IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9083

NINETEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

ORDERED that:

1. Since April 2020, the Court and the Board of Law Examiners ("Board") have taken unprecedented steps to ensure that the bar examination can proceed and that applicants have a safe and successful experience.

a. On April 29, 2020, in Misc. Dkt. No. 20-9060, the Court, in consultation with the Board and the deans of Texas law schools, determined that the Board should offer the Texas bar examination as scheduled in July 2020, subject to change based on state and local orders and the guidance of public health authorities. In light of uncertainty regarding the duration of the COVID-19 pandemic and the public health measures necessary to impede the spread of the virus, the Court determined the Board should also offer an administration of the Texas bar examination in September 2020. In addition, recognizing the disruptions to personal and professional lives caused by the pandemic and that some applicants might prefer to delay examination beyond September 2020 due to personal health considerations, the Court preliminarily adopted updated Rules Governing the Supervised Practice of Law by Qualified Law Students and Qualified Unlicensed Law School Graduates in Texas ("Rules").

b. On May 20, 2020, in Misc. Dkt. No. 20-9069, the Court gave final approval to the Rules, as amended in the Order, after the expiration of a public-comment period.

c. The Board implemented numerous safety protocols for the examinations based on advice from public health authorities regarding best practices for administering the examinations safely. On June 2, 2020, in Misc. Dkt. No. 20-9076, the Court shortened and reweighted the examinations as an additional measure to minimize risk and reduce applicants' expenses.

2. In recent weeks, the state of the COVID-19 pandemic in Texas has changed significantly, and the Court and the Board have received numerous comments from the Texas law school deans, members of the Texas Bar, recent law school graduates, and other members of the public expressing concerns regarding the administration of the July 2020 bar examination and urging other options. The Court has reviewed the comments carefully and appreciates the thoughtful input provided.

3. Having considered the recent surge in COVID-19 cases in Texas and the related uncertainty regarding the availability of examination sites, the recommendation of the Board, and the numerous comments received, the Court has determined that the July 2020 bar examination should be canceled.

4. The Court is mindful of the impact that cancellation of the July 2020 bar examination will have on applicants, and the Court directs the Board to offer the following options for licensure in 2020 and to establish procedures for applicants to select, without additional expense, the option that best suits their individual circumstances.

a. The Board should administer an in-person examination as scheduled on September 9-10, 2020, subject to guidance from public health authorities. The Board should continue to consult regularly with public health authorities and explore all measures to make the in-person examination as safe as possible. The Board reports that it will likely release scores from the September bar examination within three weeks after it would normally release scores from the July bar examination.

b. The Board should administer an online examination on October 5-6, 2020, that includes: 100 Multistate Bar Examination questions, 1 Multistate Performance Test question, the Procedure and Evidence questions, and 12 Texas essays questions. The October bar examination will be weighted as determined by the Board. The Board reports that it will likely release scores from the October bar examination by December 4.

5. The Board will also establish procedures for new applicants who did not timely register for the September bar examination to register for that examination or the October examination.

6. The Court also notes that supervised practice under the Rules remains an option for those applicants who need or want to begin work before receiving their scores from the September or October examinations or who would prefer to wait to take the February 2021 bar examination. Given the interest shown in these issues by the deans and by leaders of local bar associations, the Court would welcome their assistance in identifying supervisors for applicants who need them.

7. Under the Court's April 29 order, an applicant may change his or her registration to the February 2021 bar examination without additional expense.

8. Although individual Justices may have preferences for additional options, a majority of the Court agrees upon these options.

9. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on www.txcourts.gov;

b. file a copy of this Order with the Secretary of State; and

c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

10. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order. The Texas law school deans are requested to take all reasonable steps to notify their affected students of this Order.

Dated: July 3, 2020

JUSTICE GUZMAN and JUSTICE LEHRMANN concur, noting that (1) discussions about altering licensing requirements for admission to the legal profession are important and ongoing through the Court's work with the ABA Commission on the Future of Legal Education; (2) eliminating a licensing requirement raises consumer-protection concerns, and any systemic reforms should not be undertaken without thorough vetting and input from all stakeholders, especially the public; (3) among the available alternatives to in-person testing, an online bar examination provides a reasonable and safe alternative that aligns more closely with our longstanding licensing requirements; (4) online testing has been successfully employed as an alternative to in-person testing by national testing organizations, like the College Board's Advanced Placement Program, and public and private schools throughout this State; and (5) the law school community should help fill the void for applicants who do not have access to reliable technology or adequate facilities to take an online test.

JUSTICE BOYD concurs in part, but would require the Board to offer and to allow each applicant to choose between (1) the in-person examination currently scheduled for July 2020, (2) the in-person examination currently scheduled for September 2020, (3) the October 2020 online examination described in this Order, (4) an apprenticeship-admission process, and (5) a diploma-privilege-

admission process, in addition to (6) the supervised-practice option to delay admission as described in this Order; and would in addition require that each applicant's State Bar of Texas license, membership records, and online attorney profile clearly indicate whether the applicant gained admission to the Bar through examination, apprenticeship, or a diploma privilege.

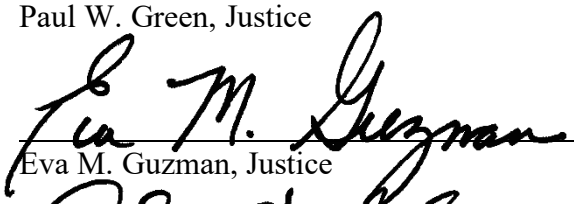
JUSTICE BLACKLOCK concurs but would also give all those currently scheduled to take the in-person July bar examination the option of doing so as planned.

JUSTICE BUSBY and JUSTICE BLAND concur but would also allow applicants to select an apprenticeship option providing for licensure upon completion of a period of supervised practice.

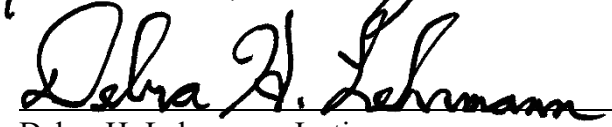
CHIEF JUSTICE HECHT and JUSTICE GREEN dissent and would direct the Board of Law Examiners to adopt a diploma privilege in lieu of the bar examination for those registered to take it in July and September 2020.

Nathan L. Hecht, Chief Justice

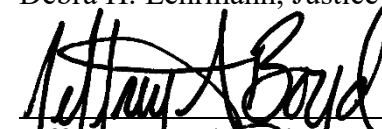
Paul W. Green, Justice



Eva M. Guzman, Justice

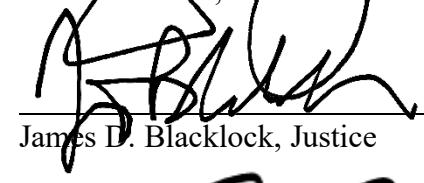


Debra H. Lehrmann, Justice

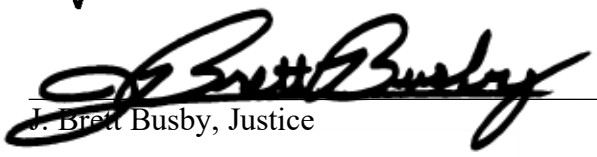


Jeffrey S. Boyd, Justice

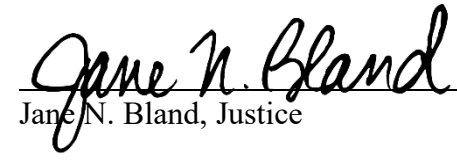
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice