliation suit brought by a former city employee, I denied the defendant City's plea to jurisdiction on the ground that the plaintiff failed to timely exhaust her administrative remedies. Texas law requires that a complaint of unlawful employment discrimination be filed with the Texas Commission on Human Rights (TCHR) or the EEOC within 180 days after the alleged unlawful employment action occurs. After receiving a termination notice from the city, the plaintiff appealed that decision to the Civil Service Commission (CSC), which upheld the City's decision. Following that, and more than 200 days after she had received the termination notice, she filed her discrimination charges with the TCHR. After holding two hearings on the plea and considering extensive arguments by the parties, I ruled that the 180-day limitations period started to run from the date her termination was finalized on appeal at the CSC, not from the day she received her termination notice. The appellate court disagreed, reversing my ruling and rendering a judgment of dismissal.

Bustamante v. State, 109 S.W.3d 1 (Tex. App.—El Paso 2002). *See also Bustamante v. State*, No. 08-07-0008-CR (Tex. App.—El Paso Sept. 23, 1999) (not designated for publication), *rev'd*, 48 S.W.3d 761 (Tex. Crim. App. 2001)). At the defendant's trial for murder, the defense counsel asked a state witness about gangs in the defendant's neighborhood in an attempt to elicit testimony that the victim was a gang member. Over the state's objection on relevancy, the defense counsel argued that this evidence was relevant to show the defendant's state of mind. Presuming that the defendant's testimony would make the gang issue relevant, I responded: "Well, as soon as I hear the defendant, we'll get into it." The appellate court reversed and remanded for a new trial, holding that my comment was a comment made before the jury on defendant's failure to testify, thereby violating the defendant's privilege against self-incrimination.

Mercado v. State, 993 S.W.2d 815 (Tex. App.—El Paso 1999). *See also Mercado v. State*, 944 S.W.2d 42 (Tex. App.—El Paso 1997), *rev'd*, 972 S.W.2d 75 (Tex. Crim. App. 1998) (en banc) (per curiam). [Please note: Westlaw case synopsis for all three cases inaccurately attributes this case to another judge.] At a hearing on a motion to suppress, the state argued that the arresting police officers, pursuant to a valid inventory, properly seized cocaine and marijuana found in a zipped bank bag inside the defendant's car. Relying on *Autran v. State*, 887 S.W.2d 31 (Tex. Crim. App. 1994) (plurality opinion), which held that an inventory search does not authorize the search of an opaque, closed or locked container found in a car, I granted the defendant's motion. On appeal, the Eighth Court of Appeals reversed my ruling, declining to follow *Autran*.

UNREPORTED REVERSALS

State v. Lyman, No. 08-00-00383-CR (Tex. App.—El Paso Dec. 13, 2001). This involved my decision on a state habeas application. Previously, in another trial court before Judge Marsh, the applicant-defendant pleaded guilty to burglary, and he was granted deferred adjudication and placed on probation. However, at the time of his plea, Judge Marsh failed to admonish him as to the immigration consequences of his plea as required under Article 26.13 of Texas Code of Criminal Procedure. Years later, while still serving his probation, the defendant filed an application for writ of habeas corpus in my court. I noted that under *Ex parte Tover*, 901 S.W.2d 484 (Tex. Crim. App. 1995), an applicant must show harm in order to prevail on a post-conviction writ of habeas corpus, but I found that in this case the petitioner need not, reasoning that this was not a post-conviction attack because no judgment of guilt was ever entered against him as he was granted a deferred adjudication. In any event, I found that he was harmed by the trial court's failure to properly admonish him. Accordingly, I granted him habeas relief, set aside the judgment, and remanded the case. The appellate court disagreed and reversed.

State v. Johnson, No. 08-99-00018 (Tex. App.—El Paso Mar. 9, 2000). I granted the defendant’s pre-trial motion, pursuant to Article 32.01 of the Texas Code of Criminal Procedure, seeking to dismiss the indictment for failure to timely indict. Citing *Brooks v. State*, 990 S.W.2d 278 (Tex. Crim. App. 1997) for the proposition that Article 32.01 is not applicable once an indictment is returned, the appellate court reversed and remanded, reasoning that the defendant failed to seek relief prior to the issuance of the underlying indictment.

