

Order dated September 19, 2016, in re: Model Local Rule 69.01 - Determining Indigent Status in Municipal Division Cases



SUPREME COURT OF MISSOURI

en banc

September 19, 2016

In re: MODEL LOCAL RULE 69.01 - DETERMINING INDIGENT STATUS IN MUNICIPAL DIVISION CASES

ORDER

1. The Court hereby approves for distribution the following model local rule:

69.01 DETERMINATION OF INDIGENT STATUS

(a) A person seeking permission to proceed as an indigent in a municipal division case shall submit to the court the following "Statement of Financial Condition."

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

Phone Number: _____ (Is it OK to text you at this number? Yes/No)

1) If you plead guilty or are found guilty, can you pay your fines and costs today? Yes/No

If you answered "No," why not? _____

If you answered "No" to Question #1, or if you want the court to consider your financial situation, please answer the following questions and provide the following information:

2) Are you currently in the custody of the Children's Division or DYS? Yes/No

3) Have you spent a night in jail during the past year because you were unable to post a bond?

Yes/No If "Yes," how much was your bond? \$ _____

4) Are you receiving public assistance? Yes/No If "Yes," please tell us what type of public assistance you are receiving (for example, food stamps, TANF, Medicaid, housing assistance, other types of public assistance): _____

5) Please list the following income from the **previous month** for your **entire household**:

Take home pay for the month including overtime and bonuses: _____

Social security income (including social security disability): _____

Workers' compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

7) Do you have cash, bank accounts, or any other assets, including vehicles or real estate free of debt, that totals more than \$5,000? Yes/No If "Yes," what type?

If you are facing the possibility of jail time and cannot afford to hire a lawyer, you are entitled to have a lawyer appointed by the court to represent you.

Do you want a lawyer to represent you in this case? Yes/No

Can you afford to hire a lawyer to represent you in this case? Yes/No

Are you asking the court to give you some more time to hire a lawyer? Yes/No

Are you asking the court to appoint a lawyer for you today? Yes/No

The above information is true and correct to the best of my knowledge under penalty of law.

Applicant

[The above form is for the Judge's use and does not replace the Legal Aid Application.]

(b) A person is presumed indigent if the person:

(1) Is in the custody of the Children's Division or the Division of Youth Services; or

(2)(A) Has unencumbered assets totaling under \$5,000, and

(B) Has total household monthly income below 125% of Federal Poverty Guidelines, which currently are:

- 1 household person: \$1,237
- 2 household persons: \$1,668
- 3 household persons: \$2,100
- 4 household persons: \$2,531
- 5 household persons: \$2,962
- 6 household persons: \$2,715
- 7 household persons: \$3,393
- 8 household persons: \$4,258

[Add \$433 for each additional person]

2. The state courts administrator shall provide copies of this order to every presiding circuit court judge and such other persons as the administrator deems appropriate.
3. It is ordered that notice of this order be published in the Journal of the Missouri Bar.
4. It is ordered that this order be published in the South Western Reporter.

Day – to – Day

PATRICIA BRECKENRIDGE
Chief Justice

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CHAPTER XV. - CONTEMPT OF COURT

Judge Mark S. Levitt

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Mark S. Levitt received his B.A. from Washington University and J.D. from the University of Missouri-Kansas City. He has served continuously as the Municipal Judge in the city of Rock Hill since 1985. He has been the Prosecuting Attorney for the city of Manchester since 1997. He was the President of the Missouri Municipal and Associate Circuit Judges Association in 2002-2003.

CHAPTER XV CONTEMPT OF COURT

15.1 INTRODUCTION

This chapter is not intended to be a complete treatise on the subject of contempt of court. Its purpose is to give a general understanding and background of the court's contempt powers. The reader should not let this chapter be a substitute for independent legal research, but rather should consider it a starting point for further study and research on this topic. In this spirit, the author suggests that a thorough reading of the case of McMillian v. Rennau, 619 S.W.2d 848 (Mo.App. W.D. 1981), which contains an excellent discussion of the law of contempt, is an appropriate starting place for research in the area of contempt.

Contempt of court is defined in Black's Law Dictionary, 4th Revised Edition, (1968), page 390 as "Any act which is calculated to embarrass, hinder, or obstruct court in administration of justice, or which is calculated to lessen its authority or dignity. Ex parte Holbrook, 133 Me. 276, 177 A. 418, 420. Committed by a person who does any act in willful contravention of its authority or dignity, or tending to impede or frustrate the administration of justice, or by one who, being under the court's authority as a party to proceeding therein, willfully disobeys or fails to comply with an undertaking which he has given. Snow v. Hawkes, 183 N.C. 365, 111 S.E. 621, 623, 23 A.L.R. 183."

