

**ALAN L. YAFFE**  
ATTORNEY AT LAW

618 S. STAPLES, P.O. BOX 3067, CORPUS CHRISTI, TEXAS 78404  
(512) 882-3361 State Bar No. 22115800

March 17, 1987

The Honorable Joe A. Garza  
Presiding Judge  
Municipal Court  
City of Corpus Christi  
904 North Brownlee  
Corpus Christi, Texas 78401

Re: State of Texas vs.  
John R. Dumas  
Offense: Speeding  
Docket Number: 509670  
Citation Number: V-38947  
Date of Arrest: 3-3-87

Dear Judge Garza:

Enclosed herein please find copy of standard letter entering plea of NOT GUILTY in the above referenced offense. Please note that the second to last paragraph requests or demands a copy of the complaint or the accusatory pleadings in the above referenced cause with a self addressed, stamped envelope for the return thereof. Please be further advised that pursuant to said request our office received a call from a deputy municipal court clerk named Gloria, at 3:40 p.m. on March 16, 1987, stating as follows - "Same old thing, can't send copy of complaint without order from the Judge." I had assumed that this matter had been disposed of when the Court issued its order dated February 10, 1987, a copy of which is attached hereto entitled "Order directing Municipal Court Clerk to deliver copy of Complaint without Charge to the Defendant", pursuant to a hearing held on Tuesday, January 27, 1987, which covered the issue of whether or not a criminal Defendant was entitled to a copy of the accusatory pleadings against him free of charge at the commencement of the criminal proceedings. The Court apparently rules unequivocally as a matter of law that the Defendant was entitled to such copy as is evidenced by copy of the Order signed by your Honor.

Whereupon the same issue was confronted by the same Defendant in cause number 502546, which was resolved apparently by the Court issuing its Order of February 16, 1987, granting a continuance indefinitely to the Defendant with the intent of dismissal pursuant to the Speedy Trial Act because of the State's failure to abide by the Court's order.

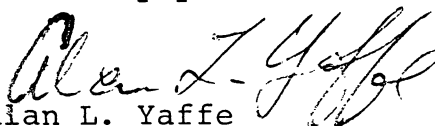
page two  
letter to Judge Joe Garza  
March 17, 1987

Very simply put, why are we as officers of the Court and the Defendants being subjected to a continuous disobedience of the Court's Order and a violation of the law. The Court ruled that the Defendant is entitled to these documents as a matter of law and to deny him such is a denial of due process of law and constitutes a criminal violation as set forth in Texas Penal Code, Section 39.01, official misconduct, wherein it is stated "a public servant constitutes an offense if with intent to harm another he intentionally and knowingly (1) violates a law relating to his office or employment same as a class "A" misdemeanor." Additionally, pursuant to Section 39.02(a) of the Texas Penal Code, "official oppression", (a) a public servant acting under the color of his office or employment commits as offense if he (1) intentionally subjects another to ...assessment...that he knows is unlawful; or (2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity, knowing that his conduct is unlawful. Under subsection (b), that statute states that for purposes of this section a public servant acts under the color of his office or employment if he acts or purports to act in any official capacity or takes advantage of such actual purported capacity. Such conduct constitutes a Class "A" misdemeanor.

How in the world can a Court of law operate under such circumstances and conditions as this? Who is running your Court? Why are the clerks of your Court not obeying your orders? Are you not the Judge, Presiding Judge of the Municipal Courts of the City of Corpus Christi and are not the clerks bound to obey the orders of your Court as issued? Is the executive branch of the City of Corpus Christi controlling the judicial branch? If it is this seems highly irregular, unethical, and illegal.

The continued violation of your Court's order will force the undersigned attorney to recommend to the appropriate authorities that this matter be investigated by the federal and state grand juries for possible criminal violations, a suit for mandamus, and possible injunctive relief by the state, and federal district courts. Also find attached hereto Motion for Dismissal due to violation of the Defendant's civil rights, precluding him from having a fair trial because of the denial of due process of law in the above entitled and numbered cause. Hoping that you act favorably on this motion, it may terminate this illegal conduct by the Clerks of the Municipal Court of the City of Corpus Christi.

Sincerely yours,

  
Alan L. Yaffe

ALY/jks  
enc.-letter of 3/13/87  
-order of 2/10/87  
-Motion & Order

ALAN L. YAFFE  
ATTORNEY AT LAW

618 S. STAPLES, P.O. BOX 3067, CORPUS CHRISTI, TEXAS 78404  
(512) 882-3361 State Bar No. 22115800

Date: March 13, 1987

Honorable Anita Garza  
Clerk of Municipal Court  
904 North Brownlee  
Corpus Christi, Texas 78401

Re: The State of Texas vs.

John R. Dumas

Offense: Speeding

Docket No: \_\_\_\_\_

Citation No: V-38947

Date of Arrest: 3/3/87

Officer: (illegible)

Dear Ms. Garza:

Please be advised that the undersigned attorney has been retained to represent the above Defendant in the above entitled and numbered cause. Please enter a plea of NOT GUILTY and APPEARANCE at this time. Please forward all notices of trial and/or hearing settings to the undersigned attorney at the above post office box.

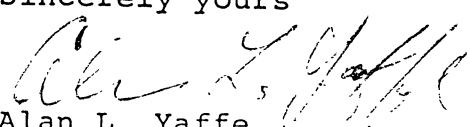
Please be further advised that oral notice of this appearance and entry of plea of not guilty was given by telephone to:

Name of Municipal Court Clerk: Esther  
on this date: 3/13/87

Also please be advised that we hereby demand a copy of the complaint or accusatory pleadings in the above referenced cause and find enclosed herein a self addressed stamped envelope for the return thereof.