Elias v. State, No. 08-98-00005-CR (Tex. App.—El Paso Dec. 9, 1999). At trial, I overruled defendant’s hearsay objection to the state’s questions on cross-examination concerning hypothetical statements by the other co-defendants. The appellate court reversed and remanded the case for a new trial, holding that the state’s questions and comments contained inadmissible “backdoor hearsay” designed to inform the jury of the substance of the out-of-court statements made by the co-defendants.

State v. Aguirre, No. 08-98-00442-CR (Tex. App.—El Paso Oct. 28, 1999). I granted the defendant’s pre-trial motion, pursuant to Article 32.01 of the Texas Code of Criminal Procedure, seeking to dismiss the indictment for failure to timely indict. Citing *Brooks v. State*, 990 S.W.2d 278 (Tex. Crim. App. 1997), the appellate court stated that once an indictment is returned, Article 32.01 is inapplicable. The court reversed and remanded, reasoning that the defendant failed to seek relief prior to the issuance of the underlying indictment. In a footnote, the court remarked that “the trial court did not have the benefit of the *Brooks* opinion at the time of [its] ruling.”

State v. Leite, No. 08-98-00189-CR (Tex. App.—El Paso July 30, 1999). I granted the defendant’s pre-trial motion, pursuant to Article 32.01 of the Texas Code of Criminal Procedure, seeking to dismiss the indictment for failure to timely indict. Citing *Brooks v. State*, 990 S.W.2d 278 (Tex. Crim. App. 1997), the appellate court stated that once the grand jury returns an indictment, the trial court is without authority to dismiss a prosecution pursuant to Article 32.01. The court reversed, reasoning that the defendant failed to seek relief prior to the issuance of the underlying indictment. In a footnote, the court remarked that “the trial court did not have the benefit of the Court of Criminal Appeals’s opinion in *Brooks*, 990 S.W.2d at 285, when it dismissed the prosecution in this case.”

State v. Walker, No. 08-98-00190-CR (Tex. App.—El Paso July 30, 1999). I granted the defendant’s pre-trial motion, pursuant to Article 32.01 of the Texas Code of Criminal Procedure, seeking to dismiss the indictment for failure to timely indict. Citing *Brooks v. State*, 990 S.W.2d 278 (Tex. Crim. App. 1997), the appellate court stated that once the grand jury returns an indictment, the trial court is without authority to dismiss a prosecution pursuant to Article 32.01. The court reversed, reasoning that the defendant failed to seek relief prior to the issuance of the underlying indictment. In a footnote, the court remarked that “the

trial court did not have the benefit of the Court of Criminal Appeals's opinion in *Brooks*, 990 S.W.2d at 285, when it dismissed the prosecution in this case."

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

All eleven of the opinions that I have issued as a U.S. Magistrate Judge are unpublished. They are filed and stored at CM/ECF, aka PACER, the federal courts' electronic case management system. I did not issue any opinions, published or unpublished, as a state trial court judge.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

State v. Alderete, 314 S.W.3d 469 (Tex. App.—El Paso 2010) (dissenting opinion) (Guaderrama, J. sitting by assignment).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

As a U.S. magistrate judge, I follow the federal recusal statutes and Code of Conduct for United States Judges. I maintain a standing recusal list that includes

authorities whose potential appearance before me would require my recusal. These authorities include all cases that were before me during my tenure as a state district court judge and all cases in which my former spouse Yvonne Rangel, a state district court judge, may have been involved. Our court utilizes an automated recusal system. Under that system, a weekly e-mail is generated indicating any potential conflicts in a case that is assigned to me and that involves a party listed on my standing recusal list. As a redundant precaution, my law clerk receives this email as well. After receiving such a notice, I would take whatever action is dictated by the recusal statutes and the Code of Conduct for United States Judges.

