

No Oral Argument Requested

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In The  
COURT OF CRIMINAL APPEALS OF TEXAS

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No. \_\_\_\_\_

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**HARMON LUTHER TAYLOR,  
Defendant – Appellant – Petitioner,**

**v.**

**STATE OF TEXAS,  
Plaintiff – Appellee – Respondent.**

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On Petition for Discretionary Review of the Judgment of the  
TENTH COURT OF APPEALS in  
No. 10-08-**00208**-CR

Dismissing the Collateral Order Doctrine appeal from the  
COUNTY COURT AT LAW OF WALKER COUNTY  
Case No. 07-1392

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**PETITION FOR DISCRETIONARY REVIEW**

[N.B. Only those with standing are in a position to file these.]

HARMON L. TAYLOR  
7014 MASON DELLS DRIVE  
DALLAS, TEXAS 75230

**Identity of Parties and Counsel**

**Petitioner**

HARMON LUTHER TAYLOR  
7014 Mason Dells Drive  
Dallas, TX 75230

**Respondent**

STATE OF TEXAS  
  
DAVID P. WEEKS  
Walker County DA  
1036 11<sup>th</sup> Street  
Huntsville, TX 77340

Since the underlying case involves Statutory Challenges, the following are also Notified via service of this Petition.

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### Statement Regarding Oral Argument

No oral argument requested.

### Statement of the Case

**CIVIL.** “No driver’s license” “ticket” case. STATE has no commercial nexus, no statute, no complaint (substantive Notice), and no Notice (procedural), rendering impossible STATE’s burden to prove this is a “criminal” case.

### Statement of Procedural History

In the municipal court.

2007 Jan 24: “Ticket.”

Jan. 31: Taylor filed his motion to dismiss.

Feb. 19: Hearing set for April 5.

Apr. 5: (A) Motion to dismiss denied.

(B) **First** arraignment. Court entered plea of Not Guilty for Taylor, upon Taylor’s declination to plea, given the complete absence of Notice.

(C) Trial set for May 17.

(C) Court engaged its *sua sponte* mandamus “display.”

(D) THEN, the deputy clerk hand delivered the complaint to Taylor.

May 17: Trial with six-member administrative advisory panel. **Second** “arraignment” occurred immediately prior to STATE’s case-in-chief, and Taylor

declined for the *second* time to enter a plea given the complete absence of Notice.

Question from panel regarding “jury nullification.”

Verdict of Guilty; fine of \$100; costs of \$65.

May 21: Bond for \$330.

In the county court.

Aug. 10: Original “order,” Notice for *third* arraignment of Oct. 17, signed by non-judicial officer.

Aug. 31: Taylor filed his motions; they were designed for ruling without any need for an appearance.

Sep. 21: The sole response was *one more* of the incessant threats of jail for non-appearance. That got several people sued. Taylor v. Hale, et al., Case No. 3:07-CV-1634-L (N.D. Tex. Dal.).

Oct. 17: Original setting was used to try to sucker Taylor into signing the reset form, [Tr. Ex. D-111] (Vol. 2, next to last page), which overtly waives Notice, which is a key issue in this case. Taylor drove six hours (round trip) and waited for however long for his case to be called for a 2-minute exchange involving signing that reset form, designed to try to trick Taylor into waiving his objection to Notice. [Tr. Ex. D-111] (Vol. 2, next to last page).

Nov. 28. Hearing on Taylor’s motions. All motions denied viva voce.

Verbally, Taylor requested the Transcript immediately after that hearing.

Case reset ***multiple*** times. *Oct. 17* – reset (in person) for Nov. 28 (call) / Dec. 17 (trial); [*Nov. 28* – hearing on Taylor’s motions]; *Dec. 14* – reset (by phone call and email) for Feb. 6 (call) / Feb. 19 (trial); *Feb. 6* – reset (in person) for *Apr. 16* (call) / Apr. 28 (trial) (Taylor was 3d or 4<sup>th</sup> on the Docket); *Apr. 28* – Taylor’s special setting request denied – reset (in person) for Jun. 11 (call) / Jun. 23 (trial).

At least one trial was to precede Taylor’s on Apr. 28. Options: (1) stay overnight; (2) drive back to Dallas and then back to Huntsville the next day; (3) get a reset. Taylor didn’t request just a reset but rather a special setting. The Jun. 11 setting was just another generic setting; hence, special set request denied, thereby confirming the “probation for life with a bi-monthly check-in” pre-trial sentence.

Jun. 3: Taylor initiated this collateral order doctrine appeal.

#### County Court’s Disposition.

For this collateral order doctrine matter, the dispositions that are final, collateral, and appealed, here include (A) denial of access via refusal to produce the Transcript for use at trial, (B) confirmation, by denial of Taylor’s motions, that a deputy clerk may be a witness *and* an agent for service of the complaint, (C) confirmation that the municipal court may be a witness *and* a judge in the same case, (D) confirmation that a deputy clerk may be a witness and a custodian of that same Record simultaneously, and (E) confirmation that the statute STATE relies on doesn’t have to define a crime, that the complaint doesn’t have to charge a

crime, that there need be no commercial nexus, that Due Process is irrelevant, and that the law, generally, doesn't make one bit of difference.

In the appellate court.

Jun. 20: Silence from both the county court and the appellate court prompted a follow up on the handling of the Notice of Appeal, which prompted the filing with the appellate court, in person, of a filestamped copy of the Notice of Appeal.

Jul. 3: Appellate court's "show cause" order regarding jurisdiction.

Jul. 7: Taylor's response to the "show cause" order.

[Requests for extension by Reporter and Clerk. Granted.]

Aug. 7: Clerk's Record filed.

Aug. 13: Reporter's Record filed (*requested* Nov. 28, 2007, i.e., eight and a half months prior).

Aug. 22: Taylor's Brief filed.

Sep. 3: Appellate opinion delivered for publication.

## Grounds For Review

Point 1: Is the collateral order doctrine part of Due Process applicable to the states via the 14th Amendment?

*Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975).  
*Pennsylvania v. Ritchie*, 480 U.S. 39 (1987) (*Ritchie*).

*The Permian Corporation v. Davis*, 610 S.W.2d 236 (TX 1980).  
TX RS. APP. P. 29.5, 29.5(b), 29.6.

Point 2: Does the trial court have jurisdiction during the pendency of a collateral order doctrine appeal?

TX R. APP. P. 29.5, 29.5(b).  
*Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56 (1982).

## STATUTORY CHALLENGE

Point 3: Does Civ. Prac. & Rem. Code § 51.014 violate Due Process?

TX CIV. PRAC & REM. CODE ANN. § 51.014 (West 1997 & Supp. 2008).

## The Collateral Order Doctrine Issues

Point 4: What's the big deal with the "no driver's license" ticket?

*The Bank of the United States v. The Planters' Bank of Georgia*, 22 U.S. (9 Wheat.) 904 (1824) ("government" as proprietor).  
*Griswold v. Connecticut*, 381 U.S. 479 (1965) (STATE **cannot** compel engagement of commerce).  
Lev. 19:35-36 (honest system of weights and measures).

Point 5: May the trial court compel Taylor to trial without first delivering the transcript of that 28 November hearing?

*Boddie v. Connecticut*, 401 U.S. 371 (1971).

*Christopher v. Harbury*, 536 U.S. 403 (2002) (*Harbury*).

*Spencer v. Kemna*, 523 U.S. 1 (1998) (mootness exception).

Point 6: Where a deputy clerk is the complainant, is the clerk's office too "interested" to qualify as an agent for service?

TX R. CIV. P. 103.

FED. R. CIV. P. 4(c)(2).

TX CRIM. PROC. CODE ANN. art. 45.202.

Point 7: Where a deputy clerk is the complainant, is the court a witness/party, thereby triggering *disqualification*?

