

STATE'S STANDING MOTION NO. 1
AMENDMENT AND DISMISSAL OF COMPLAINTS

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

I.

In general, dismissals of complaints are instigated by the State's attorney. Tex. Code of Crim. Pro. 32.02; *State v. Howell* (App. 5 Dist. 1993) 871 S.W.2d 237 (trial court does not generally have authority to dismiss case unless prosecutor requests dismissal.) For some offenses, a court must or may dismiss the case upon certain conditions, such as provision of proof of compliance with requirements for inspection or registration of vehicles. *See e.g.* Tex. Transportation Code 502.407(b); 548.605. Similarly, amendments to complaints are generally made upon motion by the prosecutor (although Texas Code of Criminal Procedure Art. 28.10 does not appear to preclude amendments to a charging instrument made on the court's own motion.)

Numerous routine matters are appropriate for dismissal or amendment in the normal course of business in the Municipal Court. With over 50,000 cases filed per year in the Municipal Court, it is difficult and inefficient for the State to make a written motion to dismiss or amend in each of the cases in which such action is either required by law or appropriate under the facts.

II.

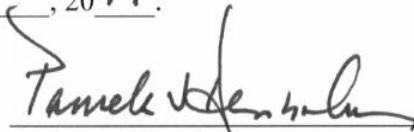
In order to expedite the disposition of these routine matters, the State makes a standing motion to dismiss or amend complaints filed in the Municipal Court as follows, subject to any applicable compliance dismissal fees:

- a. The State moves to dismiss any complaint of Parking- No Disability Placard or Plate upon proof satisfactory to the Court that defendant possessed or possesses a valid disability placard or license plates, or was transporting a person who possessed or possesses a valid disability placard or plates.
- b. The State moves to dismiss any complaint of Fail to Maintain Financial Responsibility upon proof satisfactory to the Court that at the time of the violation, defendant possessed sufficient financial responsibility as required by law.
- c. The State moves to dismiss any complaint involving expired registration or inspection upon proof satisfactory to the Court that the period of expiration was not longer than 60 days and the vehicle's registration or inspection has been brought current.

- d. The State moves to dismiss any complaint of No Registration Insignia, Fail to Display License Plate, Obscured License Plate or Defective Equipment upon proof satisfactory to the Court that the defect has been remedied.
- e. The State moves to dismiss any complaint of No Driver's License upon proof satisfactory to the Court that the defendant had a valid driver's license at the time of the offense.
- f. The State moves to dismiss any complaint of Fail to Display Driver's License upon presentation to the Court of a driver's license valid at the time of presentation as well as the time of the offense.
- g. The State moves to dismiss any complaint of Expired Driver's License upon proof satisfactory to the Court that the driver's license has been renewed.
- h. The State moves to dismiss, in the Court's discretion, all but one complaint of a driver's license violation when two or more alternative driver's license violations are filed for the same conduct.
- i. The State moves to dismiss any complaint of Animal - No Rabies Vaccination upon proof satisfactory to the Court that the animal in question was or has been properly vaccinated.
- j. The State moves to dismiss any complaint for an animal or parking violation upon proof satisfactory to the Court that a person other than the defendant was responsible for the conduct at issue, when such other person has presented himself or herself to the Court and accepted responsibility, and further moves the Court to refile the case in the name of the person accepting responsibility.
- k. The State moves to dismiss any complaint of Minor in Possession/Consumption of Tobacco upon proof satisfactory to the Court that the defendant has paid the applicable court costs and successfully completed a tobacco awareness program, provided that the defendant has not previously been convicted of the same offense.
- l. The State moves to dismiss any complaint upon proof satisfactory to the Court that the defendant has paid the applicable costs and fees and successfully completed a driving safety program or deferred disposition.
- m. The State moves to dismiss or void as a duplicate any complaint that is the result of filing the same case twice through clerical, officer or prosecutor error.
- n. The State moves to amend any complaint upon proof satisfactory to the Court that a clerical error has been made by the Clerk's Office in accurately transcribing information from an officer's citation or a prosecutor's authorization into the Court's case management software.
- o. The State moves to amend the complaint and any other records of the Court upon proof satisfactory to the Court that the defendant's name, date of birth or other identifying information is incorrect.
- p. The State moves to dismiss any case that remains unadjudicated more than ten (10) years from the date of the offense. The State further moves that if a charge of Violate Continuing Obligation to Appear has been filed based on a case that remains unadjudicated more than ten (10) years from the date of the offense, the VCOA charge be dismissed as well.
- q. The State moves to dismiss any charge of No Valid Inspection Certificate with an offense date on or after March 1, 2015.

- r. The State moves to dismiss any parking violation filed against a rental car company when it is shown to the satisfaction of the Court that at the time of the offense the vehicle had been rented, and the company has provided documentation showing the rental period and the name and identifying information for the renter. The State further moves to refile the violation against the renter.
- s. The State moves to dismiss any Child Passenger Safety Seat charge upon proof satisfactory to the Court that the defendant has met the elements of the defense to that charge listed in Texas Transportation Code Section 545.4121.
- t. The State moves to summon the defendant when an open complaint has been filed upon a prosecutor's authorization, pursuant to Texas Code of Criminal Procedure Article 23.04.
- u. The State moves to file any citation presented to the Clerk for Failure to Maintain Financial Responsibility as a second offense, if the Clerk determines from a review of the Court's records that the defendant has been previously convicted of that offense within the two years preceding the current charge.
- v. The State moves to dismiss any of the following charges when the defendant has presented proof satisfactory to the Court of compliance with Animal Management and Welfare Department's requirements to re-adopt an animal: Animal-at-Large; Animal - No Proof of Vaccination; Animal - No Proof of Vaccination Tag; Animal - Female in Heat.

SIGNED on this the 8 day of December, 2017.



Assistant City Attorney
City of Amarillo, Texas