While on the bench of the 243rd District Court of Texas, I followed the recusal requirements of state law. Upon being elected, my practice was to review the file of any case before me to determine if that case had been filed prior to January 1, 1995. The purpose of my review was to determine if I had ever provided advice or representation to the defendant or if the Public Defender's Office was ever involved in the case. In cases where I provided any advice or representation as the Public Defender or a private practitioner, I *sua sponte* recused myself. In cases where my only involvement was as the head of the Public Defender's office, I informed the parties of my involvement, asked if they would like for me to recuse myself, and complied with their wishes.

I also recused myself in the following criminal matter in the state court:

State v. Renteria, Cause No. 67223-243 (243rd Dist. Ct., El Paso County, Tex.). The *El Paso Times* contacted me and asked me about new serious charges filed against the defendant who was on probation in my court. Some of my statements were reported in the newspaper as suggesting that I had formed an opinion about the defendant's guilt on the new charges. To avoid any impropriety, I *sua sponte* recused myself from the probation revocation matter that was before me.

In addition, I elected not to recuse myself in the following matter at the state court:

State of Texas v. Unknown Defendant Tagger (graffiti case) [I have been unable to recall or locate the defendant's name, the proper style of the case, or the cause number.]: The defense counsel filed a Motion to Recuse. The matter that counsel complained of dealt with the conditions of probation, not with whether I could consider granting probation. I determined that the motion did not raise any conflict of interest but rather asserted dissatisfaction with the court's judicial approach to sentencing, which is not a conflict so long as the court can consider the full range of punishment. I notified the parties that I would not recuse myself and followed the protocol to have a judge assigned to hear the motion, who, upon holding a hearing, denied the motion.

15. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

1987 – 1994: El Paso County Public Defender. I was appointed by majority vote of the El Paso County Commissioner's Court.

2008: Unsuccessful candidacy for Justice Place 3 on the Eighth Court of Appeals of Texas sitting in El Paso.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

On five occasions, as a candidate, I campaigned to be elected or re-elected the judge of the 243rd Judicial District Court sitting in El Paso County, Texas. The elections were held in 1994, 1998, 2002, 2006, and 2010. While my participation and political activities were most comprehensive during my first campaign, which included a primary election in addition to a general election, my duties and responsibilities in general were as follows: to file an application for a place on the ballot, recruit volunteers, raise money, delegate campaign duties, visit senior citizens' centers, and make appearances at political forums, meetings, and rallies.

I was the candidate in my campaign to be elected Justice, Place 3 on the Eighth Court of Appeals of Texas. The campaign from primary to general election lasted approximately from June 2007 to March 2008. My duties were to file for a place on the ballot, recruit volunteers, raise money, delegate campaign duties, and attend political forums and rallies.

I have not otherwise participated in a political party, election committee, or political campaign.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never clerked for a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I practiced on my own for about 9 months from approximately November 1979 to about August 1980, at 300 East Main, Suite 640, El Paso, Texas 79901.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1979 – 1980
David C. Guaderrama
300 East Main, Suite 640
El Paso, Texas 79901
Sole practitioner

1980 – 1986
Guaderrama and Guaderrama
407 East Nevada
El Paso, Texas 79902
Partner

1987 – 1994
County of El Paso, Texas
500 East San Antonio
El Paso, Texas 79901
Chief Public Defender

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

My law practice and legal experience after graduation from law school began in solo practice from about December 1979 to August 1980. During that time, my practice focused on criminal cases. From August 1980 until December 1986, my former wife, Yvonne, and I practiced together as partners in Guaderrama and Guaderrama at 407 East Nevada,

El Paso, Texas. I handled mostly criminal cases and some general civil, probate, and workers' compensation cases.

On January 1, 1987, I was appointed to serve as El Paso County's first Public Defender. My charge was to start up and develop an office that would be capable of handling at least 50% of all indigent felony cases. I supervised and managed the office as well as represented clients. My practice was entirely criminal.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In both my private practice and service as public defender, my typical clients were individuals (indigent persons while with the public defender's office) charged with a state misdemeanor or felony offense. I became board certified in criminal law by the Texas Board of Legal Specialization in December 1991.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The bulk of my practice was litigation, and I appeared in court frequently. This held true from my admission to the bar until I became a judge.

- i. Indicate the percentage of your practice in:

- 1. federal courts: <1%
- 2. state courts of record: >99%
- 3. other courts:
- 4. administrative agencies:

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 5%
- 2. criminal proceedings: 95%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Approximately 60 cases – sole counsel in most cases, second chair in approximately 15 cases.

- i. What percentage of these trials were:

- 1. jury: 100%
- 2. non-jury: 0%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State v. Camacho*, Cause No. 46177 (210th Dist. Ct., El Paso County, Tex. 1986) (Murder)

I represented the defendant at trial and on appeal. The defendant, a maintenance man, lived in a small apartment behind his landlord's home. When the landlord was found strangled, the defendant was arrested and charged with murder. The case was tried in the 210th Judicial District Court, Judge Sam Paxon presiding. The state's primary evidence was an unsigned handwritten confession. A handwriting expert testified that in his opinion, the defendant wrote the confession. The jury returned a verdict of guilty. The conviction was reversed on appeal (on the basis of insufficient evidence) and remanded to enter a judgment of not guilty. *Camacho v. State*, No. 08-86-00111-CR (Tex. App.—El Paso Feb. 18, 1987) (not designated for publication), *aff'd*, 765 S.W.2d 431 (Tex. Crim. App. 1989).

Co-counsel:

Yvonne (Bonnie) Guaderrama (now Judge Bonnie Rangel)
500 East San Antonio, Suite 601
El Paso, Texas 79901
(915) 546-2100

Opposing counsel:

Assistant District Attorney Nick Martinez (deceased)

Gonzalo García (now Judge García)
500 East San Antonio, Suite 1005
El Paso, Texas 79901
(915)546-2130

2. *State v. Pacheco*, Cause No. 39363 (171st Dist. Ct., El Paso County, Tex. 1983)
(Burglary of Habitation)

I represented the defendant at trial and on appeal. The defendant knocked on a woman's door, and when she opened it, brushed passed her and went inside. The woman ran outside, and shortly thereafter her sister arrived and asked the defendant to leave. He responded that it was his house and that "God takes care of me in my house." After a few minutes, the defendant came out of the house carrying with him some inexpensive religious items, and sat outside until he was arrested. He was charged with burglary of habitation and tried in the 171st Judicial District Court, Judge Edwin Berliner presiding. Two psychiatrists examined the defendant but found him competent and sane. At trial, however, the homeowner and her sister testified that the defendant "was not right in his mind" and that he did not know what he was doing. Relying on this testimony, I requested jury instructions on the insanity defense, but the trial judge declined, reasoning that there was no medical evidence of insanity. The jury returned a verdict of guilty and assessed a sentence of five years confinement. The Eighth Court of Appeals affirmed, apparently because "[t]here was no expert testimony" on the issue of insanity. *Pacheco v. State*, No. 08-84-00131-CR (Tex. App.—El Paso Oct. 24, 1984) (not designated for publication). In a petition for discretionary review to the Texas Court of Criminal Appeals, I argued that the testimony of lay witnesses was sufficient to raise the defense of insanity and that medical testimony regarding mental disease or defect was not required. That Court, sitting *en banc*, agreed and vacated the judgment of the Eighth Court of Appeals. *Pacheco v. State*, 757 S.W.2d 729, 736 (Tex. Crim. App. 1988) (*en banc*). On remand, the Eighth Court of Appeals again affirmed the conviction, this time stating that the testimony of the lay witnesses here was purely speculative and insufficient to necessitate a jury instruction on the defense of insanity. *Pacheco v. State*, 770 S.W.834 (Tex. App.—El Paso 1989, *pet. ref'd*).