Thanking you and with kindest regards, I remain

Sincerely yours

  
Alan L. Yaffe

ALY/jks  
enc.

THE STATE OF TEXAS

X  
X  
X  
X  
X

IN THE MUNICIPAL COURT

VS.

OF THE

CRANDLE LAMONT PRESNEL

CITY OF CORPUS CHRISTI

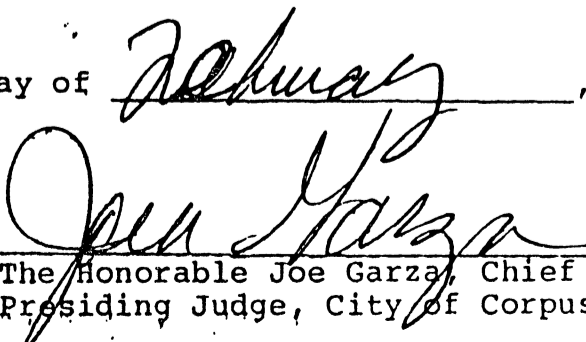
ORDER DIRECTING MUNICIPAL COURT CLERK TO  
DELIVER COPY OF COMPLAINTS WITHOUT CHARGE TO DEFENDANT

WHEREAS, the Motions of Defendant in the above entitled and numbered cause were heard on Tuesday, January 27, 1987, the issues involved in said motions being the authority or power of the City of Corpus Christi, by and through its City Attorney, City Manager, and Clerk of the Municipal Court, to charge at the inception of a criminal proceeding the Defendant, for a copy of the accusatory pleadings against him. The Defendant moved the Court, by written motion duly filed, that he was entitled by virtue of Article 1, Section 10 of the Texas Constitution, Article 1.05, 25.04, 45.07, 103.002, 102.051 of the Texas Code of Criminal Procedure that he was entitled as a matter of law, by virtue of these constitutional statutory rights to a free copy of the complaint, upon demand by himself or through his attorney, without charge, or diminuation, or infringement on said constitutional right.

The Court having head the evidence and arguments of counsel is of the opinion that Defendant's Motion is well taken, and that the Defendant, being a criminal Defendant, falls within the pervue of the aforementioned constitutional and statutory provisions and IS ENTITLED AS A MATTER OF LAW TO A FREE COPY OF THE COMPLAINT OR ACCUSATORY PLEADINGS FILED AGAINST HIM IN EACH CRIMINAL PROSECUTION;

THEREFORE, THE CLERK OF THE MUNICIPAL COURT IS HEREBY ORDERED TO FORTHWITH DELIVER TO DEFENDANT OR HIS ATTORNEY OF RECORD ONE FREE COPY OF THE COMPALINT FILED IN EACH OF THE ABOVE ENTITLED AND NUMBERED CAUSES, the Court having ruled that each criminal Defendant is entitled to one free copy of each accusatory pleadings against him in each criminal prosecution as a matter of law.

SIGNED this the 10 day of February, 1987.

  
The Honorable Joe Garza, Chief  
Presiding Judge, City of Corpus Christi

THE STATE OF TEXAS	X	IN THE MUNICIPAL COURT
	X	
VS.	X	OF THE CITY OF
	X	
JOHN R. DUMAS	X	CORPUS CHRISTI, TEXAS

MOTION TO DISMISS PROSECUTION WITH PREJUDICE

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes John R. Dumas, Defendant in the above entitled and numbered cause, and moves the Court to dismiss with prejudice the above entitled and numbered cause for the following good and sufficient reasons:

I.

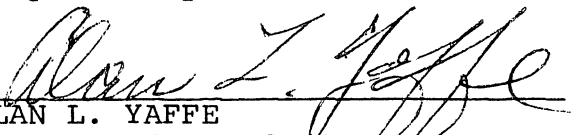
The Defendant has been denied due process of law by having been denied a copy of the accusatory pleadings against him which prevents him from preparing for trial. Such illegal conduct not being warranted by the State is in violation of the Constitution of the United States, the Constitution of the State of Texas, more particularly Article 1, Section 10 thereof, Articles 1.05, 25.04, 45.07, 103.002, 102.051, of the Texas Code of Criminal Procedure, and constitutes a denial of due process of law to which this Defendant and all other criminal Defendants appearing before this Honorable Court should not be subjected to.

II.

Such conduct warrants the relief requested herein in that this matter be dismissed with prejudice against the state's right to re-file, for which this Defendant now seeks.

WHEREFORE, PREMISES CONSIDERED, the Defendant in the above entitled and numbered cause moves the Court to dismiss the prosecution in the above entitled and numbered cause for the grounds stated therein, with prejudice.

Respectfully submitted,

  
 ALAN L. YAFFE  
 Attorney for Defendant  
 P.O. Box 3067, 618 S. Staples  
 Corpus Christi, Texas 78404  
 (512) 882-3361  
 State Bar # 22115800

ORIGINAL

CAUSE NO: 509670

THE STATE OF TEXAS

X  
X  
X  
X  
X

IN THE MUNICIPAL COURT

VS.

OF THE CITY OF

JOHN R. DUMAS

CORPUS CHRISTI, TEXAS

ORDER

WHEREAS, the Court heard the Motion of the Defendant, John R. Dumas, in the above entitled and numbered cause, this the \_\_\_\_\_ day of \_\_\_\_\_, 1987, and the Court being of the opinion that said Motion should be granted;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above entitled and numbered cause is hereby dismissed with prejudice to the right of the State to refile due to the grounds that the State has violated the Defendant's Constitutional rights and denied him due process of law.

SIGNED AND ENTERED this the \_\_\_\_\_ day of \_\_\_\_\_, 1987.

\_\_\_\_\_  
JUDGE PRESIDING

