



ENFORCEMENT

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CHRONOLOGICALLY DISTINGUISHING THE WARRANT, CAPIAS, AND CAPIAS PRO FINE IN THE TEXAS CODE OF CRIMINAL PROCEDURE

Purpose	Prior to Formal Charging	After Formal Charging but Prior to Judgment	After Judgment and Sentence
Bond Forfeiture or Surrender of Principal	“Arrest Warrant” by <i>Magistrate</i> – Article 17.19	“Chapter 23 Capias” by <i>Trial Court</i>	
To Procure Custody	“Arrest Warrant” upon oath of affirmation & determination of probable cause by <i>Magistrate</i> – Specific Provision: Article 45.014 “Arrest Warrant” by <i>Municipal Court or Justice Court</i>	“Chapter 23 Capias” by <i>Trial Court</i> – Specific Provision: Article 45.014 “Arrest Warrant” by <i>Municipal Court or Justice Court</i>	“Chapter 43 Capias” by <i>Trial Court</i> – Article 43.015(1) – Article 43.04
To Enforce Judgment for Unpaid Fines and/or Costs			“Capias Pro Fine” by <i>Trial Court</i> ❖ General Provisions – Article 43.015(2) – Article 43.021 – Article 43.05 – Article 43.06 – Article 43.07 ❖ Specific Procedures in Chapter 45 Courts – Article 45.045 – Article 45.046 ❖ Specific Procedures in Other Trial Courts – Article 43.03

CLERK'S AFFIDAVIT FOR CAPIAS PRO FINE

CAUSE NUMBER: _____

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

I, _____, being duly sworn, upon oath, state that I have good reason to believe and do believe that on or about the _____ day of _____, 20__, _____, Defendant, defaulted in payment of a fine and court costs. My belief is based upon the following:

I am the Municipal Court Clerk and custodian of records for the _____ Municipal Court, City of _____, _____, County, Texas. On _____, 20__, I personally examined the official records of this Municipal Court. The records indicate that the Defendant in the above styled and numbered cause was charged with the offense of: _____ and was found guilty of the offense on the _____ day of _____, 20__. The records indicate that the Defendant was ordered to make (a payment)(certain prescribed payments) on the fine and costs imposed in the above mentioned case on the following date(s): _____.

The official Court record indicates that the Defendant did not appear on the _____ day of _____, 20__ to make a payment or to request an extension as ordered by the Court. The official Court record shows that said Defendant owes _____ dollars (\$_____) in fine and court costs to satisfy the judgment.

Affiant

Sworn to and subscribed before me on _____ day of _____, 20__.

(Judge) (Clerk) (Deputy Clerk)

City of _____

_____ County, Texas

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

TO THE CHIEF OF POLICE OF THE CITY OF _____ OR ANY PEACE OFFICER OF THE STATE OF TEXAS – GREETINGS:

Whereas on the ____ day of _____, 20__, before Judge _____ of the Municipal Court of the City of _____, Texas, _____, the Defendant, date of birth _____, was convicted of the offense of: _____ and a judgment was rendered by said Court in favor of the State, against said Defendant for the sum of \$_____ and all costs of court; and there is due and unpaid the amount of \$_____.

The Court hereby finds that said Defendant has defaulted and failed to wholly satisfy the judgment in the above styled case.

You are therefore commanded to bring said Defendant before the Municipal Court of the City of _____, Texas immediately [or before a municipal court located in the same municipality if this Court is unavailable] or place him or her in jail until (he)(she) can be brought before the Court without delay until the next business day following the date of the Defendant’s arrest if the Defendant cannot be brought before the Court immediately. **You are commanded** to notify the Court immediately upon arrest of the Defendant.

In witness whereof, I have hereunto set my hand at my office in the Municipal Court of the City of _____, Texas this ____ day of _____, 20__.

Judge, Municipal Court

(municipal court seal)

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. the same by arresting _____, the named Defendant.

Arresting Officer

Editor’s Note: Effective September 1, 2015, if the court that issued the capias pro fine is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to a municipal court located in the same municipality. Art. 45.045, C.C.P.

ORDER OF COMMITMENT (CAPIAS PRO FINE) (Art. 45.046, C.C.P.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS – GREETINGS:

You are commanded to take into custody and commit to the jail of your County the above-named Defendant, who was, on the _____, day of _____, 20____, convicted before the Municipal Court in the City of _____, _____ County, Texas of the offense of _____ and was assessed a fine and court costs totaling \$ _____, of which \$ _____ is unpaid.