Opposing counsel at trial:

Assistant District Attorney Nick Martinez (deceased)

Opposing counsel on appeals:

Matthew Dekoatz
Attorney at Law
718 Myrtle Avenue
El Paso, Texas 79901
(915) 626-8833

3. *Reynosa v. Segall*, No. 08-89-00329-CR (Writ of Mandamus)

Members of my staff and I represented 32 individuals charged with various state felony offenses. These individuals were pre-indictment detainees in the El Paso Detention Facility. We endeavored to secure speedy examining trials for these clients before Judge Segall of the El Paso Criminal Law Magistrate Court. His office informed us that due to a heavy backlog in its docket, it could not provide examining trials in the near future. As time passed, indictments became imminent; an indictment would cut off my clients' right to an examining trial – a valuable right.

Consequently, I sought out other courts for examining trials. Once Judge Segall discovered that we were filing motions for examining trials in other courts and securing settings for these hearings, he issued an order transferring these motions from those courts to his. On behalf of our clients, we filed a Writ of Mandamus with the Eighth Court of Appeals of Texas, seeking relief from Judge Segall's order, which we believed exceeded his authority. That Court granted relief, ordering Judge Segall to vacate some of his transfer orders.

Opposing counsel:

County Attorney Joe Lucas (deceased)

Debra Morgan
Assistant Attorney General
6090 Surety Drive, Suite 250
El Paso, Texas 79905
(915) 782-4202

4. *State v. Avila*, Cause No. 64290 (65th Dist. Ct., El Paso County, Tex. 1993) (Capital Murder)

I represented the defendant who was charged with two counts of capital murder of a mother and her adult son. The son dealt drugs to the defendant and others. On the day of the murder, my client, accompanied by two others, went to the victims' house to pay a visit to their drug dealer to steal some drugs. As they entered the house, the son's throat was immediately cut, and when his mother came to investigate the scuffle, she was stabbed and killed as well. The case was tried in the 65th Judicial District Court, Judge Edward Marquez (deceased) presiding. Our client had some cognition issues that formed the basis of our defense. A verdict of guilty of the lesser charge of murder on one count was handed down. The jury sentenced the defendant to 30 years in prison.

Co-counsel:

Bruce Weathers
Office of the Federal Public Defender
700 East San Antonio, Room D-401
El Paso, Texas 79901
(915) 534-6525

Opposing counsel:

Bill Juvrud
El Paso County Public Defender's Office
500 East San Antonio, Suite 501
El Paso, Texas 79901
(915) 546-8185

Frank Gonzalez
Texas Tech University Health Science Center
4801 Alberta Avenue, Suite B09
El Paso, Texas 79905
(915) 545-8839

5. *State v. Rodriguez*, Cause No. 920D01453 (34th Dist. Ct., El Paso County, Tex. 1992) (Attempted Murder)

I represented the defendant, a young man with the streetname "Gismo." His rival gangsters accused him of a drive-by shooting. After Gismo was arrested and jailed, his gang rivals reported another drive-by, again accusing Gismo. They were positive it was him, but of course Gismo was still in jail. Thus, my defense was that someone who looked exactly like Gismo was doing all these drive-bys and must have committed the drive-by of which they were accusing Gismo. The case was tried in the 34th Judicial District Court, Judge Bill Moody presiding. The jury returned a verdict of not guilty.

Opposing counsel:

Paul Escobar
Attorney at Law
1030 North Zaragoza Road, Suite J
El Paso, Texas 79907
(915) 858-1535

6. *State v. Burciaga*, Cause No. 62821 (65th Dist. Ct., El Paso County, Tex. 1992)
(Murder)

I represented the defendant in a case involving a strangulation death in the basement of an abandoned building. The defendant confessed that he strangled the victim from behind with his belt and that the victim foamed violently at the mouth while he died. The case was tried in the 65th Judicial District Court, Judge Edward Marquez (deceased) presiding. On cross-examination at trial, a medical examiner testified that what the defendant confessed to was physically impossible. The jury returned a verdict of not guilty.

