

STATE'S STANDING MOTION NO. 1
PRETRIAL CONFERENCES, DISMISSAL OF COMPLAINTS, AND REQUESTS TO THE
COURT

COMES NOW the State of Texas, by and through the City Attorney and municipal prosecutor for the City of Big Spring, and makes this Standing Motion No. 1, for the purpose of efficient processing and disposition of cases filed in the Municipal Court of the City of Big Spring. In support of this motion, the State would show the Court the following:

I. In General.

- A. The Court may set any criminal case for a pretrial hearing if the defendant has not been tried, or if a new trial is pending.¹
- B. Oftentimes, cases are appropriate for routine dismissal.
- C. With many cases filed in the Municipal Court, it is inefficient for the State to make a written motion to dismiss or to substitute a new complaint in each of the cases in which such action is either required by law or appropriate under the facts.
- D. Dismissals of complaints can be moved by the attorney representing the State of Texas.²
- E. For some offenses, however, a court may or must dismiss the case upon certain conditions, such as provision of proof of compliance with requirements for registration of vehicles. Such is often called a “compliance dismissal.”³
- F. For purposes of this motion, the word “administrative fee” includes the term “administrative fine.”
- G. Any previous Standing Motion No. 1 is hereby withdrawn.

II. Pretrial conferences.

- A. The defendant may have a case in which it is not clear to the Court whether it fits one of the categories described in this motion.
- B. The defendant may have pleaded not guilty or double jeopardy.⁴
- C. A defendant may have entered a plea of guilty, no contest, or no plea at all. The Court may consider a pretrial conference with the municipal prosecutor to be appropriate such as may relate to the appropriate punishment, or another matter associated with the charge.
- D. The defendant may have sought a compliance dismissal, but the time allowed by law has elapsed or will elapse. The defendant may now seek to obtain the benefit of a compliance dismissal despite the lateness. Therefore, the Court might consider a pretrial conference with the municipal prosecutor to be appropriate.

¹ Texas Code of Criminal Procedure Article 28.01.

² Tex. Code Crim. Proc. Art. 32.02; *State v. Howell*, 871 S.W.2d 237 (Tex. App.—Dallas 1993) (trial court does not generally have authority to dismiss case unless prosecutor requests dismissal).

³ A chart of compliance dismissals is linked at the TMCEC web site at: <https://www.tmcec.com/resources/charts/> Such compliance dismissals include expired license plate, expired driver’s license, expired disability placard, etc.

⁴ Such pleadings of a defendant are codified under Code Crim. Proc. Art. 27.02 and 27.05.

- E. The defendant may claim that a police officer or other government official stated that the violation would be dismissed, or otherwise would make an argument before the Court. Therefore, the Court might consider a pretrial conference with the municipal prosecutor to be appropriate.
- F. The defendant may be a corporate entity of any type, and a person other than the corporate entity's legal counsel, or no person at all, may attempt to communicate with the Court on behalf of the corporate entity.⁵ Therefore, the Court might consider a pretrial conference with the municipal prosecutor to be appropriate.
- G. The municipal prosecutor does not object to the Court setting any pretrial conference with a defendant before trial.

III. Standing Motions. To expedite the disposition of routine matters, the State makes the following standing motions.

- A. Statute of limitations. The statute of limitations for Class C misdemeanors is two years, except for Assault involving family violence, in which case it is three years.⁶
 - 1. Upon proof satisfactory to the Court that the complaint was only filed with the Municipal Court after the number of years set by the statute of limitations plus two days from the date of the commission of the offense,⁷ the State moves to dismiss the case based on the existence of a valid affirmative defense of the statute of limitations.
 - 2. Upon proof satisfactory to the Court that a citation was filed with the Court, but no complaint in the case was filed with the Municipal Court, and the date of the commission of the alleged offense is alleged to have occurred in the past more than the number of years set by the statute of limitations plus two days, the State moves to dismiss the case based on the existence of a valid affirmative defense of the statute of limitations.
- B. Parking in a Space Designated for Persons with Disabilities. The State moves to dismiss, based on it being in the interest of justice, any complaint of Parking in a Space Designated for Persons with Disabilities⁸ upon proof satisfactory to the Court of one or more of the following:
 - 1. Defendant then possessed a valid, unexpired disability placard; or
 - 2. Defendant was transporting a person who then possessed a valid, unexpired disability placard.
- C. Fail to Maintain Financial Responsibility. The State moves to dismiss, based on the existence of a defense to prosecution, any complaint of Fail to Maintain Financial

