

# Judgments and Post-Trial Issues

Hon. Nick Chu

Travis County Probate Court No. 2

1

**Funded By A Grant From The Texas Court Of Criminal Appeals**

© Copyright 2025. All rights reserved.

No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system without prior written permission of the Texas Justice Court Training Center unless copying is expressly permitted by federal copyright law. Address inquiries to: Permissions, Texas Justice Court Training Center, 1701 Directors Blvd, Suite 530, Austin, TX, 78744.

2

# Today's Roadmap

- Introduction
- Order of Dismissal
- Judgment of Acquittal
- Judgment of Conviction
- Motion for New Trial
- Appeal
- Confidentiality & Right to Expunction
- Scenarios

*Note: We will not be covering Enforcement of Criminal Judgments.  
Information on that can be found in Ch. 8 of TJCTC's Criminal Deskbook.*

3

## Introduction

4

# Resources

- [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)
  - Texas Constitutions and Laws
- [www.tjctc.org](http://www.tjctc.org) - The Training Center's website
  - Deskbooks, including Criminal Deskbook, Juvenile Deskbook, and Fines, Fees, and Costs Deskbook (citations to statutes and cases are in the deskbooks)
  - Legal question board, **forms**, webinars, recordings for credit, self-paced modules, Charts & Checklists

5

## What Is A Judgment?

- A judgment is a formal order of a court resolving a case by:
  - An Order of Dismissal;
  - A Judgment of Acquittal; or
  - A Judgment of Conviction.
- Every criminal case filed in a justice court should ultimately result in an order of dismissal or a final judgment!

6

## Judgment/Order Forms

- Forms for orders of dismissal and jury and bench trial convictions and acquittals can be found in your handouts and on TJCTC's *Forms* webpage.
- Review the forms to see what all should be included in these orders/judgments!

7

## Order of Dismissal

8

# Order of Dismissal

- A criminal case filed in justice court may be dismissed for different reasons.
- Most common reasons for dismissal:
  - DSC dismissal
  - Deferred disposition dismissal
  - Compliance dismissal
  - Juvenile diversion program dismissal
  - Motion to dismiss by prosecutor
  - No jurisdiction

9

## Dismissal Discussion Question

- May the court dismiss a case because the judge thinks it should not have been filed? Think of an example to illustrate your point.

10

# Judgment of Acquittal

11

## **Judgment of Acquittal (1 of 2)**

- A judgment of acquittal should be entered after a trial at which the defendant is found not guilty.
- Should be found not guilty if the state failed to prove every element of the offense.

12

- If a defendant is found not guilty at trial, the judgment should show that they were acquitted.
  - Not that the case was dismissed!
- **Do not mix them up** and enter a dismissal when the defendant was acquitted!

13

## Acquittal Discussion Question

- What is the burden of proof for the prosecution of a criminal case in justice court?
- What happens if the prosecutor fails to show up for trial?
- Is the defendant required to testify?

14

# Judgment of Conviction

15

## Judgment of Conviction (1 of 6)

- A judgment of conviction should be created and signed **every time** a defendant:
  - Pleads guilty;
  - Pleads nolo contendere;
  - or
  - Is found guilty at trial.

16



## **Judgment of Conviction (2 of 6)**

- The judgment should be rendered in open court and must be in writing (but an electronic writing is sufficient).

17

## **Judgment of Conviction (3 of 6)**

- A written, signed judgment must also be created if:
  - A defendant pleads guilty by mail;
  - Pays in full the fine and court costs; or
  - Enters a plea while being magistrated at the jail.

18

## **Judgment of Conviction (4 of 6)**

- Failing to create a written judgment:
  - Creates confusion as to appeal deadlines; and
  - Results in the defendant not being obligated to pay any fine or court costs associated with the case.

19

## **Judgment of Conviction (5 of 6)**

- Many courts have had difficulty resolving cases where predecessors failed to generate written judgments.

20

## **Judgment of Conviction (6 of 6)**

- If the defendant is present in court when the judgment is pronounced, the court must hold a hearing to determine if the defendant is able to pay the fine and costs and, if necessary, determine alternative methods of satisfaction of the judgment such as community service, a payment plan, or waiver.

21

## **Fine and Costs (1 of 4)**

- The judgment of conviction should contain an order that the defendant pay the fine and costs to the State of Texas (or discharge them through alternative means ordered by the court).

