

APPEAL, CLOSED, DEATH\_PENALTY, PRIS

**U.S. District Court  
SOUTHERN DISTRICT OF TEXAS (Houston)  
CIVIL DOCKET FOR CASE #: 4:06-cv-00818**

Resendiz v. Livingston et al **DEATH PENALTY  
CASE**

Assigned to: Judge Lee H Rosenthal

Related Case Case: [4:05-cv-01604](#)

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 03/10/2006

Date Terminated: 04/27/2006

Jury Demand: None

Nature of Suit: 550 Prisoner: Civil  
Rights

Jurisdiction: Federal Question

**Plaintiff**

**Angel Maturino Resendiz**

represented by **Jared Philip Tyler**

Texas Innocence Network

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V.

**Defendant**

**Brad Livingston**

*Executive Director, Texas*

*Department of Criminal Justice*

represented by

**Edward Larry Marshall**

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**Defendant**

**Douglas Dretke**

*Director, Correctional Institutions*

*Division Texas Department of*

*Criminal Justice*

represented by

**Edward Larry Marshall**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Gena Blount Bunn**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Defendant**

**Charles O'Reilly**

*Senior Warden, Huntsville Unit*

represented by

**Edward Larry Marshall**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Gena Blount Bunn**

(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Unknown Executioners**

represented by **Edward Larry Marshall**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/10/2006	<a href="#">1</a>	Prisoner Civil Rights COMPLAINT against all defendants (Filing fee \$ 250) filed by Carlos Gonzalez Magallon.(rsmith, ) Additional attachment(s) added on 3/10/2006 (rsmith, ). Additional attachment(s) added on 3/10/2006 (rsmith, ). (Entered: 03/10/2006)
03/10/2006	<a href="#">2</a>	MOTION for Timothy K Ford to Appear Pro Hac Vice by Carlos Gonzalez Magallon, filed. Motion Docket Date 3/30/2006. (mkadlubowski, ) (Entered: 03/10/2006)
03/10/2006		Summons Issued as to Brad Livingston, Doug Dretke, Charles O'Reilly , filed.(lusmith, ) (Entered: 03/10/2006)
03/10/2006		CIVIL Filing fee re: <a href="#">1</a> Complaint: \$ 250.00, receipt number 4-567656 , filed. (ejones, ) (Entered: 03/10/2006)
03/10/2006	<a href="#">3</a>	ORDER granting <a href="#">2</a> Motion to Appear Pro Hac Vice as to Timothy Ford .( Signed by Judge Lee H Rosenthal ) Parties notified.(bthomas, ) (Entered: 03/13/2006)
03/21/2006	<a href="#">4</a>	NOTICE of Appearance by Edward L. Marshall on behalf of all defendants, filed. (Marshall, Edward) (Entered: 03/21/2006)
03/27/2006	<a href="#">5</a>	First AMENDED Complaint against all defendants filed by Carlos Gonzalez Magallon. Related document: <a href="#">1</a> Complaint filed by Carlos Gonzalez Magallon,.(Ford, Timothy) (Entered: 03/27/2006)
03/28/2006	<a href="#">6</a>	MOTION to Dismiss by all defendants, filed. Motion Docket Date 4/17/2006. (Attachments: # <a href="#">1</a> Proposed Order)(Marshall, Edward) (Entered: 03/28/2006)
03/28/2006	<a href="#">7</a>	CERTIFICATE OF SERVICE of <a href="#">5</a> Amended