TX R. CIV. P. 18a, 18b.

TX R. CIV. EVID. 605.

*Bradley v. State of Texas ex rel. White*, 990 S.W.2d 245 (TX 1999).

*Tesco American, Inc. v. Strong Industries*, 221 S.W.3d 550 (TX 2006).

*McKenna v. State*, 221 S.W.3d 765 (TX 2007).

Point 8: Where a deputy clerk is the complainant, can that deputy remain a "custodian of records?"

Witness for STATE serving simultaneously as custodian of records??

## **Issues included for jurisdictional purposes**

Point 9: Does TX Trans. Code § 521.021 define a crime?

TX TRANS. CODE §§ 521.021, 521.025.  
*Gonzalez v. Carhart*, \_\_ U.S. \_\_ (No. 05-380) (Apr. 18, 2007)  
(*Carhart*).

Point 10: Does the complaint charge a crime?

*See* Point 9.

Point 11: Where's the commercial nexus?

*See* Point 9.  
*United States v. Lopez*, 514 U.S. 549 (1995) (*Lopez*).

Point 12: What does “operate” mean?

TX TRANS. CODE §§ 521.021, 521.025.

Point 13: What does “this state” mean?

TX TRANS. CODE §§ 521.021, 521.025.  
TX PENAL CODE ANN. § 1.04 (West 2003).

Point 14: Does Art. 45.018(b) violate Due Process?

TX CRIM. PROC. CODE ANN. art. 45.018(b).  
TX CRIM. PROC. CODE ANN. art. 27.14(d).

Point 15: Is an arraignment a “proceeding” for purposes of Art. 45.018(b)?

*Rothgery v. Gillespie County*, \_\_ U.S. \_\_ (23 June 2008).



## Argument

**Point 1: Is the collateral order doctrine part of Due Process applicable to the states via the 14th Amendment?**

Texas doesn't recognize the collateral order doctrine.

*The Permian Corporation.*

Is the doctrine merely federal procedure or is it part of Due Process?

*Cohen*, 337 U.S. at 547 (federal court); *Cox Broadcasting* (state court);

*Coopers & Lybrand*, 437 U.S. at 468 (federal court); *Moses H. Cone Hospital* (federal court); *Ritchie* (state court).

Since the collateral order doctrine exists to protect “at risk” “federal issues,” no state has discretion to disregard the collateral order doctrine.

Actually, Texas *does* recognize the collateral order doctrine.

*See* TX RS. APP. P. 29.5, 29.6. *See* Appendix.

Federal issues are at risk of being rendered moot.

The collateral matters are these: (1) being compelled to trial *de novo* without a requested Transcript; (2) service by a clerk of a clerk's complaint;<sup>1</sup> (3) TX R. Civ. P. 18a, 18b ***disqualification*** of municipal court judge,<sup>2</sup> and (4) whether the

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<sup>1</sup> This is distinct from the timing issue of Art. 45.018(b), which timing issue is already resolved in Taylor's favor. *See Rothgery* (the arraignment is a “proceeding” for purposes of appointment of counsel) (hence; an arraignment is a “proceeding” for ***all*** purposes).

<sup>2</sup> To establish the collateral order doctrine as policy is to provide a mitigation of damages, “prevention-oriented” remedy. *Cf. Helling* (problem *prevention*), *H. J.*

clerk complainant may remain as “custodian of records” of that case, i.e., an egregious conflict of interest issue. Proceeding beyond that point (A) severely jeopardizes reaching those issues, and (B) does nothing but exacerbate what the trial courts are turning into an increasingly monstrous fiasco.

*The Permian Corporation* ruling is flat out wrong.

*The Permian Corporation* doesn’t square with the purpose of the collateral order doctrine, generally, or with *Cox Broadcasting* and *Ritchie*, in particular.

**Point 2: Does the trial court have jurisdiction during the pendency of a collateral order doctrine appeal?**

The trial court has acted in accordance with TX R. APP. P. 29.5(b),<sup>3</sup> and the reason for even raising this issue is that this is exactly the response, namely cessation of “all” trial court activity during the collateral order doctrine appeal, that should be formally recognized as the correct handling of such matters.

The trial court traditionally has no authority during the pendency of an appeal. *Cf. Dyches; Woodson; Griggs*, 459 U.S. at 58 (“[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case

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*Inc. (same), Schall*, 467 U.S. at 298-300 (same), *Pulliam* (same), and *Juidice* (bad faith and harassment *both* justify prevention).

<sup>3</sup> The contrast is found in *Florance v. State*, No. 05-08-00724-CR, where the county court bulldozed ahead. There are three motions for contempt filed against that trial judge. It’s a matter of “first impression,” to be sure, but there’s value in recognizing the right approach so as to avoid having the punish those who take the wrong approach. Contempt is called contempt for a reason.

simultaneously.”). If it’s “final” enough to trigger the collateral order doctrine, it’s “final” enough to trigger the “full stop” policy regarding appeal.

TX RS. APP. P. 29.5 and 29.5(b) *very* clearly prohibit the trial court from jeopardizing the relief available via appeal, which is the exact purpose of the collateral order doctrine. “Collateral” matters don’t address the merits, whereas “interlocutory” matters may and generally do. Under no circumstances may the collateral order doctrine appellant be compelled to trial during the pendency of such appeal. In the event of abuse of the collateral order doctrine, surely the panoply of sanctions available for other matters would apply equally well.

## **STATUTORY CHALLENGE**

### **Point 3: Does Civ. Prac. & Rem. Code § 51.014 violate Due Process?**

Where CIV. PRAC. & REM. CODE ANN. § 51.014 operates to deny jurisdiction that *must* exist in order to accommodate the collateral order doctrine, the statute facially violates Due Process and induces denial of access under color.

## **The Collateral Order Doctrine Issues**

### **Point 4: What’s the big deal with the “no driver’s license” ticket?**

This is what the big deal is—commerce cannot be compelled.

What’s the big deal? Commerce cannot be compelled. *Cf. Griswold.*

*Cf. Planters' Bank*, 22 U.S. at 907-08 (“government” as proprietor);

§ 3002(15)(A) (“United States” is “a federal corporation”) (this is the proclamation

to the world that “debt collection” activities (think, e.g., irs/tax) engaged by this thing called “United States” operates under the *proprietorship doctrine*).

*Compelled* agreement is the exact *antithesis* of the very soul of “this state.” A coerced will is not evidence. *See* 1 PAGE, THE LAW OF WILLS, §§ 5.7, 15.11. A coerced trust is not evidence. BOGERT §§ 42 at 434, 44 at 452 and n.16. A coerced commercial transaction is not evidence. U.C.C. § 1-103. In the ultimate setting, a coerced confession is not evidence. *Escobedo; Miranda*. The coercive environment vitiates the very “evidence” it purports to create. *See Rudzewicz*, 471 U.S. at 486; *Ohralik; Bates*. For example, parties may not be compelled to accept magistrate participation. *Gonzalez*.<sup>4</sup>

STATE is not going to compel Taylor to engage in any particular line of commercial activity, including “driving” or “operating.” STATE is not going to compel Taylor to adopt any particular “choice of law.” And, the “driver’s license” isn’t really for commercial purposes, anyway.<sup>5</sup> It’s *primary* function is as a

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<sup>4</sup> This was an initial issue in Taylor v. Hale, et al. Taylor’s position has been fully confirmed via the *Gonzalez* ruling.