The author believes that because of the nature of the court's contempt power, the court should, at all times, take extreme care in imposing and using the power of contempt of court, and that this power should be used extremely rarely and with great restraint.

See affiliated forms following this chapter:

MBB 15-02 Motion for Contempt

MBB 15-01 Show Cause Order

MBB 15-03 Judgment of Contempt

MBB 15-04 Warrant of Commitment for Contempt of Court

15.2 AUTHORITY OF MUNICIPAL COURTS

The authority for the judge of a municipal division of a circuit court in the state of Missouri to punish for criminal contempt of court is found in Rule 37.75 that was amended on December 23, 2003, eff. July 1, 2004. Rule 37.75 reads as follows:

Criminal Contempt

- (a) A criminal contempt may be punished summarily if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the judge's presence. The judgment of contempt and the order of commitment shall recite the facts and shall be signed by the judge and entered of record.

- (b) All other instances of contempt shall be prosecuted on notice. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a finding of guilt, the judge shall recite, in the judgment of contempt and in the order of commitment, the essential facts constituting the criminal contempt and fixing the punishment.

Courts of common law general jurisdiction have the inherent power to punish for contempt. However, since a municipal division of the circuit court is not a common law court of general jurisdiction, it is this author's opinion that the contempt power of a municipal judge of a municipal division is limited to the criminal contempt power expressly provided for in Rule 37.75, quoted above.

A municipal division does not have civil contempt powers. McMillian v. Rennau, 619 S.W.2d 848 (Mo.App. W.D. 1981); White v. Held, 269 S.W.2d 125 (Mo.App. E.D. 1954).

DIRECT CRIMINAL CONTEMPT

15.3 DEFINED AND CONTRASTED WITH CIVIL CONTEMPT

Direct criminal contempt deals with conduct or actions that are committed in the actual presence of the court while court is in session and that were actually seen or heard by the judge presiding. Generally speaking, "criminal contempt" results from actions directed against the dignity of the court that brings the court into disrepute by ignoring its judgments, by challenging its authority, or by affronting its majesty as an agent of government. Such contempt consequently affects all the people of the municipality and state.

Identifying the underlying concepts and purposes of civil and criminal contempt powers helps to understand how they differ. Civil contempt is generally intended to protect a party to the litigation, the party for whose benefit the judgment or decree was entered. Civil contempt provides a means to compel one party to the civil litigation to comply with the judgment entered in favor of the other party.

Criminal contempt, on the other hand, does not serve the function of aiding a litigant in achieving the relief granted, but instead protects the dignity of the court and the authority of the court's orders and decrees. The basis of criminal contempt is the intentional interference with the judicial process and the refusal to be bound by judicial orders. Criminal contempt springs not from the need to protect the litigant, but from the necessary power of the court to protect the judicial system established by the people. It has been said that without this power the courts are no more than advisory bodies to be heeded or not at the whim of the individual.

The following cases involve discussions regarding the criminal contempt. Teefey v. Teefey, 533 S.W.2d 563 (Mo. 1976); Saab v. Saab, 637 S.W.2d 790 (Mo.App. E.D. 1982); State, on Inf. of McKittrick v. Koon, 201 S.W.2d 446 (Mo. 1947); International Motor Company, Inc. v. Boghasian Motor Company, Inc., 870 S.W.2d. 843(Mo.App.E.D.1993); State ex rel. Tennenbaum v. Clark, 838 S.W.2d 26 (Mo.App.W.D.1992); Happy v. Happy, 941 S.W.2d 539

(Mo.App.W.D.1997); State ex rel. Picerno v. Mauer, 920 S.W.2d 904 (Mo.App. W.D.1996); State ex rel. Chassaing v. Mummert, 887 S.W.2d 573 (Mo.banc 1994).

Direct criminal contempt must consist of conduct that the judge certifies that he or she saw or heard and that was committed in his or her presence during a session of court. Conduct occurring at the clerk's office or in the hallway that does not actually disrupt the judicial proceeding or that occurs during a recess of the court is not an instance of direct criminal contempt. Rule 37.75(a).

