

# **Criminal Procedure Scenarios**

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## **Mark Zuniga**

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## **Resources**

- Criminal Deskbook (October 2023)
- Forms and Flowcharts at [www.tjctc.org](http://www.tjctc.org)  
> legal resources > forms or > charts  
and checklists
- Code of Criminal Procedure
- Legal Board Q and A

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## **This is an open book class.**

Handout 1 – Failure to Appear and  
Plea Flowchart

Handout 2 – DSC Dismissal  
Flowchart

Handout 3 – Deferred Disposition  
Flowchart

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# **Sovereign Citizen**

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## **The thing about sovereign citizens**

- They claim that if they say the proper incantations, the charge will be dismissed, and they might even make money. I think they believe what they say.
- Often, they make things difficult for themselves as well as for the system.
- Because of this, prosecutors will often decide that the defendant has suffered more fighting the charge than the criminal penalty for the underlying charge.
- The prosecutor will often then move to dismiss the charge, leaving the sovereign citizen to feel oddly vindicated.

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# Many sovereign citizens believe:

“MARK ZUNIGA” is a corporate fiction while “Mark Zuniga” is a living being.

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Sov. citizen believes the government only has authority over them if they contractually consented to it.

**CITATION**  
MATAGORDA COUNTY SHERIFF'S OFFICE

3587

Violator Last Name	First	Middle	Telephone	
Violator Address	City	State	Zip	Telephone
County	Employee	W	Tel#	
MATAGORDA				
Drivers License No.	State	Date of Birth	Race	Sex
Vehicle License No.	State	Year Model	Make	Height
Date	Time	Temp	Weather	Trip
Location			Lt.	Hvy.
Violation (s)	Alleged Speed			
1.	Speed Limit			
2.				
3.				
Justice of the Peace PCT # 1 1700 7th St. # 201 Bay City, TX 77414	Justice of the Peace PCT # 2 2200 7th St. 3rd floor Bay City, TX 77414	Justice of the Peace PCT # 3 405 Commerce Patterson, TX 77465	Justice of the Peace PCT # 4 Corner of 3rd & Ave F P.O. Box 508 Markham, TX 77456	Justice of the Peace PCT # 6 22001 FM 457 Sargent, TX 77414

This is Not A Plea of Guilty

72 Hour Right of Decision  
 15 NOT Accepted White  
 100% Private Title  
 105 Title  
 1073-0700

**Everything is contractual**

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## **Other potential beliefs:**

- Something can only be a crime if there is a victim who is a living being.
- Courts do not have jurisdiction over them.
- Traveling [interstate] is constitutionally protected, so can't get ticket for traveling.

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## **Just so we're clear:**

- MARK ZUNIGA = Mark Zuniga
- Marc Zuniga = Mark Zuniga
- Possibly Mark Suniga = Mark Zuniga

What matters is whether the spelling is phonetically accurate. "Marcos Zuniga" is wrong

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## **STATE v. MARK ZUNIGA**

### **What are the concerns?**

Charge is driving without a license and driving with a false license plate

Mark Zuniga, “de jure, a living being,” files a special appearance, affidavit of truth and fact, subpoena duces tecum on the judge, motion to dismiss for want of jurisdiction, motion to dismiss because traffic stop occurred in adjacent county, notice of subrogation, notice of priority interest, claim of non-corporate status

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What are  
your  
experiences?

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# Missing Defendant

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## State v. Rebecca Glisan (1/2)

Yesterday a visiting judge handled your criminal docket. He entered a guilty judgment against Rebecca because she did not appear for her bench trial. The defendant shows up today hyperventilating. She wants to file a Statement of Inability and appeal.

Do you spot any issues?

What is your next step?

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## **State v. Rebecca Glisan (2/2)**

Would your answer be different if the setting were for a show cause hearing after Rebecca had been put on deferred disposition?

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## **State v. Foreman**

- Jessica gets a ticket for an unrestrained child. She never appears to enter a plea. No complaint is filed, but a courtesy letter is sent out giving her an appearance date and time in the next 30 days. The notice also explained the consequences of not appearing.
- Is the courtesy letter a requirement?
- Can you issue a warrant or capias for non-appearance yet?
- Why or why not?

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## **Foreman still in trouble**

All the appropriate steps are taken, so you issue a warrant for Jessica's arrest. Jessica shows up to your office to work out a payment plan.

Can one of your clerks occupy Jessica by talking to her while another clerk gets someone from the constable's office to arrest her.

- A. Yes. This is a consequence of her actions.
- B. No. Jessica is making a good faith effort to resolve the matter.

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## **State v. Swoboda**

Darby did not appear for her charge in court. The case was properly referred to pre-trial collections. However, Darby later appeared and entered a plea of not guilty. She is acquitted.