<sup>5</sup> One of the clearest examples is *Griswold*. What’s a “marriage license” for? Engaging in the commercial activity of making babies (STATE property). But, even “licensed” couples cannot be *compelled* to make babies. Hence, criminalizing the use of contraceptives egregiously invades the right *not* to engage in commerce, even where there’s a “license” to do so! Said another way, to criminalize the use of contraceptives is to compel commercial activity (making babies), and not only to compel commercial activity, but also to do so under threat of criminal prosecution for refusing to so engage commerce. The analogy to a

STATE “ID card,” and STATE is not going to compel Taylor to be a member of the “church of STATE OF TEXAS” come hell or high water! <sup>6</sup> That “church” exists to defy GOD, as is seen astronomically clearly in a multitude of ways, one of the more outrageous being STATE’s defiance of and rebellion against the Scripturally-consistent honest system of weights and measures. *Cf.* Lev. 19:35-36.

What is *any* “license” for? The “license” is the pre-approved permission to engage in privileged commerce in “this state,” “for profit or hire,” at the licensee’s discretion. By “traveling,” Taylor isn’t engaging any line of commerce in “this state,” much less “for profit or hire.” Therefore, Taylor doesn’t need a “license.”

While “driving,” or “operating,” is privileged commercial activity that is subject to regulation, “traveling” is not privileged, for it is a right. The exercise of that right is not subject to “licensure.” To compel anyone into the “transportation” business, and thus into “licensure” for such line of commerce, under threat of *criminal* sanctions, is to violate rights. But it’s not just compelled commerce, licensure, and “choice of law.” Since that “license” is primarily an “ID card,” STATE is compelling Taylor into membership in “church of STATE OF TEXAS,”

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*criminal prosecution* for “no driver’s license” is direct. And, what the Supreme Court teach via *Griswold* is that no STATE may compel *anyone* to engage in *any* type of commercial activity, even when s/he *is* “licensed” to do so!

<sup>6</sup> It’s through the scam of using the “driver’s license” as the ID card that the “internationalists” will seduce Americans, by the millions, to join politically with the “new world order.” Taylor *ain’t* going “there,” either! But, that’s *very much* secondary to the tyranny of compelled commerce and religious affiliation.

which is tantamount to compelled political/religious association under threat of *criminal* sanctions. STATE OF TEXAS isn't big enough to dictate to Taylor what his political or commercial activities are going to be, who he will associate with politically/religiously, or Who his GOD is.

Compelled commerce has another name: tyranny.<sup>7</sup> Those who want to volunteer into a maritime-law-based dictatorship may certainly do so, but Taylor isn't volunteering, and he will not be compelled into such system, either.

**Point 5: May the trial court compel Taylor to trial without first delivering the transcript of that 28 November hearing?**

Denial of access is both a "federal issue" and collateral.

*Boddie. Harbury* (for a "denial of access" claim, access is ancillary to, i.e., "collateral" to, the underlying claim).

Transcript was requested immediately after that hearing.

The information needed for trial, which includes "witness statements," was in the possession, custody, or control of the "opposing party," and that "party's" inability/refusal to produce the information lasted eight and a half months.

Non-mootness of this issue.

Extraordinary delay in transcript production is more than capable of

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<sup>7</sup> If the mob were doing it, we'd call it extortion. Some of the gravest challenges facing this nation, which is teetering at the edge of the abyss into tyranny, have recently been decided. *Hamdan; Boumediene; Munaf; Medellin*. In each case, tyranny has been the issue, and each time, tyranny has been overruled.

repetition and yet evade review, and, given the *de facto* “probation for life with a bi-monthly check-in” pre-trial sentence imposed by the county court, the likelihood of repetition is high. *See e.g. Spencer*, 523 U.S. at 17-18. Taylor should not be put in the position of having to initiate collateral order doctrine appeals in order to obtain transcripts for trial.

**Point 6: Where a deputy clerk is the complainant, is the clerk’s office too “interested” to qualify as an agent for service?**

STATE never gave proper Notice.

Art. 45.018(b) says that Notice has to be delivered at least a day before “any proceeding.” The “arraignment” is a “proceeding.” *See Rothgery*. Where the arraignment is a “proceeding” for one purpose, it is a “proceeding” for all purposes, including determining proper timing for Notice.<sup>8</sup>

Per *Rothgery*, the municipal court “judgment” is all the more void on its face. *Harris*, 55 U.S. at 339 (cited in *Commercial Equip.*, 678 S.W.2d at 918; *Peralta; Lloyd v. Alexander*, 5 U.S. at 366 (“A citation not served is as no citation.”). Why is it void? No Notice.

However, since Notice isn’t something that typically qualifies for review shy of a “final judgment,” this collateral order doctrine proceeding isn’t focusing on

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<sup>8</sup> Where the arraignment is a proceeding, it’s impossible for the hearing on the motion to dismiss not also to be a “proceeding,” and it’s impossible for the *sua sponte* mandamus “display” not also to be a “proceeding.”

this fatal flaw regarding Notice, itself, but rather on the collateral matters underlying that untimely Notice.

“Service” by the deputy clerk.

On 5 April, at 9:13 a.m., *after **three*** proceedings, a deputy clerk handed Taylor the “complaint,” which is also dated 5 April.<sup>9</sup> No complainant is “disinterested” enough to serve the complaint. *Cf.* TX R. CIV. P. 103; FED. R. CIV. P. 4(c)(2); TX CRIM. PROC. CODE ANN. art. 45.202. Which deputy clerk “complained” and which “served” are fact issues, thus not yet resolvable. Obviously, if they are the same person, the problem is clear. But, where one deputy clerk is necessarily an agent for *all* clerks in that office, since all are employees under the Clerk of the Court, thus agents for the Clerk, then which deputy clerk “complained” and which “served” it is irrelevant, for *all* clerks would be disqualified as service agents.

**Point 7: Where a deputy clerk is the complainant, is the court a witness/party, thereby triggering *disqualification*?**

Loosy-goosy operations produce *multiple* defects of a permanent nature.

The discussion in Point 6 provides the background for this one. In addition to “complainant as agent for service,” there’s also a *disqualification* issue which

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<sup>9</sup> Taylor understands that the process server and the complainant are one in the same, [Tr. pp. 9-10], and STATE hasn’t disputed it. (On appeal, STATE didn’t have a chance to.)

may be rendered moot upon actual start of the trial *de novo*.

Where the court, itself, not the *executive* branch actually issuing the ticket, but the *judicial* branch, which learns of the matter *solely* as a consequence of serving in the judicial role, swears out the complaint, thereby rendering the *court* as a *party* to the case, how may a *party* to the case also be a *judge* over it?

Where a deputy clerk is the complainant, the court becomes a “witness” or a “party.”

***Participation solely by virtue of office/employment.***

Clerks may *certify* complaints. Art. 45.019(e)(2). Here, she clerk *swears out* the complaint, as a “hearsay complainant,” thus, as a witness for STATE.

Where via employment, the deputy clerks are agents of the clerk, thus of the court, the *court* is the *de facto* “hearsay complainant,” i.e., a witness for STATE.

***The court can’t accomplish by agency what it can’t do directly.***

If the judge were a direct witness, there’s zero question that the judge would be *disqualified* to preside over that trial. *Bradley*, 990 S.W.2d at 248, 249. Care is made here to distinguish *disqualification* from (mere) *recusal*. See TX R. CIV. P. 18a, 18b; *Tesco American, Inc.*, 221 S.W.3d at 551-52 n.1, 553 n.10, 555 n.27.

The judge presiding at trial may not testify in that trial as a witness. No objection need be made in order to preserve this point. TEX. R. CIV. EVID. 605. ... These cases hold that a judge testifying as a witness violates due process rights ***by creating a constitutionally intolerable appearance of partiality***. See *Brown [v. Lynaugh]*, 843 F.2d 849, 851 (5<sup>th</sup> Cir. 1988)] (“It is difficult to see how the neutral role of the court could be more compromised,

or more blurred with the prosecutor’s role, than when the judge serves as a witness for the state.”); ... *see also In Re Murchison*, 349 U.S. 133 ... (1955) (disapproving of the “spectacle” of a trial judge presenting testimony which he must consider in adjudicating guilt or innocence.).

