

Criminal Scenarios: Enforcement of Judgments

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Resources

- TJCTC Criminal Deskbook
 - <https://www.tjctc.org/tjctc-resources/Deskbooks.html>
- TJCTC Website: Webinars, legal question board, etc.
 - <https://www.tjctc.org/>
- CCP Ch. 45, 45A & Transportation Code Ch. 706
 - <https://statutes.capitol.texas.gov/>

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Agenda

- Discussions of various scenarios relating to enforcement of criminal judgments.
- *Note:* Step-by-step information regarding enforcement of criminal judgments can be found in Ch. 8 of the TJCTC Criminal Deskbook.
 - <https://www.tjctc.org/tjctc-resources/Deskbooks.html>

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Tools For Enforcing Judgments

Brainstorm:

List every option you
can think of.

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What Does Your Court Do?

What tools do you use
in your court most
often?

What tools don't you
really use? Why not?

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Scenario #1

At a pre-trial for a DWLI case attended by the defendant's attorney, the attorney entered a plea of no contest and the defendant was placed on deferred disposition.

In the deferral order, the defendant was given 30 days to pay the fine and costs. Four days after the payment was due, the clerk mailed out a Notice of Late Payment letter. Defendant called a week later and stated he did not receive anything from the attorney and did not know he owed the amount until he received the letter. He is asking for 2 more months to pay.

What should the court do in this situation ?

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Scenario #2

Defendant was convicted and set up on a monthly payment plan. She had made payments on time religiously for 2 months, but calls the court explaining that she cannot make the last payment because she was laid off from her job a week ago.

What needs to be done ?

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Scenario #3

Defendant was convicted of speeding. The judge determined that the defendant could not afford to pay his fine and costs and ordered them to be discharged with community service. The defendant has not completed the community service and the court holds a show cause hearing. The defendant says he hasn't been able to do the community service because he got a new job where he works 55 hours a week and is on call when he is not working. He asks for his fine and costs to be waived.

What should the court do?

Any difference in the analysis for what should happen with the costs vs. the fines?

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Scenario #4

Defendant has an outstanding judgment that is sent to Omni and the Omni fee is assessed. Defendant calls the court and says that she has been diagnosed with an aggressive form of cancer. She had to quit her job due to the treatments and is now in the hospital. She sends in a letter from her doctor on their letterhead stating her condition and inability to work.

What is the amount of the OMNI fee?

Can it be waived?

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Scenario #5

Defendant was convicted and failed to pay their fine. The court placed them in Omni. Now, the defendant has come to the court to set up a payment plan. The court enters an order requiring the outstanding judgment to be paid on a payment plan.

Assuming the defendant has paid the Omni reimbursement fee (or had it waived), should they be released from Omni at this point or not until after they have paid the entire fine and costs in full?

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Scenario #6

A defendant is convicted and ordered to pay their fine and costs in full within 30 days. On the 31st day, the clerk checks and sees that the defendant has not paid. The judge tells the clerk to refer the defendant to collections by the end of the week. The clerk tells the judge that the court must first set a show cause hearing before the defendant can be referred to collections.

Is the judge right?

Is the clerk right?

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Scenario #7

A defendant is convicted of an offense. At the time of judgment, the judge determines that the defendant is able to pay their fine and costs. Two months later, the defendant has not paid. The clerk sets up a *capias pro fine* show cause hearing and sends the required notice to the defendant. At the show cause hearing, the judge must determine whether the judgment imposes an undue hardship.

What must still happen before a *capias pro fine* may be issued if the judge determines that the judgment does not impose an undue hardship?

What does the judge do next if they find that the judgment does impose an undue hardship?

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Scenario #8

A defendant is convicted and ordered to discharge their fine and costs through community service. Two months later, the defendant has not submitted proof of any of their community service. The court sends a courtesy letter reminding the defendant to submit proof of their hours. The defendant calls the court and says to stop sending them stuff because they aren't going to pay and they aren't going to do the community service.

What needs to happen before the judge could order the defendant to lay out the fine and costs in jail?

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Scenario #9

A 20 year-old defendant is given a ticket for minor in possession of alcohol. After they get the ticket, but before their trial date in justice court, they are arrested on an assault charge and spend 12 hours in jail before being magistrated. They are subsequently convicted of the MIP offense in justice court, refuse to pay or do community service, and are ultimately picked up on a capias pro fine. They spend 24 hours in jail before they are brought before the magistrate. The magistrate holds a hearing, makes the necessary findings, and orders the defendant to lay out the fine and costs in jail.

What should they get jail credit for?

What is the rate that should be applied?

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Your Turn:

As a small group at your table, discuss and come up with one real life scenario that can be posed as a question to the whole group.

- the -- Choose a scenario that has actually happened and is related to enforcement of criminal judgments.
- you -- Remember to end the scenario with a question! (Ex: What would do? Is this allowed? What happens next?)

We will share and discuss as a whole group as many scenarios as we have time for.

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