		Complaint/Counterclaim/Crossclaim etc. by Carlos Gonzalez Magallon, filed.(Ford, Timothy) (Entered: 03/28/2006)
03/30/2006	<a href="#">8</a>	Order entered Requiring Consul General to file a responsive pleading to defendant Resendiz's Motion to Dismiss. Response to be filed within 10 days from the date of this Order. ( Signed by Judge Lee H Rosenthal ) Parties notified.(csonnier, ) (Entered: 03/30/2006)
04/10/2006	<a href="#">9</a>	Mail Returned Undeliverable as to attorney Jared Philip Tyler re: <a href="#">8</a> Order , filed. (ghassan, ) (Entered: 04/11/2006)
04/11/2006		Address of attorney Jared Philip Tyler updated. Copy of Order #8 re-sent to Mr. Tyler via USPS on 4/11/2006, filed. (ghassan, ) (Entered: 04/11/2006)
04/12/2006	<a href="#">10</a>	RESPONSE in Opposition to <a href="#">6</a> MOTION to Dismiss, filed by Carlos Gonzalez Magallon. (Attachments: # <a href="#">1</a> Proposed Order)(Ford, Timothy) (Entered: 04/12/2006)
04/12/2006	<a href="#">11</a>	APPENDIX re: <a href="#">10</a> Response in Opposition to Motion by Carlos Gonzalez Magallon, filed. (Attachments: # <a href="#">1</a> Appendix 1-3# <a href="#">2</a> Appendix 4# <a href="#">3</a> Appendix 5-6# <a href="#">4</a> Appendix 7# <a href="#">5</a> Appendix 8-10)(Ford, Timothy) (Entered: 04/12/2006)
04/19/2006	<a href="#">12</a>	NOTICE of Modification of Execution Date by Carlos Gonzalez Magallon, filed. (Attachments: # <a href="#">1</a> Exhibit A)(Ford, Timothy) (Entered: 04/19/2006)
04/27/2006	<a href="#">13</a>	MEMORANDUM AND OPINION entered GRANTING Defts. <a href="#">6</a> MOTION to Dismiss. This case will be dismissed by separate order( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 04/27/2006)
04/27/2006	<a href="#">14</a>	ORDER OF DISMISSAL entered. This case is dismissed with prejudice. Case terminated on 4/27/06.( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 04/27/2006)
05/01/2006	<a href="#">15</a>	MOTION to Alter Judgment by Carlos Gonzalez Magallon, filed. Motion Docket Date 5/22/2006. (Ford, Timothy) (Entered: 05/01/2006)
05/04/2006	<a href="#">16</a>	ORDER entered GRANTING IN PART Pltfs <a href="#">15</a> MOTION to Alter Judgment, as to the typographical error, and reconfirming this courts order of dismissal.( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 05/04/2006)
05/04/2006	<a href="#">17</a>	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: <a href="#">13</a> Memorandum & Opinion, <a href="#">16</a> Order, <a href="#">14</a> Order of Dismissal by Carlos Gonzalez Magallon (Filing fee \$ 455)

		filed.(Ford, Timothy) (Entered: 05/04/2006)
05/09/2006	<a href="#">18</a>	Transmittal Letter to US Court of Appeals for the Fifth Circuit re: <a href="#">17</a> Notice of Appeal. Fee status: not paid, filed. (via email, attention Monica Washington)(jdavenport, ) (Entered: 05/09/2006)
05/17/2006	<a href="#">19</a>	Notice of Docketing Notice of Appeal from US Court of Appeals for the Fifth Circuit re: <a href="#">17</a> Notice of Appeal. USCA No. 06-70023 RE: Orders (Related Document # <a href="#">13</a> , <a href="#">14</a> , <a href="#">16</a> , filed.(mkadlubowski, ) (Entered: 05/18/2006)
05/19/2006		APPEAL Filing fee re: <a href="#">17</a> Notice of Appeal: \$ 455.00, receipt number 4-570198; PD BY MacDonald Hoague & Bayless Law Firm (Terry K Ford) , filed. (ejones, ) (Entered: 05/19/2006)
06/19/2006	<a href="#">20</a>	ORDER ON REMAND entered. Counsel for plaintiff must file his motion on Resendiz's behalf on or before 6/22/06. .( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/19/2006)
06/22/2006	<a href="#">21</a>	Response to <a href="#">20</a> Order and Conditional MOTION to Appoint Angel Maturino Resendez by Carlos Gonzalez Magallon, filed. Motion Docket Date 7/12/2006. (chorace, ) Additional attachment(s) added on 6/22/2006 (chorace, ). (Entered: 06/22/2006)
06/22/2006	<a href="#">22</a>	NOTICE of Appearance by Robert C. Owen on behalf of Carlos Gonzalez Magallon, filed. (chorace, ) (Entered: 06/22/2006)
06/22/2006	<a href="#">23</a>	RESPONSE to <a href="#">21</a> MOTION to Appoint Angel Maturino Resendez and EMERGENCY REQUEST for Stay of Execution, filed by Carlos Gonzalez Magallon. (Ford, Timothy) Modified on 6/30/2006 (Itien, ). (Entered: 06/22/2006)
06/22/2006	<a href="#">24</a>	ORDER entered that Resendiz has until 6/23/06 to file a motion to substitute. Failure to do so will be taken as representation that Resendiz does not wish to pursue the lawsuit .( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/22/2006)
06/23/2006	<a href="#">25</a>	MOTION to Substitute Real Party in Interest Angel Maturino Resendez in place of Carlos Gonzalez Magallon by Carlos Gonzalez Magallon, filed. Motion Docket Date 7/13/2006. (cpeebles) (Entered: 06/23/2006)
06/23/2006	<a href="#">26</a>	ORDER entered GRANTING <a href="#">25</a> MOTION to Substitute Party Angel Maturino Resendez in place of Carlos Gonzalez Magallon Counsel must file its motion to stay by 12:00 p m on