*Bradley*, 990 S.W.2d at 249 (emphasis added) (internal quotes omitted). The judge who is a fully willing, voluntary, non-coerced, non-subpoenaed fact witness, on either side, “has an interest in the subject matter in controversy.” *Cf.* TX R. CIV. P. 18b(1)(b); *McKenna*. Moreover, by being a ***complainant***, despite full availability of an actual witness, the clerk, thus, the court, is saying that s/he has an injury or has agency authority to speak on behalf of the party alleging injury, which is one more way of saying that the ***court*** “has an interest in the subject matter in controversy.” *Cf. Burkett* (judge is ***disqualified*** if also the/an injured party).

***The spectacular Separation of Powers problem.***

The deputy clerk, who came by the sworn-to information *solely* by virtue of her *judicial* office, made herself an active participant in the prosecution, which is an *executive* branch function. She has crossed that line of Separation of Powers between *sitting in judgment of* the prosecution and *being part of* the prosecution. Since the deputy clerk has joined the *executive* branch function, solely by virtue of her *judicial* office, what follows, via agency, is that the ***court*** has joined the *executive* branch function. While clerks and courts ***may*** be complainants, the “complainant ***court***” **may not also** sit in judgment of those same cases.

***The “goose-gander” aspect.***

Certain people can't be witnesses in the case being tried, including the judge, *Bradley*, 990 S.W.2d at 248, a law clerk of that court, *id.* at 249, and a special master of that court, *id.* Thus, it follows that a clerk of the presiding court **can't** be a witness, either. Why? Because that's effectively calling the judge as a witness. Therefore, in the “goose-gander” analysis, where a **defendant** can't compel a clerk of the presiding court to testify, any more than a defendant could compel a judge, a law clerk, or a special master to testify (in that court), then **STATE** can't get a clerk of the presiding court to testify, either. Why? Because that's effectively calling the judge as a witness.

Where the clerk is the complainant, the court is disqualified.

Therefore, since the *municipal court* made itself a witness, it instantly rendered itself **disqualified** to preside over Taylor's case. Since the municipal court judge is **disqualified**, the judgment is void. *Tesco American, Inc.*, 221 S.W.3d at 555 n.27; *Zarate*.

**Point 8: Where a deputy clerk is the complainant, can that deputy remain a “custodian of records?”**

Egregious conflict of interest violates Due Process.

In Point 7, agency is applied twice. (1) The deputy is the agent of the clerk, and (2) the clerk is the agent of the court. Here, agency is applied for just that first

time, where the deputy is an agent of the clerk.

There's a major problem where a witness has full and direct access to the case file, not only from its inception, but also until that file is placed in storage. The "appearance of impropriety" factor skyrockets off the top of the charts. The conflict of interest, which manifestly sounds in Due Process, is egregious.

### **Issues included for jurisdictional purposes**

#### **Point 9: Does TX Trans. Code § 521.021 define a crime?**

Where's the mens rea? Where's the actus reus? Where's the punishment level? Hence, where's the Notice regarding any crime? *Carhart*. There's no crime defined until § 521.025.

#### **Point 10: Does the complaint charge a crime?**

The complaint depends on § 521.021, which defines no crime. *See* Point 9.

#### **Point 11: Where's the commercial nexus?**

There is no commercial nexus, here. *Cf. Lopez*. Hence, STATE can't even justify a request for injunctive relief, much less a *criminal* charge.

#### **Point 12: What does "operate" mean?**

"Operate" means to engage in "transportation," in "this state," "for profit or hire." It has everything to do with commercial activity and nothing to do with "traveling." Where "operate" is read to mean and include "traveling," all statutes

using and referring to such term are instantly overbroad and facially void.

**Point 13: What does “this state” mean?**

The “place” called “this state” has no borders, no boundaries, and exists in the same way a corporation exists. The law fully recognizes it, but it’s a concept; it is intangible in nature. The “place” called “this state” is the whole of the parts, which parts are “federal areas” or “federal zones,” which are “counties” within “this state.” Those “counties” have names deceptively similar to those of the States with which names most people are familiar. TX is a “county” within “this state.” OK is a “county” within “this state.” Same with CA, NY, DC, and etc. The “place” called “this state” is the antithesis of the place called Texas. In “this state,” it’s possible to run the “funny money” scam *without* simultaneously committing fraud. In Texas, it’s *not* possible to run the “funny money” scam without simultaneously committing fraud. What’s the difference? The default “choice of law.” In Texas, that default choice of law will be the Law of the Land. In “this state,” the default choice of law is the Law of the Sea.

Where “this state” is read to mean and include the Common Law place known as Texas, *all* statutes using such term are instantly overbroad and facially void, which would render the Penal Code void instantly. *See* § 1.04.

**Point 14: Does Art. 45.018(b) violate Due Process?**

It does if it's read to mean that a "ticket" satisfies Notice!

What is a "complaint?"

It sure *ain't* the "ticket!" Art. 45.018(a) seems just fine.

What must be served?

The problem is with Art. 45.018(b). What is "notice of a complaint?" (A) Service of the "complaint," itself, or (B) delivery of the "ticket?" If "complaint" means "complaint," then Art. 45.018(b) is fine, also. Otherwise, this statute completely dispenses with Notice. *Cf.* Art. 25.03 (felony) or Art. 25.04 (misdemeanor), where Notice is not *required*, at all.

There *are* alternatives. *Cf.* Art. 27.14(d) (waiver and signed agreement). But, alternatives apply only for those who *waive* Notice, knowingly or otherwise.

**Point 15: Is an arraignment a "proceeding" for purposes of Art. 45.018(b)?**

Obviously, yes. *Rothgery*. For the municipal court to have applied the law at that first instance sure would have saved a lot of trouble and expense.<sup>10</sup>

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<sup>10</sup> Taylor has objected to jurisdiction from the outset. The municipal court judge insisted that jurisdiction existed. When Taylor said they'd be "going round and round" on the issue, the response was, "No, we're not!" But, here we are! The difference is that now we have specific guidance by the Supreme Court. *Rothgery*.

## Synopsis

**The collateral order doctrine protects “at risk” “federal issues.”**

(A) Denial of the Transcript for use at trial, (B) complainant as agent for service, (C) court as complainant thus *disqualification*, and (D) complainant as “custodian of records,” all trigger the collateral order doctrine. The state appellate courts have jurisdiction, and STATE’s CIVIL “non-case” should be dismissed.

## Relief Requested

### Recognize the collateral order doctrine

Recognize the collateral order doctrine, thus the existence of “at risk” “federal issues” in state trial courts, and overrule *The Permian Corporation*.

### Dismiss the case

Upon collateral order doctrine review, dismiss STATE’s case.

Respectfully submitted,

/s/ Harmon Taylor  
Harmon Luther Taylor  
I reserve all my rights

7014 Mason Dells Drive  
Dallas, TX 75230

**Certificate of Service**

By my signature below, I certify that on this the 5<sup>th</sup> day of September, 2008, I have dispatched to the Clerk of the Court of Appeals, and have served on the following, by certified mail, a true and correct copy of this Petition with its Appendix:

DAVID P. WEEKS  
Walker County DA  
1036 11<sup>th</sup> Street  
Huntsville, TX 77340

Hon. GREG ABBOTT  
Attorney General's Office  
300 West 15<sup>th</sup> Street  
Austin, TX 78711

Given the statutory challenges, service by certified mail is also made as follows:

DONALD J. DeGABRIELLE, Jr.  
U.S. Atty, S.D. TX  
P.O. Box 61129  
Houston, TX 77208

Hon. MICHAEL B. MUKASEY  
Attorney General, United States  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Complimentary service is also made as follows:

JAMES D. PATTON  
County Clerk, Walker County  
P.O. Box 210  
Huntsville, TX 77342-0210

Clerk  
Huntsville Municipal Court  
717 FM 2821 West, Suite 200  
Huntsville, TX 77320

TMCEC  
1609 Shoal Creek Blvd., Suite 302  
Austin, TX 78701

/s/ Harmon Taylor  
Harmon Luther Taylor

## Appendix

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Judgment on appeal (1 pg.) .....	A-9
County Court’s viva voce orders (4 pgs.: 1, 3, 18, 20) .....	A-10
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IN THE  
TENTH COURT OF APPEALS

\_\_\_\_\_  
No. 10-08-00208-CR

HARMON LUTHER TAYLOR,

Appellant

v.