How much can the collections entity collect from Darby if the fine range for the charge was \$1-200?

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# Missing prosecutor

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## **State v. Amber Myers**

Case is set for a jury trial today. Defendant announces ready. The prosecutor is nowhere to be found and is not answering his phone number. Bronson Tucker happens to be in the courtroom for an unrelated matter.

What are your options?

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## **Missing Citation**

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## **State v. John Lackey**

- John shows up and wants to pay his speeding ticket. It's nowhere in the system. Apparently, law enforcement never reported this case to you. John shows you his ticket. He is mad because he took time off of work and doesn't want to lose a second vacation day to see you again.
- Can you take a plea from John? Is it a good idea?

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# **Zombie Cases**

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# **State v. Rip Van Winkle**

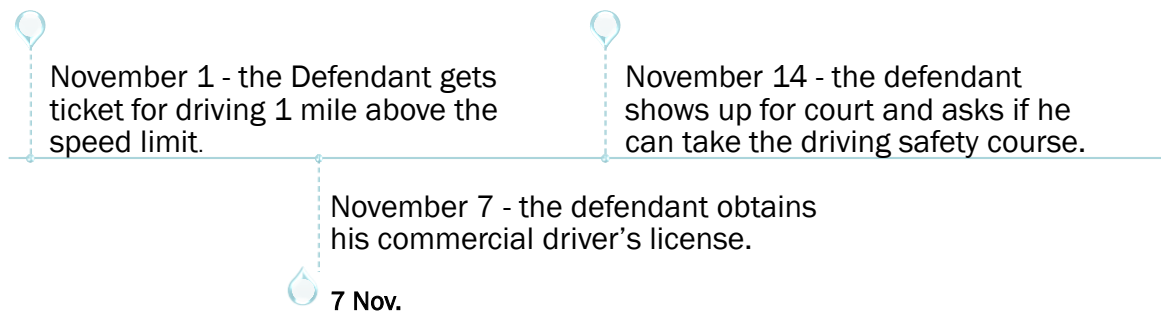
Your clerk, while moving some office furniture, finds a number of cases that were filed under your predecessor, the Honorable Judge Scapegoat. These cases are quite old. What do you do about them?

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# Commercial Motor Vehicle

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## Facts for *State v. Bandit*



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## **What are your options for the driving safety course?**

- A. You have to offer the defendant the driving safety course.
- B. You have the discretion to offer the defendant the driving safety course.
- C. You may not offer the defendant the driving safety course.

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## **Can the defendant and the prosecutor reach a plea deal for a lesser charge?**

Yes, but the court can never be involved in plea negotiations under any circumstance.

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# Deferred Disposition and DSC

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## State v. Tucker

Bronson is charged with going 15 miles over the speed limit. He has an Oklahoma driver's license and is not in active-duty military service.

Is he eligible for DSC? Deferred disposition?

If he is eligible for deferred disposition, what conditions would you impose?

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## **State v. Barker**

Jasmine “The Rage” Barker is charged with a Class C Assault, which has a fine not to exceed \$500. As part of a deferred disposition order, the judge orders \$1650 for restitution, \$200 initial fine, and \$500 as the fine as punishment for the offense if non-compliant with the deferral. JP also orders counseling and psychological assessment.

Is this permissible?

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## **Inability to Pay**

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## **The difference between indigency and inability to pay (1/2)**

Thea was placed in Omni because she failed to appear for her speeding ticket. She appears, pleads guilty, and gets put on a court-approved payment plan. Thea wants to be released from Omni so she can renew her license. She does not want to pay the reimbursement fee because she says she cannot afford it. Can the court waive this fee?

- A. Yes, if she shows that she is a member of a household with a total annual income that is below 125% of federal poverty guidelines, or if she benefits from certain government assistance programs.
- B. Yes, if she shows that she is unable to immediately pay the \$10 fee.

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## **The difference between indigency and inability to pay (2/2)**

Now Thea complains about the payment plan. Can part of her obligation be discharged through community service?

- A. Yes, if she shows that she is a member of a household with a total annual income that is below 125% of federal poverty guidelines, or if she benefits from certain government assistance programs.
- B. Yes, if she shows that she has insufficient resources to pay a fine or costs.
- C. No. She has to suffer the consequences of her actions.

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## **State v. Richie Rich**

Defendant in open court pleads guilty to speeding in a Lamborghini. He is wearing a suit. Does the court have an obligation to inquire if the defendant has sufficient resources to pay all or part of the fine and costs?

- A. Yes
- B. No

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## **State v. Richie Rich, redux**

Months later, the defendant tells your clerk that circumstances have changed, and he is having difficulty paying the fine and costs.

Is a hearing required?

Can the hearing be by telephone or zoom?

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# **Thank you**

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