		6/25/06 and the AG's office must respond by 12:00 p.m. on 6/26/06. Counsel must fax a copy to the AG's office and to this court's case manager.( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/23/2006)
06/25/2006	<a href="#">27</a>	MOTION for Preliminary Injunction, MOTION for Temporary Restraining Order, or MOTION for Stay of Execution and Memorandum in Support by Angel Maturino Resendez, filed. Motion Docket Date 7/17/2006. (Attachments: # <a href="#">1</a> Exhibit)(Owen, Robert) Additional motion reliefs added on 7/11/2006 (Itien, ). (Entered: 06/25/2006)
06/26/2006	<a href="#">28</a>	RESPONSE in Opposition to <a href="#">27</a> MOTION for Preliminary Injunction, filed by all defendants. (Attachments: # <a href="#">1</a> Proposed Order)(Marshall, Edward) (Entered: 06/26/2006)
06/26/2006	<a href="#">29</a>	REPLY to Response to <a href="#">27</a> MOTION for Preliminary Injunction, Temporary Restraining Order or Stay of Execution by Angel Maturino Resendez, filed. (Owen, Robert) Modified on 6/26/2006 (leddins, ). Modified on 7/11/2006 - linked to #27 (Itien, ). (Entered: 06/26/2006)
06/26/2006	<a href="#">30</a>	MEMORANDUM AND ORDER entered DENYING Petitioners <a href="#">27</a> MOTION for Preliminary Injunction, restraining order or stay of execution.( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/26/2006)
06/26/2006	<a href="#">31</a>	NOTICE OF APPEAL to US Court of Appeals re: <a href="#">30</a> Memorandum & Order by Angel Maturino Resendiz (Filing fee \$ 455), filed.(Owen, Robert) (Entered: 06/26/2006)
06/26/2006	<a href="#">32</a>	MOTION for Leave to Appeal in forma pauperis by Angel Maturino Resendiz, filed. Motion Docket Date 7/17/2006. (Owen, Robert) (Entered: 06/26/2006)
06/26/2006	<a href="#">33</a>	ORDER entered GRANTING <a href="#">32</a> MOTION for Leave to Appeal in forma pauperis.( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/26/2006)
06/27/2006	<a href="#">34</a>	Transmittal Letter to US Court of Appeals for the Fifth Circuit re: <a href="#">31</a> Notice of Appeal. Fee status: paid, filed.(mharrison, ) (Entered: 06/27/2006)
06/28/2006	<a href="#">35</a>	ORDER entered mootng Resendiz's request for injunctive relief based on the execution of plaintiff. This case is dismissed .( Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/28/2006)
06/28/2006	<a href="#">36</a>	ORDER OF DISMISSAL entered This case is dismissed (

		Signed by Judge Lee H Rosenthal ) Parties notified.(leddins, ) (Entered: 06/28/2006)
06/28/2006	<a href="#">37</a>	Mail Returned Undeliverable as to attorney Robert C Owen re: <a href="#">24</a> Order , filed. (sbyrum, ) (Entered: 06/28/2006)
06/29/2006		Electronic record on appeal certified to the U.S. Court of Appeals for the Fifth Circuit. Fifth Circuit Court of Appeals Case Number: (no number listed), filed.(mharrison, ) (Entered: 06/29/2006)
07/03/2006	<a href="#">38</a>	Fifth Circuit Court of Appeals LETTER advising the record on appeal will be forwarded at a later date (USCA No. 06-40023), filed.(jdavenport, ) (Entered: 07/04/2006)
07/03/2006	<a href="#">39</a>	OPINION from USCA for the Fifth Circuit re: <a href="#">31</a> Notice of Appeal (USCA No. 06-70023). The district court's decision that the Consul General cannot sue as Resendiz's next friend is AFFIRMED. The judgment of the district court is MODIFIED to provide that this suit can continue if Resendiz chooses to be substituted as the proper plaintiff. This case is REMANDED accordingly, filed.(jdavenport, ) (Entered: 07/04/2006)
07/03/2006	<a href="#">40</a>	Fifth Circuit Court of Appeals LETTER advising enclosed certified copy of opinion-order entered 6/27/06 Case Closed (USCA No. 06-70029), filed.(ledwards, ) (Entered: 07/05/2006)
07/03/2006	<a href="#">41</a>	Copy of OPINION from USCA for the Fifth Circuit re: <a href="#">17</a> Notice of Appeal (USCA No. 06-70029). Affirmed; Stay Denied, filed.(ledwards, ) (Entered: 07/05/2006)
07/05/2006	<a href="#">42</a>	Mail Returned Undeliverable as to attorney Robert C Owen re: <a href="#">26</a> Order, , filed. (ypippin, ) (Entered: 07/06/2006)

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