The undersigned finds that EITHER:

- (1) the arrestee is the same person as the Defendant in the cause described above;
- (2) the Defendant has intentionally failed to make a good faith effort to pay said fine and costs; and
- (3) the Defendant is not indigent and has failed to make a good faith effort to discharge said fine and costs;

OR

- (1) the arrestee is the same person as the Defendant in the cause described above;
- (2) the Defendant has intentionally failed to make a good faith effort to pay said fine and costs; and
- (3) the Defendant is indigent and:
 - (a) has failed to make a good faith effort to discharge the fine and costs under Article 45.049, Code of Criminal Procedure, (community service);
 - (b) could have discharged the fine under Article 45.049, Code of Criminal Procedure, (community service) without experiencing any undue hardship.

Therefore, you are commanded to keep the Defendant in custody until the sum of \$ _____ is fully paid or Defendant is otherwise discharged by law. Unless otherwise specified in the judgment or sentence in said cause, pursuant to Article 45.048(b), Code of Criminal Procedure, the Court specifies that the Defendant remain in jail a sufficient length of time to satisfy the remaining fine and costs at the following rate:

_____ hours (not less than 8 or more than 24) to earn
_____ (minimum dollar amount \$50) to satisfy the fine and costs.

In the event Defendant is committed for defaulting in more than one judgment, jail credit is to be assessed:

- Concurrently (at the same time, per judgment until jail credit exceeds or equals the sum total of fine and costs); or
- Consecutively (“stacked,” one sentence of confinement is to follow another until jail credit exceeds or equals the sum total of fine and costs) with following cause(s): *List cause number(s), Court(s), date of judgment(s), offense(s), and fine and costs total(s)*

Ordered on this _____ day of _____, 20____.

(municipal court seal)

Judge, Municipal Court
City of _____
_____ County, Texas

SHOW CAUSE NOTICE: ADULT DEFENDANT CONTEMPT (Sec. 21.002(c), G.C.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

ORDER TO SHOW CAUSE

Name: _____ Offense: _____

Address: _____

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock ____m., on the _____ day of _____, 20__, to show cause why you failed to abide by the terms of the judgment rendered against you on the _____, 20__. Specifically, you are accused of failing to:

Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of up to \$100 and/or a sentence of up to three (3) days in jail, and the issuance of a warrant to enforce the judgment of contempt.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

SHOW CAUSE NOTICE: ADULT CONTEMPT (Not a Defendant) (Sec. 21.002(c), G.C.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

§

_____ COUNTY, TEXAS

(Contemnor)

ORDER TO SHOW CAUSE

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock ____m., on the ____ day of _____, 20__, to show cause why you failed to abide by an order of the Court imposed on you on _____, 20__. Specifically, you are accused of failing to:

_____.

Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of up to \$100 and/or a sentence of up to three (3) days in jail, and the issuance of a warrant to enforce the judgment of contempt.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

SHOW CAUSE NOTICE: JUROR CONTEMPT (Art. 45.027(c), C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

_____ COUNTY, TEXAS

ORDER TO SHOW CAUSE

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock __.m., on the ____ day of _____, 20__, to show cause why you failed to appear for jury service in Cause Number _____ when summoned by the Municipal Court of the City of _____, Texas, which said conduct did then and there constitute civil contempt of Court.

Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of up to \$100 and/or a sentence of up to three (3) days in jail, and the issuance of a warrant to enforce the judgment of contempt.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

SHOW CAUSE NOTICE: PEACE OFFICER CONTEMPT (Art. 2.16, C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

_____ COUNTY, TEXAS

ORDER TO SHOW CAUSE

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock ____m., on the _____ day of _____, 20__, to show cause why you willfully refused or failed from neglect to execute the below described summons, subpoena, attachment, or other legal process when so ordered by this Court, which said conduct did then and there constitute civil contempt of Court.

Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of not less than \$10 nor more than \$200.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

SHOW CAUSE NOTICE: WITNESS CONTEMPT (Art. 24.05, C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

_____ COUNTY, TEXAS

ORDER TO SHOW CAUSE

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock ____m., on the ____ day of _____, 20__, to show cause why you failed to appear in this Court on _____, 20__, to testify in Cause Number _____ pursuant to a witness subpoena issued to you, which said conduct did then and there constitute civil contempt of Court.

Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of up to \$100.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

CONTEMPT: ADULT PLEA

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

COUNTY, TEXAS

CONTEMPT OF COURT—PLEA FORM

I was informed of the accusation against me and my rights, including my right to have a hearing and the right to hire an attorney to represent me in this matter or to request an attorney represent me if I cannot afford one. I understand that a plea of true will result in me being found in contempt and the possibility of being sentenced up to three days in the county jail and/or fined up to one hundred dollars (\$100).

I fully understand the proceedings against me and my rights outlined above and voluntarily enter a plea of (true)(not true) to the accusation of contempt of Court.

- I waive the right to a hearing before the Court.
- I waive my right to have an attorney represent me in a hearing before the Court.

Date

Contemnor's Signature

JUDGMENT OF DIRECT CONTEMPT: ADULT (Secs. 21.001 and 21.002(c), G.C.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

_____ **COUNTY, TEXAS**

JUDGMENT OF CONTEMPT

On this the ____ day of _____, 20__, the Court has exercised its inherent authority and the authority granted by Section 21.002, Government Code, (to require the proceedings be conducted with dignity and in an orderly and expeditious manner)(to compel obedience of Court orders)(to so control the proceedings that justice is done).

The Court finds _____ in direct contempt of Court for *(describe conduct)*:

which occurred before this Court. The Court further finds that the above described actions were in contempt of court and that the conduct presented sufficient exigent circumstances as to merit a summary finding of contempt in that the actions of the contemnor disrupted proceedings before the court so that they could not be conducted with dignity and in an orderly and expeditious manner. The Court further finds that imposition of contempt is necessary to control the proceedings so that justice may be done. The Court further finds that the contemnor is not an officer of the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that _____ is in direct contempt of court and shall be:

- Confined in _____ County Jail for a period of _____ (not to exceed three days).
- Fined the sum of \$ _____ (not to exceed \$100).

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

§

_____ COUNTY, TEXAS

(Contemnor)

JUDGMENT OF CONTEMPT

On this the _____ day of _____, 20____, the Court has exercised its inherent authority and the authority granted by Government Code, Section 21.001, to require the proceedings be conducted with dignity and in an orderly and expeditious manner and to compel obedience of court orders and to so control the proceedings that justice is done.

The Court finds that a notice of contempt was made to _____ on the ____ day of _____, 20____, and that _____ (did)(did not) attend a show cause hearing on the ____ day of _____, 20____, as set forth in the notice. The Court finds that Contemnor did not show good cause why he/she should not be held in contempt.

The Court finds that Contemnor violated an order of the Court to wit: _____.

The Court finds that a finding of contempt is necessary to compel obedience of Court orders.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that _____ is in contempt of court and shall be:

- Confined in _____ County Jail for a period of _____ (not to exceed three days).
- Fined the sum of \$ _____ (not to exceed \$100).

Judge, Municipal Court

City of _____

_____ County, Texas

(municipal court seal)

JUDGMENT OF CONTEMPT: FAILURE TO APPEAR FOR JURY SERVICE (Art. 45.027(c), C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

COUNTY, TEXAS

JUDGMENT OF CONTEMPT

The Court exercised its inherent authority and the authority granted by Article 45.027, Code of Criminal Procedure, and ordered a venire be summoned for jury service, and required the appearance of the said Contemnor to appear as a venire person so that a jury trial could be conducted.

The Court finds that:

- Contemnor failed to appear for jury service, and Contemnor failed to appear after due notice for a show cause hearing on civil contempt and failed to present sufficient cause for failing to appear for jury service.
- Contemnor failed to appear for jury service, and Contemnor appeared for a show cause hearing and failed to present sufficient cause for failing to appear for jury service.
- Contemnor failed to appear for jury service, and Contemnor appeared for a show cause hearing and presented sufficient cause for failing to appear for jury service.

Therefore,

- The Court finds _____ in contempt of court for failing to appear for jury service.

It is therefore ordered, adjudged, and decreed that _____ is in contempt of court for failure to appear for jury service and is fined the sum of _____ (*maximum \$100*) for contempt.

- The Court finds _____ showed sufficient cause for failing to appear for jury service. This contempt charge is thereby dismissed and the above named person is discharged from any civil liability for failing to appear for jury service.

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

JUDGMENT OF CONTEMPT: PEACE OFFICER FAILURE TO SERVE PROCESS (Art. 2.16, C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

§

_____ **COUNTY, TEXAS**

(Contemnor)

JUDGMENT OF CONTEMPT

On the ____ day of _____, 20____, this Court issued legal process to _____, a peace officer under the laws of Texas to execute the process.

