

IT'S A JUDGMENT CALL:

- **Credit for Time Served**
- **Community Service**
- **Indigency**



JUDGE'S ROLE

- Judicial Functions →
- Decision Maker ↑



The **JUDGE** is responsible for presiding over trials and other court proceedings.

The Judge may assign **ADMINISTRATIVE** duties.

Unless there is clear language in the statute the Judge may not **DELEGATE JUDICIAL** duties.

CLERK'S ROLE

- Know your boundaries!
- Examples



The clerk is responsible for **ADMINISTRATIVE** duties.

The clerk is responsible for **PROCESSING** orders of the court.

JUDGMENTS



- WHO
- WHAT
- HOW



WHO: Rendering judgment is a **JUDICIAL** function.

WHAT: A judgment is the **WRITTEN DECLARATION** of the court reflecting the conviction or acquittal. CCP 42.01

HOW: See form samples

COMMUNITY SERVICE

- Order up
- The value of work
- Who's the boss?



A **WRITTEN ORDER** is required of the Court, CCP 45.049

Must specify the number of hours and period of time

No more than **16 hours** a week

Not less than **\$50.00** for each **EIGHT HOURS**

Only governmental entity or nonprofit organization

Agency must agree to **SUPERVISOR** defendant

Agency must agree to report on defendant's **WORK**

CREDIT FOR TIME SPENT IN JAIL

- Judicial Discretion
- Time is money
- Judgment



The Justice or Judge **SHALL** credit the defendant for time served in jail. CCP 45.041.

The Judge of the Court in which the defendant is **CONVICTED** shall give credit for time served. CCP 42.03

The credit shall be applied to the amount of the fine and costs at the rate of:

Not less than \$50.00 and for a period of time that is not less than **EIGHT** or more than 24 hours. CCP 45.048

Must be reflected in the **JUDGMENT**. CCP 42.01

INDIGENCY: TO COMMIT OR NOT TO COMMIT

- Judgment
- Hearing..Hearing
- It's an Order



Judgment, a hearing and **ORDER** is required. CCP 45.046

INDIGENCY: TO COMMIT OR NOT TO COMMIT

The facts of life



In order to commit, there **MUST** be a written determination that the defendant is:

Not **INDIGENT** and has failed to make a good faith effort to discharge the fine and cost

OR

Is indigent and failed to make a good faith effort to discharge the fines and cost with **COMMUNITY SERVICE**

AND

Would not have experienced any **UNDUE HARDSHIP**

INDIGENCY: TO COMMIT OR NOT TO COMMIT

→ ¶ →
Certify: →
to testify to or vouch for in writing



A **CERTIFIED COPY** of the judgment, sentence, and order is sufficient to authorize such confinement. CCP 45.046.

INDIGENCY: TO COMMIT OR NOT TO COMMIT

Time after time



A defendant placed in jail on account of failure to pay the fine and cost shall be **DISCHARGED** when he has remained in jail a sufficient length of time to satisfy the fine and costs.

Credit for time served will be given as specified on the **JUDGMENT**. CCP 42.01

Credit in the amount of not less than \$50.00 for a period of time that is not less than **EIGHT** hours or more than 24 hours. CCP 45.048

INDIGENCY: TO COMMIT OR NOT TO COMMIT

- Indigent:
Busted
Destitute
Down and Out



A Municipal Court may waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that:

The defendant is **INDIGENT**;

AND

Discharging the fine and cost under Article 45.049 would **CREATE AN UNDUE HARDSHIP** on the defendant

**INDIGENCY: TO COMMIT OR
NOT TO COMMIT**

Texas Constitution
Article I Section 18



IMPRISONMENT FOR DEBT – No person shall ever be imprisoned for debt. In 1833 the United States reduced the practice of imprisonment for debts at the federal level. Most states followed suit. It is still possible, however, to be incarcerated for debt, **but only in those circumstances in which the court finds that the debtor actually possesses the money or means available to pay the debt.**

THE END

Judgment Forms: (list is from *TMCEC Forms Book*)

- Judgment: Jury Waived – Guilty
- Judgment: Jury Waived – Not Guilty
- Judgment: Jury Waived – Guilty (Juvenile)
- Judgment: Jury Waived – Not Guilty (Juvenile)
- Dismissal by the Court
- Judgment after Jury Verdict
- Judgment after Jury Verdict (Juvenile)
- Judgment: Driving Safety Course/Motorcycle Operator Training Safety Program Granted
- Judgment: Final Disposition of Deferred Disposition
- Judgment: Driving under the Influence of Alcohol by Minor – Guilty
- Judgment: Driving under the Influence of Alcohol by Minor – Not Guilty
- Judgment: Possession, Purchase, Consumption, or Receipt of Cigarettes or Tobacco Product by Minor – Guilty
- Judgment: Possession, Purchase, Consumption, or Receipt of Cigarettes or Tobacco Product by Minor – Not Guilty
- Judgment: Purchase of Alcohol by Minor, Attempt to Purchase Alcohol by Minor, Consumption by Minor, Minor in Possession of Alcohol, Misrepresentation of Age by Minor – Guilty
- Judgment: Purchase of Alcohol by Minor, Attempt to Purchase Alcohol by Minor, Consumption by Minor, Minor in Possession of Alcohol, Misrepresentation of Age by Minor – Not Guilty