THE STATE OF TEXAS,

Appellee

\_\_\_\_\_  
From the County Court at Law  
Walker County, Texas  
Trial Court No. 07-1392

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OPINION

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Harmon Luther Taylor was convicted in municipal court of operating a motor vehicle without a driver's license. Taylor appealed to the county court at law where his case remains pending. After a hearing, that court orally denied "Taylor's Special Appearance, Motion to Strike or Rename 17 October Setting, First Motion to Dismiss, and First Motion to Quash." Seven months later, Taylor filed a "First Verified Notice of Appeal under the Collateral Order Doctrine." We will dismiss this interlocutory appeal for want of jurisdiction.

## Background

Taylor raised several complaints in his "Special Appearance, Motion to Strike or Rename 17 October Setting, First Motion to Dismiss, and First Motion to Quash" (hereinafter, "Taylor's Motion"). Procedurally, he contended: (1) the county court at law lacked subject matter jurisdiction, personal jurisdiction, or venue; (2) the October 17 setting for an arraignment should be "struck or renamed" because an arraignment is unnecessary in an appeal by trial de novo under article 45.042(b) of the Code of Criminal Procedure; (3) the traffic ticket he received does not satisfy the requirements for a complaint under article 45.019; (4) he did not receive timely or adequate notice of the complaint under article 45.018(b); and (5) asserting peculiar definitions for the "place" called "this state," he argued that the "choice of law" for his case is "the Law of the Land" and thus the State's "theory of its case arises under maritime law."

Substantively, Taylor's Motion asserted that no driver's license is required to operate a vehicle if the driver is engaged in non-commercial activity.

Taylor's Motion contains the following "Summary of the non-compliance":

The "complaint" fails to satisfy Art. 45.019. The authority of the State of Texas is usurped by a federal corporation called STATE OF TEXAS, under which latter name there is no authority to initiate any complaint. And, there is no offense defined, much less committed. The mixing and matching of Law of the Land and "law" of "this state" so permeates the "complaint" as to render it completely confused and unintelligible.

The court orally denied Taylor's Motion following a hearing conducted on November 28, 2007. Taylor filed his notice of appeal on June 3, 2008.

The Clerk of this Court notified Taylor by letter dated July 3 that his appeal to this Court appeared subject to dismissal for want of jurisdiction. This notice warned Taylor that the appeal may be dismissed if he did not (1) specify the order or orders he is challenging and (2) state the legal basis for this Court to exercise jurisdiction over the appeal. In response, he explains that he is appealing the denial of Taylor's Motion and asserts that this Court has jurisdiction under the collateral order doctrine which is recognized in federal appellate courts and which Taylor characterizes as "a procedural right applicable to the states via the 14th Amendment."

#### **Collateral Order Doctrine**

The collateral order doctrine is a federal doctrine which permits appellate review of a certain interlocutory rulings "which finally determine claims of right separate from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate jurisdiction be deferred until the whole case is adjudicated." *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 798, 109 S. Ct. 1494, 1498, 103 L. Ed. 2d 879 (1989) (quoting *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546, 69 S. Ct. 1221, 1225-26, 93 L. Ed. 2d 1528 (1949)). To fit within this narrow exception, "an order must (1) 'conclusively determine the disputed question,' (2) 'resolve an important issue completely separate from the merits of the action,' and (3) 'be effectively unreviewable on appeal from a final judgment.'" *Id.* at 799, 109 S. Ct. at 1498 (quoting *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468, 98 S. Ct. 2454, 2458, 57 L. Ed. 2d 351 (1978)).

The Supreme Court has specified three types of orders in criminal cases to which the collateral order doctrine applies.

We have interpreted the collateral order exception “with the utmost strictness” in criminal cases. Although we have had numerous opportunities in the 40 years since *Cohen* to consider the appealability of prejudgment orders in criminal cases, we have found denials of only three types of motions to be immediately appealable: motions to reduce bail, motions to dismiss on double jeopardy grounds, and motions to dismiss under the Speech or Debate Clause. These decisions, along with the far more numerous ones in which we have refused to permit interlocutory appeals, manifest the general rule that the third prong of the *Coopers & Lybrand* test is satisfied only where the order at issue involves “an asserted right the legal and practical value of which would be destroyed if it were not vindicated before trial.”

*Id.* (quoting *Flanagan v. United States*, 465 U.S. 259, 265, 104 S. Ct. 1051, 1055, 79 L. Ed. 2d 288 (1984); *United States v. MacDonald*, 435 U.S. 850, 860, 98 S. Ct. 1547, 1552, 56 L. Ed. 2d 18 (1978)) (other citations omitted).

### **Due Process**

Taylor argues that the collateral order doctrine is a procedural right applicable to the states through the Due Process Clause of the Fourteenth Amendment. However, the only federal rights which have been made “applicable to the states” through the Due Process Clause in this fashion are the majority of those rights set out in the first eight amendments to the United States Constitution. See Sam A. Mullin, Comment, *The Place for Prayer in Public Policy: A Reevaluation of the Principles Underlying the Decision in Santa Fe Independent School District v. Doe*, 44 S. TEX. L. REV. 555, 569 n.59 (2003); see also *id.* at 568 n.54 (“The only provisions of the first eight amendments that have not been incorporated are the Second and Third Amendments, the Fifth Amendment’s Grand

Jury Indictment Clause, and the Seventh Amendment.”) (quoting Note, *Rethinking the Incorporation of the Establishment Clause: A Federalist View*, 105 HARV. L. REV. 1700, 1700 n.3 (1992)); see also *Albright v. Oliver*, 510 U.S. 266, 272-73, 114 S. Ct. 807, 812-13, 127 L. Ed. 2d 114 (1994) (discussing cases which have held various “procedural protections contained in the Bill of Rights” applicable to the states).<sup>1</sup>

To the extent Taylor’s due process claim is based on principles of procedural due process, we observe that procedural due process in a criminal trial at a minimum requires notice and a meaningful opportunity to defend. See *Jackson v. Virginia*, 443 U.S. 307, 314, 99 S. Ct. 2781, 2786, 61 L. Ed. 2d 560 (1979) (“a person cannot incur the loss of liberty for an offense without notice and a meaningful opportunity to defend”); *Gollihar v. State*, 46 S.W.3d 243, 246 (Tex. Crim. App. 2001) (same). And in a first appeal of right (as provided in Texas), the procedures employed “must comport with the demands of the Due Process and Equal Protection Clauses of the Constitution.” *Evitts v. Lucey*, 469 U.S. 387, 393, 105 S. Ct. 830, 834, 83 L. Ed. 2d 821 (1985).