Direct criminal contempt may be punished summarily; that is, the judge may hold the contemnor in contempt immediately and without the notice and hearing required for indirect criminal contempt, as will be discussed later in this chapter. Rule 37.75(a).

Direct criminal contempt generally consists of acts done in the presence of the court that tend to obstruct or interfere with the peaceful and orderly functioning of the court. A judge should not summarily punish for contempt a trivial act that does not actually tend to interfere with the peaceful and orderly functioning of the court or impede or embarrass the administration of justice. McMillian v. Rennau, *supra*.

But, false statements made by a witness, under oath, are not subject to summary punishment as indirect criminal contempt, although they may lead to a conviction on a criminal charge of perjury. State, ex.rel. Shepherd v. Steeb, 734 S.W.2d. 610 (Mo.App.W.D.1987).

The refusal of a defendant to give permission to the judge to use the defendant's name is not direct criminal contempt. The refusal of defendant was inconsequential. The court exceeded its jurisdiction by holding defendant in criminal contempt. In re Lomax v. Merritt, S.W.3d (Mo.App.S.D. 2005). This case also gives a lengthy discussion of the types of contempt and the requirements for a proper finding of contempt.

15.4 INTENT REQUIREMENT

The conduct of the contemnor must be intentional or at least demonstrate that the contemnor should reasonably be aware that the conduct is wrongful. Obviously, conduct such as cursing the judge constitutes direct criminal contempt and may be punished summarily and without giving the individual involved any advance warning because people should know that such conduct is wrong. However, it is generally a good practice, where possible, to warn an individual that his or her conduct is contemptuous, and that if the conduct continues, he or she will be held in contempt of court and punished for that contempt. If the conduct continues after warning, the judge is justified in summarily holding the individual in contempt and punishing immediately for that contemptuous behavior, as intentional contempt of the court's authority is then evident. McMullin v. Sulgrove, 459 S.W.2d 383, 388 (Mo. 1970); State ex rel. Wendt v. Journey, 492 S.W.2d 861, 864 (Mo.App. E.D. 1973); In Re Blankenship, 553 S.W.2d 307, 309 (Mo.App. W.D. 1977); U.S. v. Dowdy, 960 F.2d 78 (8th Circuit 1992).

15.5 PROCEDURE FOR IMPOSING PUNISHMENT

After determining that summary contempt is necessary, the court should advise the contemnor as to exactly what act or conduct is contemptuous, and the court should ask the contemnor whether he or she knows the act is contemptuous and if there is any reason or excuse for the act or conduct. If the court is satisfied that the act or conduct is contemptuous and that there is no reasonable excuse for the conduct, and once the order of contempt and order of commitment have been prepared, the court should read the account of the facts and circumstances constituting the contempt to the contemnor, afford the contemnor allocution if he or she is to be imprisoned, find him or her in contempt, and pronounce and impose the punishment. State ex rel. Burrell-El v. Autrey, 752 S.W.2d 895, 899 (Mo.App. E.D. 1988).

It is the opinion of this author, that the right to appointment of counsel in indigency situations, right to trial by jury, right to change of judge and right to change of venue, that generally apply in the indirect criminal contempt cases, do not apply in the context of direct criminal contempt. Because direct criminal contempt occurs in the immediate presence and hearing of the court, the court must take immediate action to protect the dignity and functioning of the court.

15.6 CONDUCT PROTECTED BY FIRST AMENDMENT

Where conduct occurs that is alleged to be contemptuous and a claim is made that the conduct is protected under the First Amendment to the United States Constitution, Freedom of Religion Clause, a balance must be struck between the court's power to preserve its dignity and the orderly functioning of the court and the individual's protection of First Amendment Freedom of Religion Rights. In such a case, a person claiming an infringement of the right to free exercise of religion has the burden initially, to show that there is a "religion" within the constitutional meaning of religion and that the conduct infringed is truly "religious" in nature. Although it is inappropriate to question the verity of a religious belief, the sincerity of the religious belief may be examined.

To demonstrate that there is a religion in the constitutional sense, that the conduct in question is truly religious, and that the religious belief is sincere, a person claiming the free exercise of religion is entitled to a "Threshold Hearing" to offer testimony and evidence. If a person claiming free exercise of religion develops and proves (or if judicial notice may be taken) that the religion is truly a religion within the meaning of constitutional principles, and the act or conduct in the courtroom is an essential tenet or an essential part of that religion, then the state or city bears a heavy burden to establish that the state's interest in maintaining dignity and decorum would override the interest of the free exercise of religion that might threaten public peace, order and safety. State ex rel. Burrell-El v. Autrey, 752 S.W.2d 895, 900-901 (Mo.App. E.D. 1988).