JUDGMENT: JURY WAIVED – GUILTY

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

On this the ____day of _____, 200____, the Defendant in the above numbered and entitled cause appeared (by attorney) (in person) (by mail) and entered a plea of (guilty) (no contest) (not guilty) and waived a jury trial; and the Court, finds the Defendant (guilty) of the offense of _____.

- The Defendant, being found **guilty** and assessed a fine of \$_____, is therefore **Ordered and Adjudged** by the Court that the State of Texas, for the use and benefit of the City of _____, Texas, do have and recover from the Defendant the fine in the amount of \$_____, plus any and all costs required to be paid.
- The Defendant is hereby **Ordered** to pay the fine and costs:
 - immediately.
 - by _____.
 - at designated intervals. See the attached payment order incorporated as part of this judgment.
- (*If sentence in addition to payment of fine is authorized*) It is further **Ordered** that the Defendant shall _____ no later than _____, 200_____.
- The Defendant is hereby **Ordered** to pay restitution in the amount of _____ to the victim in this case. Said restitution to be paid by _____.

It is further Ordered and Adjudged, if the Defendant fails to comply with the orders of this judgment, the Defendant shall be committed to the custody of the Chief of Police of the City of _____, Texas until said fine and costs are fully paid. In the event the Defendant defaults in the discharge of this judgment, pursuant to Article 45.048(b), Code of Criminal Procedure, the Court specifies that the Defendant remain in jail:

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

It is further Ordered and Adjudged by the Court that execution may issue against the property of the said Defendant for the amount of such fine and costs.

Judge, Municipal Court Date

(municipal court seal)

City of _____

JUDGMENT: DRIVING UNDER THE INFLUENCE OF ALCOHOL BY MINOR – GUILTY (Sec. 106.041, ABC)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

On this the ___ day of _____, 200__, the Defendant in the above numbered and entitled cause appeared in person and entered a plea of (guilty) (no contest) and waived a jury trial; and the Court, having heard the evidence and arguments, finds the Defendant guilty of the offense of Driving Under the Influence of Alcohol by a Minor, Section 106.041, Alcoholic Beverage Code.

The Defendant, being found guilty and assessed a fine of \$_____, is therefore **Ordered and Adjudged** by the Court that the State of Texas, for the use and benefit of the City of _____, Texas do have and recover from the Defendant the fine in the amount of \$_____, plus any and all costs required to be paid.

The Defendant is hereby **Ordered** to pay the fine and costs:
 immediately.
 by _____.
 at designated intervals. See the attached payment order incorporated as part of this judgment.

It is further Ordered that the Defendant present to the Court evidence of completion of an alcohol awareness course no later than _____, 200__. (Enter a date that is within 90 days of the date of final conviction. Sec. 106.115(c), ABC)

The Court further finds that the Defendant is younger than 18 years of age and that _____ is the (parent)(guardian) of the Defendant. (Optional) **It is therefore Ordered** that _____ attend the above-mentioned alcohol awareness course with the Defendant and present to the Court evidence of completion of the course no later than _____, 200__.

The Defendant is **further Ordered** to return to this Court no later than _____, 200__ with evidence that the Defendant has completed _____ hours of community service at _____.

If the Defendant fails to comply with the orders of this judgment, the Defendant shall be committed to the non-secure custody of the Chief of Police of the City of _____, Texas; and **it is further Ordered and Adjudged** by the Court that execution may issue against the property of the said Defendant for the amount of such fine and costs.

(municipal court seal)

Judge, Municipal Court Date
City of _____
_____ County, Texas

The Court finds that Defendant completed the alcohol awareness program within 90 days as ordered by this Court.

It is therefore **Ordered** that the fine ordered to be paid on _____, 200__ is reduced to _____ which is not less than half of the initial of fine assessed.

