NO. 70000

STATE OF TEXAS)	IN THE COURT
VS.)	OF CRIMINAL APPEALS
JOE SMITH)	OF TEXAS

MOTION TO RECUSE

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

Joe Smith. respectfully moves to recuse the Honorable xxx, and for good cause shows the following:

I.

On June 2, 2009, Judge xxx notified counsel that she recently learned that her research attorney once represented the State of Texas in this case when it was in federal court. Judge xxx advises that she would entertain a motion to recuse from either party if filed by 9:00 a.m. on June 3, 2009. Counsel for Mr. Smith believe that, under the circumstances stated in Judge xxx's letter, the appearance of justice would most appropriately be served in this death penalty case by the recusal of Judge xxx.

WHEREFORE PREMISES CONSIDERED, Humberto Leal, Jr. respectfully requests that Judge xxx recuse herself in this case.

Respectfully submitted:

MARK STEVENS 310 S. St. Mary's Street, Suite 1920 San Antonio, Texas 78205 State Bar No. 19184200 (210) 226-1433 (210) 223-8708

By:	MARK	STEVENS	

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Appellant's Motion To Recuse has been delivered to Alan Battaglia, Bexar County District Attorney's Office, Bexar County Justice Center, 300 Dolorosa, San Antonio, Texas, on the 3d day of June, 2009.

MARK STEVENS	

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared Mark Stevens, who after being duly sworn stated:

I am the attorney for the Appellant in the above numbered and entitled cause. I have read the foregoing Motion To Recuse and swear that all of the allegations of fact contained therein are true and correct.

MARK STEVENS

SUBSCRIBED AND SWORN TO BEFORE ME on the 2d day of June, 2009.

Notary Public in and for Bexar County, Texas

My commission expires: 1/27/2013