

THE STATE OF TEXAS

IN THE MUNICIPAL COURT

OF THE CITY OF LAVON

SSM ONE

COLLIN COUNTY, TEXAS

**STATES STANDING MOTION No. ONE
AMENDMENT AND DISMISSAL OF COMPLAINTS**

COMES NOW The State of Texas, by and through the State's Prosecuting Attorney for the City of Lavon, and makes this Standing Motion No. One for the purpose of efficient processing and disposition of cases filed in the Municipal Court for the City of Lavon, and would show the Court the following:

I.

In general, dismissals of complaints are instigated by the State's Prosecuting Attorney. Tex. Code of Crim. Pro. 32.02, *State v. Howell*, 871 SW2d 237, Tex. App.–Dallas 1993. (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. Transp. Code 502.407(b), 548.605. Similarly, amendments to or reformation of complaints are made only upon motion by the prosecutor, with few exceptions (Tex. Code Crim Proc. Art. 28.10).

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

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 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 plate, or was transporting a person who possessed or possesses a valid disability placard or license plate.
- b. The State moves to dismiss any complaint of Failure 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 upon proof satisfactory to the Court that the period of expiration was not longer than 90 days and that the vehicle's registration 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 proof satisfactory to the Court that the Defendant had a valid driver's license at the time of presentation and at 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 Defendant has had the driver's license renewed within 30 days of the offense.
- 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 properly vaccinated at the time of the offense or has been properly vaccinated within 10 days thereafter.
- j. The State moves to dismiss any complaint regarding 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 themselves to the Court and accepted responsibility, and further moves the Court for leave to refile the case in the name of the person accepting responsibility.
- k. The State moves the Court 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 use awareness program, provided that the Defendant has not previously been convicted of, or pled Guilty or No Contest to the same offense.
- l. The State moves to dismiss any complaint upon proof satisfactory to the Court that the Defendant has successfully completed and complied with the terms and conditions of Deferred Disposition or a State approved Drivers Safety Course, and has also paid all applicable costs and fees.
- m. The State moves to dismiss or void as duplicate any complaint that is the result of 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 or prosecutor's error has been made in accurately transcribing information from an officer's citation for generation of the charged complaint.
- 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 personal identifying information is incorrect.
- p. The State moves to amend and correct the complaint involving a traffic violation and any other records of the Court upon proof satisfactory to the Court that the identification or description of the Defendant's vehicle is incorrect in not more than one aspect.
- q. The State moves to dismiss any parking violation filed against a car rental company upon proof satisfactory to the Court that at the time of the offense the vehicle had been rented, and the company has provided documentation showing rental period and the name, identifying and contact information of the renter. The State further moves the Court for leave to refile the case against the renter.
- r. The State moves to dismiss any complaint of Child Passenger Safety Seat violation upon proof satisfactory to the Court that the Defendant has met the elements of the defense to that charge listed in Tex. Transp. Code Sec. 545.4121.
- s. The State moves to summon the Defendant when an open complaint has been filed upon a prosecutor's authorization, pursuant to Tex. Code of Crim. Proc. Art. 23.04.
- t. 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 previously been convicted of that offense within the two years preceding the current charge.
- u. The State moves to dismiss any case that remains adjudicated for more than five years from the date of the offense.

Dated: 6-6-2020

Respectfully submitted,

Matt Garcia
Prosecuting Attorney
City of Lavon, Texas