INDIRECT CRIMINAL CONTEMPT

15.7 DEFINED AND CONTRASTED WITH DIRECT CONTEMPT

As stated previously in this chapter, direct criminal contempt generally consists of acts done in the presence of the court that obstruct or interfere with the peaceful and orderly function of the

tribunal or constitute an open insult to the presiding judge's person in the court's presence. Indirect criminal contempt generally takes place outside of the actual presence and hearing of the court. It is an act, done at a distance that tends to degrade, obstruct, interfere, belittle, prevent, or embarrass the administration of justice. As with direct criminal contempt, a judge dealing with indirect criminal contempt must be mindful of the purpose of the court's contempt power, and not attempt to punish for contempt matters of a trivial nature or acts that merely irritate a judge but do not pose any threat to the functioning of the judiciary in general or to the particular court involved. Ryan v. Moreland, 653 S.W.2d 244 (Mo.App. E.D. 1983).

Contempt power should be used only when the judicial function is integrally threatened. The power to punish for contempt should be used sparingly, wisely, and with judicial restraint, and only when necessary to prevent actual, direct obstruction of, or interference with, the administration of justice. In Re Estate of Dothage, 727 S.W.2d 925, 927 (Mo.App. W.D. 1987); Fulton v. Fulton, 528 S.W.2d 146, 157 (Mo.App. S.D. 1975); McMillian v. Rennau, *supra*.

See In Re: Frank A. Conard, Respondent, 944 S.W.2d 191 (Mo. 1997). Although this is an original disciplinary proceeding before the Supreme Court of Missouri, there is a lengthy discussion of criminal contempt and the problems which might result if the judge exceeds his jurisdiction and becomes personally involved in the dispute. This case deals with civil vs. criminal contempt, disqualification of judge, and direct vs. indirect contempt. This judge was found guilty of misconduct in his official duties and was suspended without pay for thirty days.

15.8 SUMMARY PUNISHMENT PROHIBITED

Unlike direct contempt, indirect criminal contempt may not be punished summarily. The alleged contemnor is entitled to a hearing at which he or she can present evidence, be represented by counsel, and cross-examine witnesses. If there is a reasonable likelihood of jail time being imposed, the contemnor who is indigent and consequently unable to retain counsel should be provided with appointed counsel. Hunt v. Moreland, 697 S.W.2d 326, 329-330 (Mo.App. E.D. 1985). "Notice must be given to the alleged contemnor specifying the alleged acts of contempt that were supposed to be committed." See City of Pagedale v. Taylor, 831 S.W.2d 723 (Mo.App. E.D. 1992) and In Re Conard, *Supra*.

15.9 BURDEN OF PROOF

The burden of proof in an indirect criminal contempt proceeding is on the municipality. The alleged contemnor must be found guilty of the alleged contemptuous conduct beyond a reasonable doubt. The contemnor cannot be required to testify against himself or herself. Chemical Fireproofing v. Bronska, 553 S.W.2d 710, 714 (Mo.App. E.D. 1977); State ex rel. Pini v. Moreland, 686 S.W.2d 499, 501 (Mo.App. E.D. 1984); Osborne v. Purdome, 244 S.W.2d 1005 (Mo. 1952); State, ex.rel. Chassaing v. Mummert, 887 S.W.2d 573 (Mo.1994); Ramsey v. Grayland, 567 S.W.2d 682, 686 (Mo.App. E.D. 1978). There is no constitutional right to a jury trial so long as the jail sentence handed down by the judge does not exceed six months. Ryan v. Moreland, 653 S.W.2d 244, 248 (Mo.App. E.D. 1983).

15.10 GOOD FAITH AS MITIGATING FACTOR

In determining whether a person is guilty of contempt, the court can and should consider that person's good faith or lack of it. Although it is not a defense that the contemnor acted on the advice of counsel, or acted in good faith and on the advice of counsel, the court should consider such facts in mitigation of both the offense and the punishment. State on Inf. of McKittrick v. Koon, supra; Hoffmeister v. Tod, 349 S.W.2d 5, 18 (Mo. 1961).