22

## **Fine and Costs (2 of 4)**

- The amount of the fine is up to the judge or jury, but it must be within the range set by the statute the defendant violated.
- For example, if a person is convicted of public intoxication, that is a Class C misdemeanor, so the fine range is from \$1 to \$500.
- A fine of \$600 may not be imposed for this offense.

23

## **Fine and Costs (3 of 4)**

- Court costs are determined by statute.
- See the Fine, Fees & Costs Deskbook, Chapter 2.
- And see the TJCTC Fees and Costs Cheat Sheet!!!

24

## **Fine and Costs (4 of 4)**

- A defendant who is under the conservatorship of the Department of Family and Protective Services or in extended foster care may not be ordered to pay any amount of the fine and costs. Instead, the judge may order the defendant to perform community service.

25

## **Bill of Costs (1 of 2)**

Court costs are not payable by the defendant until a written bill is produced or “is ready to be produced,” containing the items of costs, signed by the officer who charged the cost, or the officer entitled to receive payment for the cost.

26

## Bill of Costs (2 of 2)

- It is not necessary to produce a written bill of costs in each case.
  - But there is also nothing wrong with doing that.
- But a “bill of costs” at least needs to be in the court’s software system, ready to be produced on demand.
- A digital signature should be included at the time the bill of costs is created in the software system.

27

## Restitution

- A court may also order restitution to a victim in addition to the fine and costs.
- If a court orders restitution that must be included in the written judgment.

28

# Restitution Amount

Amount of restitution is usually **unlimited**, except:

- In Issuance of Bad Check cases, where it is limited to \$5,000.
- Ordered as a condition of deferral, where it is limited to amount of the fine accessed.

29

# Other Sanctions

- If additional sanctions are imposed for the offense, those must also be included in the written judgment (But note that there must be legal authority for imposing them).
- Examples:
  - Alcoholic Beverage Code offense and Public Intoxication convictions include other sanctions, including alcohol awareness courses, community service, and driver's license suspension (See TJCTC Juvenile Deskbook Ch. 4).
    - Specific judgment forms for these cases are available on TJCTC's *Forms* webpage.
  - Additional orders directed to the child or parent in juvenile cases (See TJCTC Juvenile Deskbook Ch. 3, Section E).

30

# Motion for New Trial

31

## **Motion for New Trial (1 of 2)**

- Only the defendant (and not the state) may request a new trial and only one is allowed per case.
- The motion generally must be made within five days after the judgment.
- The new trial must be granted before the 11th day after the judgment, otherwise the motion is automatically considered to be denied.

32



## Motion for New Trial (2 of 2)

- Should be granted if judge determines justice has not been done.
- If granted, the court should try the case again as soon as possible.
- Exception: following a plea of guilty or nolo contendere entered while the defendant is in custody, the defendant has 10 days to make a motion for new trial, and such a motion **shall** be granted.

33

## Appeal

34

## **Appeal - General**

- There must first be a judgment of conviction (doesn't matter if plea was guilty, not guilty, or nolo) or an order of dismissal in order to appeal.
  - A judgment may be final and appealable even though no written judgment was entered. If a defendant was charged by complaint, convicted, and ordered to pay a fine, there is a final judgment from which an appeal can be taken.
  - But avoid the headache and always enter written judgments!
- Appeal is de novo and justice court judgment is vacated upon perfection of the appeal.

35

## **Who Can Appeal?**

- Defendant can always appeal as long as the requirements are met.
- The State has a very limited right to appeal. The only issues that would arise in a justice court case that trigger the state's right to appeal would be:
  - an order dismissing the complaint,
  - granting a motion for new trial; or
  - sustaining a claim of double jeopardy by the defendant.

36

## What if Fines & Costs Are Already Paid in Full?

- If a defendant pays the fine and costs in full, they are generally unable to appeal the case because it is now moot.
- **Except** if their plea or payment of the fine and costs was not “purely voluntary.” Unless the facts and circumstances clearly show that the defendant acted voluntarily, the defendant should be permitted to appeal.

37

## Appeal Bond

- No notice of appeal needed – just need to timely file an appeal bond.
- The bond must be payable to the State of Texas in an amount no less than double the amount of fine and costs adjudged against the defendant, with a minimum of \$50.00.
- No filing fee is necessary to appeal a criminal case.
- The court does not have the authority to require a cash bond. A bond on a misdemeanor may be surety or cash, at the defendant’s election.

