



## Texas Department of Criminal Justice

Brad Livingston  
Executive Director

RECEIVED

MAY 06 2009

May 4, 2009

Bill Habern  
P.O. Box 8930  
Huntsville, Texas 77340

RE: Your emails dated 4-14-09 and 4-16-09, attached for easy reference.

Dear Mr. Habern:

I am in receipt of your emails concerning the collection of fines, fees and court costs.

The requirement to make payment of fines, fees and court costs is a condition of release and is on all releasing certificates. Specifically the condition states, *"I shall pay during the period of my supervision any and all outstanding fines, court costs and fees adjudged against me, to the clerk of the court of conviction and I agree to provide my Parole Officer with documentation verifying payment of said amounts."* You are correct, as a Division, we do emphasize the payment of all fees. However, this has been a statewide effort, not limited to the Houston and surrounding areas as you stated, and has been a common practice for years.

For clarification, the Parole Division does not act as a collector for fines, fees and court costs from a District or County Court. Our responsibility is one of simple referral and verification of payment. The Clerk of the convicting court is the collecting agent and determines what payments are owed as ordered by the court. Resolution of payment, indigent determination, and amount owed, are between the court and our clients. The client is responsible to resolve this issue directly with the court and provide documentation verifying payment of said amount to their supervising officer. The Clerk of the convicting court can notify the parole officer that the obligation to pay has been resolved or no longer exists or our client can provide the documentation to their supervising officer.

While this condition of supervision, as with other conditions, may result in progressive sanctions for the offender if not followed, I am not aware of any paroled offender being revoked solely for this violation. However, I am aware of progressive sanctions being utilized. Finally, I do not condone the behavior of someone from the county calling and threatening the issuance of a warrant they do not have the authority to issue. Any issues concerning the payment of fines, fees and cost associated with a criminal conviction or inappropriate behavior as you described, is a matter for the court of origin and should be directed to them.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stuart Jenkins".

Stuart Jenkins,  
Director, Parole Division

cc: Jay Patzke, Deputy Director, Parole Division  
Ivy Anderson York, Region Director, Region I  
Marcus Ramirez, Assistant Region Director, Region I

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*Our mission is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.*

Stuart Jenkins, Director of Parole Division  
8610 Shoal Creek Blvd.  
Austin, Texas 78757  
[www.tdcj.state.tx.us](http://www.tdcj.state.tx.us)  
(512) 406-5401



"William T. Habern"  
<hhabern@consolidated.net>  
>

04/14/2009 11:28 AM

To <stuart.jenkins@tdcj.state.tx.us>

cc

bcc

Subject Collection of fines, fees and costs in Harris and  
surrounding counties

History:

✉ This message has been forwarded.

Dear Mr. Jenkins:

We note that there is a serious effort to attempt to collect fines, fees and costs where the courts have **attempted** to impose such debts on offenders, many of whom are indigent. This seems to be limited to the area around Harris County. We understand that as a condition of parole your office is threatening revocation in the event efforts are not made to pay these fees.

I wish to point out based on a random review we have done of a substantial number of judgments and sentences which attach to indigent defenants have defective orders relating to such fines, fees and costs as they fail to contain findings that the offender is competent to pay such costs under 26.05(g) CCP. There is case law on this. See Mayer v. Texas, 274 SW3d 898 and Perez v. Texas, No. 07-08-0327-CR (Tx Appls - Amarillo 3-1-09; submitted to be published). Both these cases were won by our ex associate John Bennett.

I suggest that forcing the offenders to pay illegally imposed costs could place your agency in the line of liability in the event a class action would be filed over the issue. We are not saying at this time we are undertaking litigation over this issue, but we are looking into the possibility.

Yours truly,

Bill Habern



"Bill Habern"  
<hhabern@consolidated.net>  
>

04/16/2009 03:29 PM

To <Marcus.Ramirez@tdcj.state.tx.us>,  
<stuart.jenkins@tdcj.state.tx.us>  
cc "Debbie Bone" <dbone@parole.texas.com>

bcc

Subject Randy Joe Hunt 1437912

Mr. Ramirez:

I have not heard back from you regarding the problem with the alleged \$5,000.00 difference in the amount the district clerk claims and the judgment against Mr. Hunt recites as money owed to clerk's office. I have spoken with Mr. Collins at the Montgomery County collection office. They are calling Hunt approximately 5 times a day, and now are telling him they will have a blue warrant issued for his arrest for his failure to pay \$144.00. In fact Hunt is on house arrest, wears a leg monitor, and has no way to be employed. In addition, his judgment does not even contain the required judicial findings to allow collection under Art. 26.05(g) of the Tx Code of Crim. Procedure as explained in *Mayer v State*, 274 SW3d 898, and *Perez v State*, 07-08-0327-CR (sent by the court for publication on 4-14-09).

Calling Mr. Hunt 5 times a day is a violation of federal creditor rights protections, and I recall you telling me that blue warrants are not to be issued in these cases. (See the article in the Houston Chronicle today by Lisa Falkenberg. In that article Rissie Owens says no revocations will occur in these kinds of cases where indecency is involved). In fact, I am unable to locate a judgment in the last many years where the necessary findings of facts are placed in a judgment. I suspect that is because no one has actively attempted to collect these costs in the past. In fact, the only two cases under the cited article are those two I cite in this memo. Thus, according to the cases I have cited, absent the findings any of the fines, fees and costs are void, and have in the past been removed from the judgment.

Is there not something that can be done to resolve this issue without the need of my having to undertake litigation over such a matter?

I would appreciate a response.

Yours truly,

Bill Habern

Debby:

Please put a copy of this memo in the file of Mr. Hunt.