The trial court conducted a hearing on Taylor’s Motion, and he does not contend at this juncture that he was denied a meaningful opportunity to present the allegations contained therein for that court’s consideration. It also appears that the allegations of Taylor’s Motion can be fully addressed in an appeal following a conviction, if any, in

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<sup>1</sup> Although these rights apply to the states, the Sixth Amendment right to a jury trial does not apply to “petty” offenses, defined as those with a maximum authorized prison or jail term of six months. *Lewis v. United States*, 518 U.S. 322, 325-26, 116 S. Ct. 2163, 2166-67, 135 L. Ed. 2d 590 (1996). And the Sixth Amendment right to counsel applies to only a criminal prosecution “that actually leads to imprisonment.” *Alabama v. Shelton*, 535 U.S. 654, 657, 122 S. Ct. 1764, 1767, 152 L. Ed. 2d 888 (2002) (quoting *Argersinger v. Hamlin*, 407 U.S. 25, 33, 92 S. Ct. 2006, 2010, 32 L. Ed. 2d 530 (1972)).

the county court at law.<sup>2</sup> See, e.g., *State v. Neesley*, 239 S.W.3d 780 (Tex. Crim. App. 2007) (addressing issue of statutory construction); *Bible v. State*, 162 S.W.3d 234 (Tex. Crim. App. 2005) (determining whether Louisiana law governs admissibility of defendant's confession); *Hardeman v. State*, 1 S.W.3d 689 (Tex. Crim. App. 1999) (addressing propriety of arraignment procedures); *Witt v. State*, 237 S.W.3d 394 (Tex. App.—Waco 2007, pet. ref'd) (determining whether venue proved); *Schinzing v. State*, 234 S.W.3d 208 (Tex. App.—Waco 2007, no pet.) (addressing jurisdiction of municipal court and county court); *Chafin v. State*, 95 S.W.3d 549 (Tex. App.—Austin 2002, no pet.) (criminal charge dismissed due to trial court's lack of subject matter jurisdiction or personal jurisdiction); *Burling v. State*, 83 S.W.3d 199 (Tex. App.—Fort Worth 2002, pet. ref'd) (addressing adequacy of notice).

For these reasons, we hold that due process does not require that Texas appellate courts employ the collateral order doctrine. See *Permian Corp. v. Davis*, 610 S.W.2d 236, 237-38 (Tex. Civ. App.—El Paso 1980, writ ref'd) (declining to employ collateral order doctrine in civil appeal).

### Jurisdiction

Because there has been no judgment of conviction in the county court at law, this is by definition an interlocutory appeal. "The courts of appeals do not have jurisdiction to review interlocutory orders unless that jurisdiction has been expressly granted by

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<sup>2</sup> Subject to the limitations on this Court's jurisdiction provided by article 4.03 of the Code of Criminal Procedure. See TEX. CODE CRIM. PROC. ANN. art. 4.03 (Vernon 2005) (when defendant appeals from inferior court to county court, this Court's appellate jurisdiction is limited to cases in which the fine imposed by the county court exceeds \$100 "unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based").

law.” *Apolinar v. State*, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991); *Ahmad v. State*, 158 S.W.3d 525, 526 (Tex. App.—Fort Worth 2004, pet. ref’d). Taylor has not identified any statutory provision granting this Court jurisdiction over his interlocutory appeal, and we are not aware of any. Accordingly, we dismiss this appeal for want of jurisdiction.

FELIPE REYNA  
Justice

Before Chief Justice Gray,  
Justice Vance, and  
Justice Reyna  
(Chief Justice Gray concurring with note)\*

Appeal dismissed

Opinion delivered and filed September 3, 2008

Publish

[CR25]

\* (“Chief Justice Gray concurs in the result. A separate opinion will not issue. He notes, however, that the Tenth Court of Appeals is a court of limited jurisdiction, particularly when it comes to the review of matters arising from criminal proceedings. In this regard, the final paragraph is the only paragraph necessary for the disposition of this proceeding, rendering the balance of the opinion dicta.”)

THIS IS TO CERTIFY THAT THIS IS A  
TRUE AND CORRECT COPY.

TENTH COURT OF APPEALS  
SHARRI ROESSLER, CLERK

BY *Debra Hill*  
DEPUTY



## TENTH COURT OF APPEALS

**Chief Justice**  
*Tom Gray*

**Justices**  
*Bill Vance*  
*Felipe Reyna*

McLennan County Courthouse  
501 Washington Avenue, Rm 415  
Waco, Texas 76701-1327  
Phone: (254) 757-5200 Fax: (254) 757-2822

**Clerk**  
*Sharri Roesler*

September 3, 2008

In accordance with the enclosed Opinion, below is the judgment in the numbered cause set out herein to be entered in the Minutes of this Court as of the 3<sup>rd</sup> day of September 2008.

10-08-00208-CR HARMON LUTHER TAYLOR v. THE STATE OF TEXAS - ON APPEAL  
FROM THE COUNTY COURT AT LAW OF WALKER COUNTY -  
TRIAL COURT NO. 07-1392 - DISMISSED - Opinion by Justice Reyna,  
Chief Justice Gray concurring with a note:

“This cause came on to be heard on the transcript of the record of the court below, and the same being considered, because it is the opinion of this Court that the appeal should be dismissed, it is ordered, adjudged and decreed by the Court that the appeal be dismissed, and that the appellant pay all costs in this behalf expended and that this decision be certified below for observance.”

**REPORTER'S RECORD**

VOLUME 1 OF 2

Trial Court Cause No. 07-1392

Court of Appeals No. 10-08-00208-CR

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THE STATE OF TEXAS \* IN THE WALKER COUNTY  
VS. \* COURT AT LAW,  
HARMON LUTHER TAYLOR \* WALKER COUNTY, TEXAS

\* \* \* \* \*

NOVEMBER 28, 2007

\* \* \* \* \*

A P P E A R A N C E S:

MR. BRIAN KLAS, SBOT #24055784, Assistant Walker County  
Criminal District Attorney, 1036 11th Street,  
Huntsville, Texas, 77340,  
Telephone: 936-435-2441, Facsimile: 936-435-2449,  
Appearing on Behalf of The State of Texas,

MR. HARMON LUTHER TAYLOR,  
7014 Mason Dells Drive, Dallas, Texas, 75230,  
Telephone: 214-361-0401,  
Appearing Pro Se.

**DUPLICATE**



1 already had the arraignment. That was at the Municipal  
2 Court, and this entire proceeding is based on the procedural  
3 problem of no notice at the Municipal Court level, and the  
4 substantive problem at the Municipal Court, with no  
5 commercial nexus.

6 Unless the Court has some further questions, that  
7 concludes my argument.

8 THE COURT: I understand. Any response?

9 MR. KLAS: Your Honor, the State certainly  
10 disagrees with all Mr. Taylor's points. Unfortunately we  
11 were not expecting a hearing this morning. We would be more  
12 than to happy to prepare a brief, if necessary.

13 THE COURT: Anything further, Mr. Taylor?

14 MR. TAYLOR: That concludes my presentation.  
15 I appreciate the Court's time.

16 I do have one question.

17 THE COURT: Yes.

18 MR. TAYLOR: The exhibits that I gave the  
19 Court, will those be the ones submitted? I have got an extra  
20 copy for the court reporter, but --

21 THE COURT: No, these are fine. Okay, your  
22 Motion to Dismiss is denied and your Motion to Quash is  
23 denied and your Motion to Strike or Rename 17 October Setting  
24 is denied. Anything further?

25 MR. TAYLOR: That will take care it.

1 THE STATE OF TEXAS \*

2 COUNTY OF WALKER \*

3

4 I, SHERRY STEPHENS, Certified Shorthand Reporter in and  
5 for the State of Texas, do hereby certify that the above and  
6 foregoing contains a true and correct transcription of all  
7 portions of evidence and other proceedings requested to be  
8 included in this Volume 1 of 2 of the Reporter's Record in  
9 the aforementioned styled and numbered cause, all of which  
10 occurred in open court or in chambers and were reported by  
11 me.