(municipal court seal)

Judge, Municipal Court Date
City of _____
_____ County, Texas

DOCKET NUMBER: C03

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF CEDAR PARK

N01

§

WILLIAMSON COUNTY, TEXAS

JUDGMENT

On C67, at the required time of this Court came the described cause to be heard, and the Defendant, to the charge of: O01:

_____ Mailed/Faxed to the court a plea of (guilty) (nolo contendere);

_____ Having been informed of the right to a jury trial entered an appearance (by phone) (in person) (by counsel) waived right to a jury trial and Plead C65

_____ Was present in court and both the State and the Defendant announced ready for trial; Defendant plead not guilty to the complaint;

AND THE

_____ Court (the Defendant having waived the right to a jury trial and submitted the decision of the cause to this Court),

_____ Jury having been duly selected, impaneled and sworn, who having heard the complaint read and the defendant's plea, , thereto, and after hearing the evidence and argument, and after due consideration of the same

FINDS THE DEFENDANT

_____ Guilty of the offense as charged in the complaint of this cause and assess a fine of \$ C58 plus any and all cost required to be paid;

_____ Not guilty of the offense charged in the complaint of this cause;

IT IS THEREFORE ORDERED AND ADJUDGED BY THIS COURT THAT

_____ The Defendant, being found not guilty, is immediately discharged from all further liability for the offense which the Defendant has herein been tried, and the Defendant may go hence without payment of costs;

_____ The Defendant, being found guilty as charged, that the State of Texas for the use and benefit of the City of Cedar Park, Texas do have and recover from the Defendant the aforesaid fine and cost;

IT IS FURTHER ORDERED and the Defendant is hereby directed to

_____ Pay the entire fine and costs immediately;

_____ Pay fine and costs on or before _____

_____ Pay fine and costs at designated intervals according to an installment agreement which is incorporated and made part of this judgment

_____ The Court determines that the offense involved family violence, as defined by Section 71.004, Family Code. It is therefore unlawful for the Defendant to possess or transfer a firearm or ammunition.

If the Defendant fails to comply with the orders of this Judgment, the Defendant shall be committed to the custody of the Chief of Police of the City of Cedar Park, Texas until said fine and costs are fully paid. In the event the Defendant defaults in the discharge of this judgment, pursuant to Article 45.048(b), Code of Criminal Procedure, the Court specifies that the Defendant remain in jail:

**24 hours for every:
\$100, to satisfy the fine and costs.**

(Municipal Court Seal)

Date of Judgment

Municipal Court Judge
City of Cedar Park,

Texas

COMMITMENT ORDER

DOCKET NUMBER: C03

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF CEDAR PARK
N02	§	WILLIAMSON COUNTY, TEXAS

TO THE SHERIFF OF WILLIAMSON COUNTY, TEXAS – GREETINGS:

COMMITMENT ORDER

On U03, the Court considered the foregoing Defendant’s motion to serve time in jail in lieu of payment of the fine and costs. **THE COURT FINDS** that the motion was made freely and knowingly and the Court determines that the request should be granted.

Therefore you are commanded to commit to the jail of your County the above-named Defendant, who was, on C93, convicted before the Municipal Court in the City of Cedar Park, Williamson County, Texas of the offense of O01 and assessed a fine and court costs totaling \$C60, of which \$C62 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 Art. 45.049, C.C.P. (community service);
 - (b) could have discharged the fine under 45.049, C.C.P. (community service) without experiencing any undue hardship.

It is therefore **ORDERED** that the Defendant N02 is committed to the Sheriff of Williamson County, Texas until such time as Defendant’s fine and costs have been discharged as provided by law and that this Motion and Commitment be kept with the papers of this cause.

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:

DAYS, (not less than 8 hours or more than 24hours)

to satisfy,

in fines and costs. (minimum dollar amount \$50)

It is **ORDERED** that this Motion and Commitment be kept with the papers of this cause.

Ordered on this _____ day of _____, 200____.

 Judge, Municipal Court
 City of Cedar Park
 Williamson County, Texas

(municipal court seal)

COMMUNITY SERVICE ORDER

CAUSE NUMBER: C03

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF CEDAR PARK

N01

§

WILLIAMSON COUNTY, TEXAS

On this date appeared N02, defendant in the above styled and numbered cause, who, having been previously assessed a fine and costs of C60 in this cause which remains unpaid balance in the amount of C62 (and the court having determined that the defendant has Insufficient resources or income to pay such fine and costs*

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT THE DEFENDANT DISCHARGE ALL OF THE FINE AND COSTS BY PERFORMING COMMUNITY SERVICE AS FOLLOWS:

1. THE DEFENDANT SHALL WORK A TOTAL OF HOURS;
2. THE DEFENDANT SHALL WORK AT _____;
3. THE DEFENDANT'S WORK SHALL CONSIST OF _____;
4. THE DEFENDANT'S WORK SHALL BE COMPLETED NO LATER THAN C54.

AND THE COURT HAVING FURTHER FOUND THAT THE WORKING OF MORE THAN 16 HOURS OF COMMUNITY SERVICE PER WEEK (WILL)(WILL NOT) WORK A HARDSHIP ON THE DEFENDANT, IT IS FURTHER

ORDERED, ADJUDGED AND DECREED THAT THE DEFENDANT SHALL WORK NO MORE THAN ____ HOURS PER WEEK IN PERFORMING THE ABOVE-ORDERED COMMUNITY SERVICE.

DATE:

JUDGE, MUNICIPAL COURT
CITY OF CEDAR PARK
WILLIAMSON COUNTY