15.11 DISQUALIFICATION OF JUDGE

If the indirect criminal contempt charged involves disrespect or criticism of the judge, the judge is disqualified to hear the matter except with the defendant's consent. Rule 37.75(b); State ex rel. Wendt v. Journey, supra. However, the mere fact that the judge is the instigator of the proceedings does not disqualify him or her to sit; also, a change of venue generally does not lie. The rules of criminal law generally do not apply because a proceeding for criminal contempt is sui generis and is controlled by its own rules. State ex rel. Wendt v. Journey, supra; Mechanic v. Gruensfelder, 461 S.W.2d 298, 309 (Mo.App. E.D. 1970). It has also been held that although the judge who issues an order might be expected to have some interest in insuring compliance with it and would have more knowledge of the circumstances that form the basis of the contempt, this interest does not in and of itself disqualify the judge from hearing the contempt proceeding. Ramsey v. Grayland, supra.

JUDGMENT

15.12 ORDERS TO BE IN WRITING

The order of contempt, as well as the order of commitment for contempt, should be in writing and should recite the actual facts constituting the contempt. Although, there is some authority for the proposition that a Warrant of Commitment that does not contain the specific facts constituting the contempt can be validated by specifically incorporating by reference the Order of Contempt (containing the proper recitation of facts) in the Order or Warrant of Commitment, this author believes the more prudent approach is to recite, in full, the facts constituting the contempt in BOTH orders as per the specific language of Supreme Court Rule 37.75. Bewig v. Bewig, 784 S.W.2d 823 (Mo. App.E.D.1990). In any event, a commitment is invalid where not supported by a valid Judgment of Contempt, since it is the judgment, not the commitment order, that provides the legal basis to detain an individual. Nesser v. Pennoyer, 887 S.W.2d 394 (Mo.1994). A judge should take care to recite, in detail, the facts and circumstances constituting the offense. Mere legal conclusions are not sufficient and would result in an invalid order that could be successfully attacked. Rule 37.75; Ex parte Brown, 530 S.W.2d 228, 231 (Mo. 1975), State ex rel. Barth v. Corrigan, 870 S.W.2d 458 (Mo.App.E.D.1994); Burton v. Everett, 845 S.W.2d 710 (Mo.App.W.D.1993).

In Re: Steven W. Brown, Petitioner, 12 S.W.3d 398 (Mo.App. 2000). In this Eastern District case, petitioner was held in contempt and incarcerated for failing to obey a court order for paying child support. He petitioned the court of appeals for a writ of habeas corpus arguing that the judgment of contempt and order of commitment are invalid because the trial court failed to

specifically find that he had the present ability to purge himself of contempt by paying the amounts due per the order in the dissolution. He further alleged that the judgment and order of contempt are invalid because they did not set forth the facts and circumstances that constitute the contempt on his part. The court of appeals granted the habeas corpus and ordered petitioner discharged from custody. It found that the failure of the trial court to set forth the facts and circumstances of his conduct which constitute contempt renders the court's findings mere conclusions insufficient to support the order of commitment. It further found that to require him to make a lump sum payment of over \$13,000.00 without finding specific facts to support the conclusion that he had the present ability to do so was legally insufficient.

AFFILIATED FORMS

See MBB 15-03 Judgment of Contempt and MBB 15-04 Warrant of Commitment for Contempt of Court following this chapter.

15.13 PROCEDURE FOR REVIEW

A finding of criminal contempt, whether direct or indirect, is not reviewable by a trial de novo or on a direct appeal, but may be tested for its legality only by a writ of habeas corpus, or if a fine is imposed, then by a writ of prohibition. Ramsey v. Grayland, supra; State ex rel. Burrell-El v. Autrey, supra; International Motor Company, Inc. v. Boghasian, Inc., 870 S.W.2d 843 (Mo.App.E.D.1993).

The initial determination of whether a writ should be granted is based on the contents of the order of contempt and the order of commitment. Therefore, a judge should take care to fully recite the facts and conversation as nearly verbatim as possible in both orders. Recitation of the proper facts in one order does not cure the defect of the other order not containing the proper recitals. Ex Parte Ryan, 607 S.W.2d 888, 891 (Mo.App. S.D. 1980); Rule 37.75. A judge should also make certain that the orders recite the facts needed to show that all essential elements of Rule 37.75 have been satisfied. This is true whether direct or indirect contempt is involved.