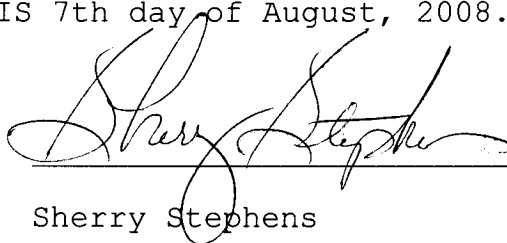
12 I further certify that this Reporter's Record of the  
13 proceedings truly and correctly reflects the exhibits  
14 admitted by the respective parties.

15 I further certify that the total cost for the  
16 preparation of this Reporter's Record was \$ 115.<sup>00</sup> and was  
17 paid by Mr. Harmon L. Taylor.

18 WITNESS MY HAND THIS 7th day of August, 2008.

19

20



21

Sherry Stephens

22

CSR #4079, Expires 12-31-09

23

441 Private Road 746B

24

Thornton, Texas 76687

25

Ph: 254-729-5430

STATE OF TEXAS  
VS

CITY OF HUNTSVILLE  
WALKER COUNTY, TEXAS

DEFENDANT: ~~TAYLOR, HARMON LUTHER~~ / CAUSE #: 213470 -01

On this May 17, 2007 AD the Defendant in the above numbered Harmon Luther Taylor the Court  
and entitled cause appeared in Municipal Court and entered a plea of  
not guilty and ~~demanding~~ jury trial; and the jury, having heard the evidence  
and arguments, finds the Defendant:

NOT GUILTY of the offense of DRIVERS LICENSE - NO LICENSE .  
It is therefore Ordered and Adjudged by the court that the Defendant is not  
guilty of the offense and is discharged.

X GUILTY of the offense of DRIVERS LICENSE - NO LICENSE  
and assessed a fine of \$ 100.00.

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the State of Texas,  
for the use and benefit of the City of Huntsville, Texas do have and  
recover from the Defendant the fine in the amount of \$ 100.00 and  
Court Costs in the amount of \$ 65.00.

The Defendant is hereby Ordered to pay the fine and costs:

X On or Before May 28, 2007  
A twenty-five (\$25.00) time payment fee will be added to any part of a  
fine, court costs or restitution not paid on or before the 31st day after  
the date of this judgment, pursuant to Article 51.921 of the Government  
Code.

Defendant must pay \$ \_\_\_\_\_ by \_\_\_\_\_ and a minimum  
of \$ \_\_\_\_\_ per month on or before the last business day of each month  
until balance is paid in full beginning \_\_\_\_\_.  
No extensions will be granted.

Community Service \_\_\_\_\_ hours (proof of completion) due on or before  
\_\_\_\_\_ ( \_\_\_\_\_ Please check here if in lieu of fine)

Alcohol Awareness Course (6 Hrs) must be completed and presented to the  
court on or before \_\_\_\_\_ (MUST BE A STATE CERTIFIED COURSE)

Tobacco Awareness Course (6 Hrs) must be completed and presented to the  
court on or before \_\_\_\_\_ (MUST BE A STATE CERTIFIED COURSE)

Driver's License suspension for \_\_\_\_\_ days

Reset to ( \_\_\_\_\_ ) \_\_\_\_\_ at \_\_\_\_\_ AM / PM  
Failure to appear will result in a FTA and warrant ( Court / Def / Atty )

No. 07-1392  
EX D-107

IT IS FURTHER ORDERED AND ADJUDGED, that if the Defendant fails to comply  
with the orders of this judgment a CAPIAS PRO FINE WARRANT will be issued  
for your arrest and pursuant to Texas Transportation code, Chapter 706, you  
will be denied the renewal of your driver's license and additional fees until  
you have reached a satisfactory disposition on the outstanding violation.

May 17, 2007  
Municipal Court Judge

Harmon Taylor  
Defendant Signature/Date  
17 May  
AD 2007  
w/ court present  
w/ court the Court (State)

CITATION

No. 213470

Municipal Court  
717 FM 2821 W. Ste. 200  
Huntsville, Texas 77320  
(936) 291-5476

DL/ID Number <i>None</i>	State	Date <i>1-24-07</i>	Time <i>4:30 PM</i>
-----------------------------	-------	------------------------	------------------------

Race <i>W</i>	Sex <i>M</i>	Date of Birth <i>5-12-61</i>	Social Security Number <i>None</i>
------------------	-----------------	---------------------------------	---------------------------------------

Last Name <i>Taylor</i>	First Name <i>Harmon</i>	M.I. <i>Luther</i>
----------------------------	-----------------------------	-----------------------

Present Address <i>7014 Mason Dells Dr. Dallas TX 75230</i>	City <i>Dallas TX</i>	State <i>TX</i>	Zip <i>75230</i>
--	--------------------------	--------------------	---------------------

Permanent Address	City	State	Zip
-------------------	------	-------	-----

Home Phone <i>214-361-0401</i>	Work Phone	Other Phone
-----------------------------------	------------	-------------

Occupation <i>Lawyer</i>	School	ID#
-----------------------------	--------	-----

Employer <i>Self Employed</i>	Employer Address
----------------------------------	------------------

Violations(s) Charged

1. *No Drivers License*

2.

3.

Direction of Travel <i>NB</i>	Lane	Location of Violation(s) <i>I H 45 11 M M</i>
----------------------------------	------	--

Alleged Speed <i>76</i>	Speed Limit <i>65</i>	Weather <i>Rain</i>	Road Condition <i>Wet</i>	Traffic Condition <i>Med</i>
----------------------------	--------------------------	------------------------	------------------------------	---------------------------------

Vehicle Description				Registration	
Year <i>97</i>	Make <i>Dodge</i>	Model <i>Caravan</i>	Color <i>Blue</i>	State <i>TX</i>	Number <i>BH80SH</i>

Nature of Contact: <input checked="" type="checkbox"/> Traffic Stop	<input type="checkbox"/> Commercial Vehicle
<input type="checkbox"/> Accident	<input type="checkbox"/> Hazardous Chemical
<input type="checkbox"/> Other	

Additional Information/Warnings(s)  
*Speeding / LP Light*

Officer <i>B. Galle</i>	I.D. Number <i>245</i>
----------------------------	---------------------------

PROMISE TO APPEAR-THIS IS NOT A PLEA OF GUILTY

I understand that I must appear at the Municipal Court on or before ten calendar days from this date. Failure to appear or to satisfy a judgment ordering payment may result in a warrant, additional charges or renewal of your driver's license being denied. Additional information on BACK

X *Harmon Taylor*

VIOLATOR'S COPY

STATE OF TEXAS

VS

*Harmon Luther Taylor*

CITY OF HUNTSVILLE  
WALKER COUNTY, TEXAS

DEFENDANT: TAYLOR, HARMON LUTHER / CAUSE #: 213470 -01

On April 5, 2007 the Defendant in the above numbered and entitled cause appeared in Municipal Court and entered a plea of

NOT GUILTY. Case will be set on trial docket. *(By the Court)*

NO CONTEST / GUILTY and waived his/her right to a jury trial; and the Court, finds the Defendant GUILTY of the offense of DRIVERS LICENSE - NO LICENSE

Fine and Court Costs are assessed at \$ \_\_\_\_\_.

\_\_\_\_\_ withholds its findings and judgment is suspended for 90 days\*\*

IT IS ORDERED AND ADJUDGED as follows:

\_\_\_\_\_ Fine & Court Costs be paid on or before \_\_\_\_\_

\_\_\_\_\_ Fine & Court Costs be paid in full on or before \_\_\_\_\_

\_\_\_\_\_ Defendant must pay \$100.00 by \_\_\_\_\_ and a minimum of \$100.00 per month on or before the last business day of each month until paid in full beginning \_\_\_\_\_. NO EXTENSIONS.