Opposing counsels:

Robert Storch
El Paso County Public Defender's Office
500 East San Antonio, Suite 501
El Paso, Texas 79901
(915) 546-8185

Assistant District Attorney Dan Kopra (deceased)

7. *State v. Ramirez*, Cause No. 63228 (327th Dist. Ct., El Paso County, Tex. 1992)
(Habitual Burglary of Habitation)

I represented the defendant in 1992. The case involved an issue surrounding the identification of the perpetrator and the state's attempt to prove identity by a signature *modus operandi*. I do not recall having co-counsel. The case was tried in the 327th Judicial District Court, Judge Phillip Martinez presiding. The jury returned a verdict of not guilty.

Opposing counsel:

Christopher Driver (current address unknown)

8. *State v. Bernal*, Cause No. 7828 (327th Dist. Ct., El Paso County, Tex. 1984)
(Escape)

I represented the defendant. This was a juvenile case tried in the 327th Judicial District Court, Judge Enrique Pena (deceased) presiding. The defendant was charged with having escaped from the custody of the police. My client denied it was he who escaped from the police. Shortly before his escape, the escapee was observed by the police using and discarding a beer can, and from that they suspected that he was sniffing glue or paint. However, the police did not collect the beer can as evidence. The defense centered on the fact that the beer can should have had the perpetrator's fingerprints and that those fingerprints would not have been my client's. I do not recall having a co-counsel. The jury returned a verdict of not delinquent.

Opposing counsel:

Rebecca Rojo
Attorney at Law
6161 East Eastland Street
Tucson, Arizona 85711
(520) 514-2010

9. *State v. Orona*, Cause No. 35186 (205th Dist. Ct., El Paso County, Tex. 1980)
(Aggravated Assault)

I represented the defendant. The defendant was standing in a crowd that had gathered around a man who had been stabbed. When the police arrived, everyone ran except the defendant, who stayed with the victim. The defendant was charged with the aggravated assault of the victim, but he insisted that he was innocent. My investigation indicated that one “el guerro esponjas” from the south-side was the true culprit. I was never able to find this person, nor would anyone come forward and testify that it was this person who did it. The case was tried in the 205th Judicial District Court, Judge Sam Callan (deceased) presiding. The jury returned a verdict of not guilty.

Co-counsel:

Yvonne (Bonnie) Guaderrama (now Judge Bonnie Rangel)
500 East San Antonio, Suite 601
El Paso, Texas 79901
(915) 546-2100

Opposing counsel was Assistant District Attorney Leo Garcia (deceased)

10. *State v. Delgado*, Cause No. 52539 (41st Dist. Ct., El Paso County, Tex. 1989)
(Enhanced Burglary of Building)

I represented the defendant who was charged with a Burglary of a Building. He threw a rock through the window of a jewelry store and took some rings and watches. He was arrested fifteen minutes later, naked and masturbating. He had a long history of mental illness that was well documented into his childhood. In addition, if I recall correctly, my defense partially relied on a psychiatrist’s testimony. The case was tried in the 41st Judicial District Court, Judge Mary Ann Bramblett presiding. The jury returned a verdict of not guilty by reason of insanity.

Co-counsel:

Joseph P. Pinon
1312 Montana Avenue
El Paso, Texas 79902
(915) 546-9190

Opposing counsel:

Robert Dinsmoor
Attorney at Law
5822 Cromo Drive
El Paso, Texas 79912
(915) 832-7200

Kelly Dickson
Attorney at Law
6152 Strahan Road
El Paso, Texas 79932
(915) 877-4746

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In 1987, I was appointed to create the El Paso County Public Defender's Office. I began with one assistant and nothing else. As the courts became comfortable with appointing our office, we were assigned more cases and I would appear before the Commissioner's Court seeking more resources. The office grew steadily and consisted of 12 lawyers and various support staff when I left in 1994.

While at the Public Defender's Office, the County of El Paso went through some tough economic times and cut our funding for continuing legal education. We then started our own training program to provide our lawyers with some inexpensive CLE. After a few years of this, we formed the non-profit corporation the El Paso Criminal Law Group, Inc. This organization is now putting on its 19th annual seminar in criminal law and we have awarded more than \$50,000 in scholarships to local high school students seeking post-high school education.