State of Missouri ex rel., Euclid Plaza Associates, L.L.C., Relator v. Honorable David C. Mason, ED80801, May 14, 2002. In this action, relator filed a petition for a writ of prohibition seeking to prohibit the enforcement of a contempt order entered by respondent. The Eastern District found that since Judge Mason's order did not specifically prohibit relator's actions, no action for contempt could lie. The judge exceeded his authority by finding relator in contempt. The preliminary order in prohibition was made absolute.

State of Missouri, ex rel., Rebecca Lepper, Relator v. Hon. Byron L. Kinder and Thomas J. Brown, III, Respondents, 14 S.W.3d 674 (Mo.App. 2000). In this Western District case, the wife claimed that she did not receive dissolution papers including parenting plan prior to signing the custody stipulation agreement. Following a hearing on the enforcement issue, her husband filed a motion for contempt. Trial court held a hearing and found her guilty of perjury and issued an order for contempt, fining her \$5,000.00. Relator sought a writ of prohibition. The court of appeals found that the trial court did not have authority to hold relator in contempt for perjury.

An untruthful witness may be charged with perjury, but not contempt. The trial court's judgment of contempt and fine exceeded its jurisdiction.

15.14 PUNISHMENT

The punishment entered by the judge for contempt should reflect the nature of the conduct involved. Criminal contempt may be punished by a fixed jail term or by the imposition of a set fine. The court may grant probation and thereby suspend execution of sentence entered by the court on such conditions as the judge deems appropriate under the circumstances of the case.



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

Judge or Division:	Case Number:	(Date File Stamp)
	Court ORI Number:	
City of _____		
vs.		
Defendant's Name/Address:		

Motion for Contempt

Comes now the undersigned and states that the defendant _____
 has committed an act constituting
 Direct Criminal Contempt of Court Indirect Criminal Contempt of Court on the _____
 day of _____, _____ by:

Wherefore, the undersigned prays the court to issue its order directed to the defendant to show cause why he/she should not be held in criminal contempt of court and punished therefore.

 Prosecuting Attorney

I certify that a copy of this motion has been mailed to the above named defendant and defendant's attorney, if applicable, by regular mail on: _____ (date).

 City Prosecutor



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

Judge or Division:	Case Number:	(Date File Stamp)		
	Warrant No.:			
Defendant's Name/Address:	Birth Date:	Social Security No.:		
	Offense Cycle No. (OCN):		Driver's License No.:	
	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Height:	Weight:	Race:

Warrant of Commitment for Contempt of Court

TO ANY PEACE OFFICER IN THE STATE OF MISSOURI:

On the _____ day of _____, _____, the above named defendant appeared before the Municipal Court of the City of _____ on a charge of

Direct Criminal Contempt Indirect Criminal Contempt;

a Show Cause Order having been duly served on defendant advising of the alleged contempt.

A hearing was held in open court on said charge of Contempt of Court and the Court makes the following findings:

The Defendant did not adduce sufficient evidence to rebut the above evidence, it has been accordingly ordered that the Defendant is found guilty of contempt of this Court and it is hereby ordered by this Court that said Defendant shall be committed to the Police Department of the City of _____ to their care, control and custody for _____ days commencing forthwith.

Therefore, you are commanded to take the defendant and to commit to the custody of the Police Department of the City of _____ to serve _____ days in jail.

_____ Date

_____ Municipal Judge

Officer's Return

I certify that I have served the warrant in the City of _____, County of _____, State of Missouri on the _____ day of _____.

Peace Officer



Judge or Division:	Case Number:
	Court ORI Number:
	Offense Cycle No. (OCN):
City of _____ vs.	
Defendant's Name/Address:	

(Date File Stamp)

Show Cause Order

- On court's own motion On Prosecuting Attorney's motion

The court previously sentenced the defendant to pay a fine and costs totaling \$ _____.

The court orders that the execution of fine and costs be stayed until the _____ day of _____, 20__.

The court orders that, in the event the fine and costs assessed are not paid in full by the above date, the defendant is to appear in court on _____ (date) at _____ (time) to explain why the defendant should not be held in contempt and imprisoned for nonpayment of said fine and costs.

WARNING: Failure to appear as directed may result in the issuance of a warrant for your arrest.

You are given notice:

1. The court will evaluate your ability to pay at the hearing;
2. You should bring any documentation or information the court should consider in determining ability to pay;
3. Incarceration may result only if alternative measures are not adequate to meet the State's interests in punishment and deterrence or the court finds you have the ability to pay and have willfully refused;
4. You have the right to counsel, and if unable to afford an attorney, the right to court-appointed counsel;
5. If you are unable to pay, you can request payment alternatives, including, but not limited to, community service and/or a reduction of the amount owed.