Pursuant to Article 2.16, Code of Criminal Procedure, this Court finds that:

- Contemnor willfully refused or failed from neglect to execute the process described as: _____, and Contemnor failed to appear after due notice for a show cause hearing on civil contempt and failed to present sufficient cause for (his)(her) failure or refusal to execute the process.
- Contemnor willfully refused or failed from neglect to execute the process described as: _____, and Contemnor appeared for a show cause hearing and failed to present sufficient cause for (his)(her) failure or refusal to execute the process.
- Contemnor failed to execute the process described as: _____, and Contemnor appeared for a show cause hearing and presented sufficient cause for (his)(her) failure.

Therefore,

- The Court finds _____ in contempt of court pursuant to Article 2.16, Code of Criminal Procedure.
It is therefore ordered, adjudged, and decreed that _____ is in contempt of court for failure to execute legal process and is fined the sum of _____ (*minimum \$10, maximum \$200*) for contempt.
- The Court finds _____ showed sufficient cause for the failure to execute legal process. This contempt charge is thereby dismissed and the above named person is discharged from any civil liability for this failure.

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

JUDGMENT OF CONTEMPT: WITNESS REFUSAL TO OBEY SUBPOENA (Art. 24.05, C.C.P.)

CAUSE NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

COUNTY, TEXAS

JUDGMENT OF CONTEMPT

On the ____ day of _____, 20____, this Court issued a witness subpoena to the above named contemnor to appear in this Court on the ____ day of _____, 20____, then and there to testify in Cause Number _____ and to there remain from day to day, and from term to term, until discharged by this Court.

The Court finds that:

- Contemnor refused to obey the witness subpoena, and Contemnor failed to appear after due notice for a show cause hearing on civil contempt and failed to present sufficient cause for the refusal to obey the subpoena.
- Contemnor refused to obey the witness subpoena, and Contemnor appeared for a show cause hearing and failed to present sufficient cause for the refusal to obey the subpoena.
- Contemnor refused to obey the witness subpoena, and Contemnor appeared for a show cause hearing and presented sufficient cause for the refusal to obey the subpoena.

Therefore,

- The Court finds _____ in contempt of court for refusing to obey a witness subpoena.

It is therefore ordered, adjudged, and decreed that _____ is in contempt of court for refusing to obey the witness subpoena and is fined the sum of _____ (*maximum \$100*) for contempt.

- The Court finds _____ showed sufficient cause for the refusal to obey a witness subpoena. This contempt charge is thereby dismissed and the above named person is discharged from any civil liability for the refusal to obey the witness subpoena.

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

ABSTRACT OF JUDGMENT

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ **COUNTY, TEXAS**

I, _____, Municipal Court Clerk for the City of _____, do hereby verify that on the ____ day of _____, 20__, in the _____ Municipal Court, _____ County, Texas, in a cause entitled State of Texas vs. _____, Cause Number _____ on the docket of the Court, judgment was rendered in favor of the State of Texas, for the use and benefit of the City of _____, against _____, the Defendant, who resides at _____, whose birth date is _____, whose Social Security Number is _____, and whose driver's license number is _____, in the amount of _____ dollars (\$ _____), which includes court costs. The balance due on said judgment is \$ _____.

Signed this ____ day of _____, 20__.

(municipal court seal)

Municipal Court Clerk
City of _____
_____ County, Texas

Subscribed, sworn to, and acknowledged before me, the undersigned authority, by _____, Court Clerk for the City of _____ on this ____ day of _____, 20__.

Notary Public in and for the State of Texas

After recording, return to:

WRIT OF EXECUTION

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

TO ANY SHERIFF OR ANY CONSTABLE WITHIN THE STATE OF TEXAS:

On the ____ day of _____, 20__, _____ Municipal Court recovered a judgment in the Municipal Court of the City of _____, _____ County, Texas against _____, which judgment is recorded in the minutes of said Court. Said judgment is for the sum of \$_____, of which \$_____ is actually due.

Therefore, you are commanded that out of the property of _____, Defendant in execution, subject to execution by law, you cause to be made the sum of \$_____, together with the costs of executing this writ.

You shall execute this writ according to its terms, and according to law, and have the said sums of money, together with this writ, showing how you have executed the same, before said Court, at _____ in the City of _____, _____ County, Texas, within 90 days from the date of this writ.

Witness, _____, Municipal Court Clerk for the City of _____, Texas this ____ day of _____, 20__.

(municipal court seal)

Attest:

Municipal Court Clerk