⁵ Such entities must appear through legal counsel. Code Crim. Proc. Art. 17A.07. Defendants who are corporate entities could possibly include corporations, limited liability companies, nonprofits, government agencies, trusts, partnerships, two or more persons having a joint or common economic interest, and more. *See* Code Crim. Proc. Art. 17A.01(b)(2) and the Texas Business Organizations Code.

⁶ Code Crim. Proc. Art. 12.02.

⁷ *See* Code Crim. Proc. Art. 12.04.

⁸ *See* Texas Transportation Code Section 681.011.

Responsibility⁹ upon proof satisfactory to and verified by the Court that at the time of the violation, defendant possessed sufficient financial responsibility as required by law.¹⁰

- D. Fail to Display Driver's License. The State moves to dismiss, based on the existence of a defense to prosecution, any complaint of Fail to Display Driver's License¹¹ if the person charged produces in open Court a driver's license that the Court determines was:
1. issued to that person;
 2. appropriate for the type of vehicle operated;
 3. valid at the time of the violation;¹² and
 4. the defendant pays the Court an administrative fee of up to \$10 unless the Court does not assess the administrative fee.¹³
- E. Fail to Display Commercial Driver's License or Commercial Learner's Permit. The State moves to dismiss, based on the existence of a defense to prosecution, any complaint of Fail to Display Commercial Driver's License or Commercial Learner's Permit¹⁴ if the defendant produces in Court a commercial driver's license or a commercial learner's permit that the Court determines was:
1. issued to that person;
 2. appropriate for the type of vehicle operated;
 3. valid at the time of the violation;¹⁵ and
 4. the defendant pays the Court an administrative fee of up to \$10 unless the Court does not assess the administrative fee.¹⁶
- F. Child Passenger Safety Seat Offense. The State moves to dismiss, based on the existence of a defense to prosecution, any complaint of a Child Passenger Safety Seat Offense¹⁷ if the defendant provides evidence satisfactory to the court that at the time of the offense:
1. the defendant was not arrested or issued a citation at the time for violation of any other offense;
 2. the defendant did not possess a child passenger safety seat system in the vehicle;
 3. the vehicle the defendant was operating was not involved in an accident; and
 4. after the time of the offense, the defendant obtained an appropriate child passenger safety seat system for each child required by law to be secured in a child passenger safety seat system.¹⁸
- G. The State requests the Court to issue a summons of the defendant when an open complaint has been filed and upon a probable cause determination by the Judge.¹⁹ The

⁹ See Tex. Transp. Code § 601.191.

¹⁰ See Transp. Code § 601.193.

¹¹ See Transp. Code § 521.025.

¹² See *id.* at (d).

¹³ See *id.* at (f).

¹⁴ See Transp. Code § 522.011.

¹⁵ See *id.* at (d), (e).

¹⁶ See *id.* at (f).

¹⁷ See Transp. Code § 545.412.

¹⁸ See Transp. Code § 545.4121

¹⁹ See Code Crim. Proc. Art. 23.04.

State does not object to the Court holding a hearing or setting a pretrial conference on such matter.

- IV. Requests to the Court. The State requests that the Court take one or more of the following actions under the circumstances listed below: communication with both the defendant (or defense attorney) and the prosecutor advising them of the circumstance; setting the case for a docket of open court at which the prosecutor will appear; or setting the case for a pretrial conference with the prosecutor.
- A. When the defendant's name, date of birth or other identifying information may be incorrect.
 - B. When a person other than the defendant appears to take responsibility for the conduct at issue in a citation or complaint.
 - C. When a parking violation is filed against a rental company, and the company has provided documentation showing the rental period and the name and identifying information for the renter.

Andrew W. Hagen

Andrew W. Hagen
City Attorney and Municipal Prosecutor

October 26, 2023

Date