While serving as judge of the 243rd Judicial District Court, I (in collaboration with many others) launched the 243rd Drug Court Program and the 243rd Access to Recovery Program. The Drug Court program was started to give the courts an additional

community resource to address drug addicts and abusers who were charged with felony crimes. My job was to recruit and assemble a team which would manage the clients as they moved through the program. This team consisted of an assistant district attorney, an assistant public defender, a sheriff's deputy, an El Paso police officer, probation officers, probation counselors, and community treatment providers. We met once a week to staff the week's cases and then proceeded in open court to address the clients.

The Access to Recovery program was similar in nature although not as intense in terms of court appearances and reporting for probation. It was also different from Drug Court in that treatment was paid for by federal funds administered by the state. The state used a voucher system making payments directly to the service provider.

While serving as Judge of the 243rd, I served on a committee to improve our jury selection process. I chaired a subcommittee whose function was to pilot a program to mail out juror questionnaires along with a summons. We were looking to see how compliant jurors would be with the questionnaire's instructions, which were to fill out the questionnaire and return it to the Jury Administrator within a certain time frame. This would allow the Jury Administrator to make copies available to the litigants a few days before the voir dire. The pilot program was very successful and grew into the process used today.

While serving as Judge of the 243rd, I also piloted a program using video conferencing technology to conduct arraignments. The inmates were located in the jail annex 20 miles from the courtroom while the lawyers and I remained in the courtroom. The idea was to save transportation and security costs.

I have not performed any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans to pursue outside employment.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I do not have any family members, persons, parties, litigation or financial arrangements that are likely to present potential conflicts of interest if I am confirmed. If any such conflict arose, I would address it in the manner instructed by the Code of Judicial Conduct for United States Judges, Canon 3.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

The procedure I would follow in determining these areas of concern would be to use the conflict screening software provided by the Court, stay informed about my personal and financial interests and the financial interests of my spouse. Having done so, I would attend continuing legal education courses on ethics and would remain vigilant for any potential conflict that might arise and address it with the action required. If the conflict is one that can be solved by dispossessing myself of an asset, I would do that. If the conflict is one that can be waived by the parties, I would address it with the parties and resolve it in the manner they desired.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of

professional prominence or professional workload, to find some time to participate in serving the disadvantaged.” Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I recall handling two cases referred to me by the El Paso Legal Aid Society pursuant to a plan adopted by the El Paso Bar Association. I do not remember the details of those cases as this occurred within the first eight years of my practice. After the first eight years of practice, I was prohibited by my employment from taking on pro bono cases.

In 1987, I was appointed to create the El Paso County Public Defender’s Office. I began with one assistant and nothing else. As the courts became comfortable with appointing our office, we were assigned more cases and I would appear before the Commissioner’s Court seeking more resources. The office grew steadily and consisted of 12 lawyers and various support staff by the time I left in 1994.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I interviewed with Congressman Reyes’ Merit Selection Committee on or about March 7, 2009, however, I was not selected. On or about February 22, 2011, I responded to an announcement by Senator Hutchison and Senator Cornyn calling for applications for the position of District Court Judge for the Western District of Texas, El Paso Division. I submitted my application to both Senators’ offices. I was called for an interview and traveled to Houston, Texas, for a May 19, 2011 interview with the Senators Hutchison/Cornyn Merit Selection Committee. A few weeks later I was called by Enrique Moreno, on behalf of Congressman Reyes, who asked me for a copy of the application I had submitted to the Senators’ Committee, a resume, college and law school transcripts, and SAT scores. Since June 20, 2011, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 11, 2011, I interviewed with officials from the White House Counsel’s Office and the Department of Justice in Washington, D.C. On September 14, 2011, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or

implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Guaderrama, David C.	2. Court or Organization United States District Court-Western District of Texas	3. Date of Report 09/14/2011
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Court Judge-active status	5a. Report Type (check appropriate type) ☒ Nomination, Date 09/14/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 09/08/2011
7. Chambers or Office Address Albert Armendariz Sr. United States Courthouse 525 Magoffin Avenue, Room 451 El Paso, Texas 79901	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. President and Board Member	El Paso Criminal Law Group, Inc.
2.	
3.	
4.	
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Guaderrama, David C.

Date of Report

09/14/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2009	County of El Paso, salary	\$15,000.00
2. 2009	State of Texas, salary	\$125,000.00
3. 2010	JRS-II_retirement annuity	\$15,000.00
4. 2010	TCDRS-retirement annuity	\$9,105.69
5. 2010	State of Texas, salary	\$93,750.00
6. 2010	County of El Paso, salary	\$11,250.00
7. 2011	JRS-II-retirement annuity	\$45,000.00
8. 2011	TCDRS-retirement annuity	\$27,312.00
9.		
10.		

B. Spouse's Non-Investment Income – *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2010	State of Texas-salary
2. 2011	State of Texas-salary
3.	
4.	

IV. REIMBURSEMENTS – *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. exempt				

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Guaderrama, David C.

Date of Report

09/14/2011

2.

3.

4.

5.

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Guaderrama, David C.

Date of Report

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V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐NONE *(No reportable gifts.)*SOURCEDESCRIPTIONVALUE

1. exempl

2.

3.

4.

5.

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☐NONE *(No reportable liabilities.)*CREDITORDESCRIPTIONVALUE CODE1. NELNET Education Planning &
Finance

student loan

K

2.

3.

4.

5.

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Guaderrama, David C.

Date of Report

09/14/2011

VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. rental property #1, El Paso, TX	D	Rent	L	W	Exempt				
2. EP Employ Fed Cred Un El Paso, TX- Accounts	D	Interest	M	T					
3. EP Area Teachers FCU-El Paso, TX Accounts	C	Interest	M	T					
4. GovnEmploy FCU-El Paso, TX-Accounts	B	Interest	L	T					
5. Wells Fargo Advantage DJ Target Today Fund		None	N	T					
6. First Light FCU-El Paso, TX Accounts	A	Interest	L	T					
7. Texas County and District Retirement System	D	Interest	L	T					
8. Wells Fargo-El Paso, Texas Accounts	A	Interest	K	T					
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
I11 = \$1,000,001 - \$5,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

S = Assessment
W = Estimated

D = \$5,001 - \$15,000

I12 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

Page 6 of 7

Name of Person Reporting

Gunderrama, David C.

Date of Report

09/14/2011

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

Page 7 of 7

Name of Person Reporting

Guaderrama, David C.

Date of Report

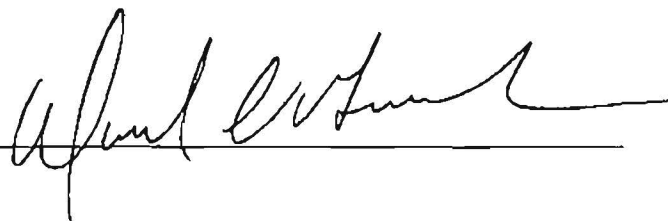
09/14/2011

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature



NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		392	751	Notes payable to banks-secured (auto)		9	709
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		266	393	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		1	701
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – see schedule		418	486	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		30	000	Education loan		27	873
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plans		24	635				
Texas County & District Retirement System		90	352				
				Total liabilities		39	283
				Net Worth	1	183	334
Total Assets	1	222	617	Total liabilities and net worth	1	222	617
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Wells Fargo Advantage DJ Target Today	\$ 266,393
Total Listed Securities	\$ 266,393

Real Estate Owned

Personal residence	\$ 342,124
Rental property	76,362
Total Real Estate Owned	\$ 418,486

AFFIDAVIT

I, David C. Guaderrama, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

09/13/2011
(DATE)

[Signature]
(NAME)

[Signature]
(NOTARY)