Pursuant to section 488.5025.1, RSMo, a time payment fee of \$25.00 may be assessed to any defendant who fails to pay a court ordered penalty, fine, or court costs within 30 days of the date the order was assigned.

If you have a disability requiring special assistance for your court appearance, please contact the court at least 48 hours in advance of scheduled hearing.

So Ordered:

_____ Date _____ Judge

Certificate of Mailing

I certify that this order was mailed on _____ (date) by first class mail to the above named defendant at the address listed above.

Seal _____ Date _____ Clerk _____

Sheriff's or Server's Return

- I certify that I have served the above order by: (check one)
- delivering a copy of the order to the defendant.
 - leaving a copy of the order at the dwelling place or usual abode of the defendant with _____, a person of the defendant's family over the age of 15 years.
 - other _____

Served in _____ (County), MO, on _____ (date) at _____ (time).

Sheriff's Fees

Fees \$ _____ N/A
Mileage \$ _____ (_____ miles @ \$ _____ per mile)
Total \$ _____

_____ Sheriff or Server
By: _____ Deputy



Judge or Division:	Case Number:
	Court ORI Number:
	Offense Cycle No. (OCN):

City of _____ vs.

Defendant's Name/Address:

(Date File Stamp)

<u>Charge Code/Description</u>	<u>Offense Date</u>

Plea of Guilty & Waiver of Counsel

I, the undersigned defendant, enter a plea of guilty to the charge(s) pending against me. By pleading guilty, I admit that I committed the offense(s) with which I am charged and that I have been advised of the following rights:

1. To a trial; to be present at my trial and question witnesses against me; to secure a court document ordering witnesses to appear in my defense and testify at my trial; to not testify at my trial and not have my silence held against me.
2. To be represented by an attorney; to have an attorney appointed for me if I am found by the judge to be indigent.
3. To be fully advised of the charge(s) to which I plead guilty.
4. To be fully advised of the minimum penalty provided by law and the maximum penalty provided by law.
5. To be fully advised that by pleading guilty, I waive my right to a trial.

I now have been advised of, and understand, that my plea of guilty will result in my giving up all of the above rights, and that I freely and voluntarily give up those rights, and I plead guilty to the above charge(s). I voluntarily and without the result of force or threats or promises, waive my right to counsel.

Understanding these rights, I waive my right to counsel and I plead guilty to the above charge(s).

_____ Date

_____ Defendant's Signature

The court finds that the defendant has been fully informed of the aforementioned rights, understands them and knowingly, intelligently and voluntarily waived these rights and the defendant pleads guilty to the above charge(s).

_____ Date

_____ Judge's Signature



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Waiver of Counsel

I request that the Court allow my waiver of attorney with full understanding that I am entitled to an attorney if I so desire, and with full knowledge and understanding of the following additional considerations:

1. That the offense charged is _____ with the punishment range of _____
2. That I have a right to be represented by an attorney and that, if indigent, and unable to employ an attorney, I have a right to request the judge to appoint an attorney to assist me in defending against the charge, and that the Court will appoint an attorney to assist me if it finds that I am indigent and not able to employ one.
3. That I have a right to a trial or trial by jury with assistance of an attorney to confront and cross-examine witnesses; that a guilty plea waives any right to a trial.
4. That I have the right to remain silent and not make any statement which may be used in the prosecution of the criminal charges filed against me.
5. I am aware that any recommendation by the prosecutor is not binding on the judge who may accept or reject such recommendation.
6. That if a guilty plea is entered or if found guilty by trial of the charge, the judge is most likely to impose a sentence of confinement in jail or prison.
7. That I have the right to appeal the Court's judgment (decision) or the jury's verdict should I exercise my right to trial and be found guilty.

The above rights have been read to me by the judge in open court. I understand these rights and request the court to accept my request of waiver of an attorney.

Defendant

On this date, the defendant personally appeared before me and was read the above information by me and stated these rights were understood and the defendant signed this request in my presence.

The Court finds that the defendant has made a knowledgeable and intelligent waiver of the right to assistance of an attorney.

Therefore, the Court accepts the defendant's waiver of right to representation by an attorney and further permits the defendant to proceed to trial without legal counsel.

Date

Judge