38

## **Appeal Deadline**

- The appeal bond must be given within 10 days after the “sentence” of the court has been rendered,
- Exception: If the defendant mails to the court a plea of guilty or of nolo contendere and a waiver of jury trial, and requests notification of the amount of an appeal bond, the deadline is the 31st day after the defendant received the notice of the appeal bond amount.
- Unlike motions for new trial in district and county courts (and in civil cases in justice courts), filing a motion for new trial in a criminal case in justice court does not extend the timeframe for filing an appeal bond.

39

## **Appeal Discussion Question**

- What is a Writ of Procedendo?
- Can an appeal be remanded to justice court?

40

# Confidentiality & Right to Expunction

41

## **Confidentiality (1 of 2)**

- Fine-only misdemeanor records become confidential, and may not be disclosed to the public, five years after the date of conviction or dismissal through a deferred disposition.
  - Exception for an offense that is sexual in nature.

42

## Confidentiality (2 of 2)

- These records remain open to inspection by:
  - judges or court staff;
  - a criminal justice agency for a criminal justice purpose, as defined by Gov Code Sec. 411.082;
  - the Department of Public Safety;
  - the attorney representing the state;
  - the defendant or the defendant's counsel;
  - if the offense is a traffic offense, an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or
  - necessary parties for the purpose of complying with federal law or if federal law requires the disclosure as a condition of receiving federal highway funds.

43

## Order of Dismissal: Right to Expunction

- Defendant is entitled to expunction of **arrest records** related to a fine-only misdemeanor if:
  - The offense is no longer pending and did not result in a conviction;
  - No other charges resulting from the arrest are pending; and
  - At least 180 days have elapsed since the arrest.

44

## **Acquittal: Right to Expunction**

- If the defendant is acquitted:
  - The court must inform defendant of their right to an expunction; and
  - The defendant or prosecutor may request expunction and the court must enter the order within 30 days of the acquittal.

45

## **Conviction: Right to Expunction**

- Even a defendant who is convicted of an offense in justice court may have a right to expunction for certain offenses (usually alcohol or tobacco) or if they had only one fine-only misdemeanor before they turned 17.

46

## Expunction Procedures

- For additional information related to expunctions and the procedures that must be followed, please see the following TJCTC deskbook chapters:
  - Criminal Deskbook Ch. 10
  - Juvenile Deskbook Ch. 4, Section F
  - Juvenile Deskbook Ch. 5, Section D
  - Juvenile Deskbook Ch. 8, Section B

## Scenarios



# True or False?

- In criminal cases, the court is not allowed to order other sanctions and may only order fines, regardless of the case type. That is why they are called fine-only misdemeanors!

49

# Which Of The Following Statements Is True?

- A. If the defendant knows she will plead guilty, she can start a payment plan before a written judgment is entered.
- B. Just like civil cases, the court is not allowed to put payment plans in their criminal judgments.
- C. Terms of a payment plan may be in a criminal judgment itself or may be created in a separate court order.

50

## **Defendant Pays An “Amount Accepted By The Court” For Their Offense. Do You Still Need A Judgment?**

- A. No, the payment of the full amount counts as a plea of nolo contendere, waiver of a jury trial, and criminal judgment.
- B. Yes, the payment of the full amount counts as a plea of nolo contendere, and a conviction judgment is needed anytime someone pleads nolo contendere.

51

**Which is appropriate here:**

**Acquittal, Conviction, or Dismissal?**

- Defendant is charged with speeding by going 43 mph in a 25-mph zone. This is a Rules of the Road offense.
- Defendant pleads not guilty and asks for a bench trial.
- On the day of trial, the county attorney fails to appear. The judge resets the case for trial but the next time the county attorney fails to appear again. The judge proceeds with the trial.

52

## **Create a Judgment! (1 of 2)**

Using your handouts, create a judgment based on the following:

- Defendant is charged with speeding by going 68 mph in a 60 mph zone. This is a Rules of the Road offense.
- The defendant was granted deferred disposition and complied with all the deferred provisions.

53

## **Create a Judgment! (2 of 2)**

Using your handouts, create a judgment based on the following:

- Defendant received a citation for speeding on April 14, 2025 – going 80 mph in a work zone with workers present and a posted speed limit of 60 mph.
- Defendant pled not guilty and requested a jury trial.
- Trial was today in your court. Defendant represented themselves.
- The jury found the defendant guilty and the judge found that the defendant is able to afford \$50 per month for fine/costs.

54

Questions?