\_\_\_\_\_ Community Service \_\_\_\_\_ hours (proof of completion) due on or before \_\_\_\_\_. (\_\_\_\_\_ Please check here if in lieu of fine)

\_\_\_\_\_ Alcohol Awareness Course(6 Hrs) must be completed and presented to the court on or before \_\_\_\_\_ (MUST BE A STATE CERTIFIED PROGRAM)

\_\_\_\_\_ Tobacco Awareness Course(6 Hrs) must be completed and presented to the court on or before \_\_\_\_\_ (MUST BE A STATE CERTIFIED PROGRAM)

\_\_\_\_\_ Driver's License suspension for \_\_\_\_\_ days

\*\*Deferred Disposition for 90 days. Court Costs in the amount of \$65.00 is due immediately. Special expense fees of \$ \_\_\_\_\_ due on or before \_\_\_\_\_. Defendant cannot have any subsequent charges within deferred period.

\_\_\_\_\_ Driver Safety Course(State Certified). Court costs & DSC Admin Fee in the amount of \$ \_\_\_\_\_ is due immediately. Failure to make payment will result in a warrant for the maximum fine and court costs.

\_\_\_\_\_ Other/Additional \_\_\_\_\_

\_\_\_\_\_ Reset to (\_\_\_\_\_) \_\_\_\_\_ at \_\_\_\_\_ AM / PM  
Failure to appear will result in a FTA and warrant ( Court / Def / Atty )

A TWENTY-FIVE (\$25.00) TIME PAYMENT FEE WILL BE ADDED TO ANY PART OF A FINE, COURT COSTS OR RESTITUTION NOT PAID ON OR BEFORE THE 31ST DAY AFTER THE DATE ON WHICH JUDGMENT IS ENTERED, pursuant to Article 51.921 of the Government Code.

IT IS FURTHER ORDERED AND ADJUDGED, that if the Defendant FAILS TO COMPLY with the orders of this judgment a CAPIAS PRO FINE WARRANT WILL BE ISSUED FOR HIS/HER ARREST AT A RATE OF \$50 PER DAY IF ARRESTED AND BE DENIED THE RENEWAL OF YOUR DRIVER'S LICENSE AND ADDITIONAL FEES, REMAINING IN EFFECT UNTIL YOU HAVE REACHED A SATISFACTORY DISPOSITION ON THE OUTSTANDING VIOLATION. NON COMPLIANCE FOR MINOR ALCOHOL VIOLATIONS WILL RESULT IN A 6 MONTHS SUSPENSION OF YOUR DRIVERS LICENSE.

April 5, 2007

*No. 07-1392  
EX D-10A*

Defendant Signature

Municipal Court Judge

*Refused*

*w/hold p res-dice  
w/hold the United States*

*5 April 4th 2007*

CAUSE NUMBER: 213470 -01

STATE OF TEXAS  
VS

IN THE MUNICIPAL COURT  
CITY OF HUNTSVILLE  
WALKER COUNTY, TEXAS

TAYLOR, HARMON LUTHER

=====

C O M P L A I N T

=====

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that HARMON LUTHER TAYLOR, hereinafter called Defendant, on or about the 24th day of January, 2007, and before the making and filing of this complaint, in the territorial limits of City of Huntsville, in the County of Walker, and the State of Texas, did then and there operate a motor vehicle upon a public street, to-wit: IH45 MILE MARKER 111 and the defendant did not have a valid Texas Driver's License as required by, Texas Transportation Code Section 521.021

AGAINST THE PEACE AND DIGNITY OF THE STATE OF TEXAS

*Colin D. O'Sell*  
\_\_\_\_\_  
Affiant

Sworn and subscribed before me a credible person  
the 5th day of April, 2007

*Leather Smallwood*

CLERK, Huntsville Municipal Court  
City of Huntsville  
Walker County, Texas



No. 07-139Z  
Ex D-106

1 conflict of law, the conflict on the choice of law, having  
2 reserved that my signature without prejudice and without the  
3 United States. Here is then another confirmation of  
4 additional proceedings in the Municipal Court, without a  
5 complaint having been filed or served.

6       During that time period, just to note this, I had asked  
7 about the venire. The Municipal Court assured me that I have  
8 would no venire, but instead would have a six member  
9 administrative advisory panel. The Court also informed me,  
10 at about 8:51 a.m, which would be 13:51 GMT, that the  
11 complaint would be delivered soon, which confirms again that  
12 there were already at least two proceedings that occurred in  
13 the Municipal Court without the filing or service of a  
14 complaint.

15       It's about 9:00 on April 5, 2007. In fact, it's  
16 9:09 a.m. local time, or 14:09 GMT, when I asked the  
17 Municipal Court if he would confirm in writing the orders  
18 that he had made viva voce. And his generic response was:  
19 "Maybe I will and maybe I won't".

20       It is also at or about that time that, handed to me by  
21 the clerk, who also signed this instrument, was the  
22 complaint, and here I refer to what's been marked for  
23 identification as Exhibit D-106. The cause number in that  
24 response was so far off the top of the original that it  
25 didn't photocopy real well, so I'll just state that it's what

**SHERRY STEPHENS, C.S.R.**

1 we think it is. It says: "Cause Number: 213470-01". The  
2 rest of it is legible. It's got the signature of Celia D.  
3 O'Dell, who is the clerk who handed this to me. There's a  
4 satisfactory signature representation by Heather Smallwood,  
5 and the seal of the Municipal Court, City of Huntsville, and  
6 I offer Exhibit D-106 into evidence.

7 MR. KLAS: Sorry, Your Honor. No objection.

8 THE COURT: D-106 is admitted.

9 (Defendant's Exhibit D-106 admitted.)

10 MR. TAYLOR: Just to make some observations as  
11 we get into the Motion to Quash, that the motion, now while  
12 we're on the document, there is no statute in here that  
13 charges any criminal offense. It's signed by the clerk, who  
14 is not a witness, and on the procedural side, Point One, this  
15 document was handed to me after the equivalent of three  
16 proceedings in the Municipal Court. We have the motions  
17 hearing, we have the arraignment, and we had what effectively  
18 was a mandamus regarding information that the Court wanted on  
19 Exhibit D-105, so three proceedings in the Municipal Court  
20 before this document ever shows up. This document being  
21 Exhibit D-106, the Complaint.

22 To identify the time specifically, it was 9:13 a.m.  
23 after three proceedings, where the complaint was handed to  
24 me, and again, I'm referring to Exhibit D-106.

25 Trial was held in that matter per the scheduled date.

## Texas Rules of Appellate Procedure

### 29.5 Further Proceedings in Trial Court.

While an appeal from an interlocutory order is pending, the trial court retains jurisdiction of the case and may make further orders, including one dissolving the order appealed from, and **if permitted by law**, may proceed with a trial on the merits. **But the court must not make an order that:**

(a) is inconsistent with any appellate court temporary order; or

(b) **interferes with or impairs the jurisdiction of the appellate court or effectiveness of any relief sought or that may be granted on appeal.**

TX R. APP. P. 29.5 (**emphasis** in original) (**emphasis** added).

### 29.6 Review of Further Orders.

(a) *Motion to review further orders.*

While an appeal from an interlocutory order is pending, **on a party's motion or on the appellate court's own initiative**, the appellate court may review the following:

(1) a further appealable interlocutory order concerning the same subject matter; and

(2) **any interlocutory order that interferes with or impairs the effectiveness of the relief sought or that may be granted on appeal.**

(b) *Record.*

The party filing the motion may rely on the original record or may file a supplemental record with the motion.

TX R. APP. P. 29.6 (**emphasis** and *emphasis* in original) (**emphasis** added).