

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

GEORGE WEST, and
BRADY FULLER,
Plaintiffs,

v.

CITY OF SANTA FE, TEXAS; and CITY
OF HITCHCOCK, TEXAS;
Defendants.

Civil Action No. 3:16-cv-00309

DEFENDANT CITY OF HITCHCOCK'S OPPOSED MOTION TO DISMISS

Defendant City of Hitchcock moves for dismissal under FED. R. CIV. P. 12(b)(1) and (6) due to lack of jurisdiction and Plaintiffs' failure to state a claim upon which relief may be granted.

CERTIFICATE OF CONFERENCE

1. Defendant's counsel conferred with Plaintiffs' counsel regarding this motion. Plaintiffs oppose the relief sought herein.

DEFENDANT COMPLIED WITH THE COURT'S ADMINISTRATIVE
PROCEDURES REGARDING MOTIONS TO DISMISS

2. Defendant fulfilled the Court's administrative procedures attendant to filing a motion to dismiss. {Doc. Nos. 51, 53}.

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FACTUAL BACKGROUND

3. On May 13, 2014, Plaintiff George Anthony West drove through Hitchcock, Texas, with no valid drivers license and no motor vehicle liability insurance, {Ex. 1},¹ in violation of Texas law, just as he had on other days in the Cities of Santa Fe, La Marque, and Texas City. A police officer issued West a citation to appear in the Hitchcock Municipal Court to respond to allegations West had violated the Texas Transportation Code. {Ex. 1}. On May 13, 2014, West purchased an appearance bond from a private bail bond company and presented it to the Hitchcock Municipal Court. {Ex. 2}.

4. On May 27, 2014, having been informed in writing of his right to trial, West entered his appearance, waived his right to trial, and pled no contest to the charges of failing to display proof of financial responsibility and driving without a valid driver's license. {Ex. 3}. The Hitchcock Municipal Judge assessed fines on those judgments and agreed with West's request to pay his fines through monthly installment payments of \$100 beginning on June 27, 2014, and continuing until his fines were paid. {Ex. 3}.

5. West paid nothing by the due date of June 27, 2014 but he made \$100 payments on July 8, 2014, and August 18, 2014 by credit card. {Ex. 4}. West never made another payment and he failed to contact the Municipal Court to explain why he stopped paying,

¹ It is appropriate for a District Court to take judicial notice of public judicial records when considering Defendant's motion to dismiss, particularly because these records are central to Plaintiffs' claims. *See Papasan v. Allain*, 478 U.S. 265, 269, 106 S. Ct. 2932, 2935 n.1 (1986); *R2 Investments LDC v. Phillips*, 401 F.3d 638, 640 n.2 (5th Cir. 2005); *Gray ex rel. Rudd v. Beverly Enterprises-Miss., Inc.*, 390 F.3d 400, 408 n.7 (5th Cir. 2004). Therefore, the factual allegations before the Court consist of Plaintiffs' pleading allegations and relevant public governmental records. *See also Funk v. Stryker Corp.*, 631 F.3d 777, 780 (5th Cir. 2011); *U.S. ex rel. Willard v. Humana Health Plan of Texas, Inc.*, 336 F.3d 375, 379 (5th Cir. 2003); *Lovelace v. Software Spectrum Inc.*, 78 F.3d 1015, 1017-18 (5th Cir. 1996).

to request any alternative sentencing arrangement, or to ask for a hearing before the Municipal Court Judge to explain his failure or ask for forbearance. Long after West quit paying his fines, on October 8, 2014, the Hitchcock Municipal Judge issued Capias Pro Fine warrants for West's arrest, {Exs. 5, 6}, based on his failure to comply with the Judgment against him.

6. On November 3, 2016, while he had outstanding warrants for his arrest due to his failure to pay fines assessed against him, West filed suit against the City of Santa Fe, Texas, accusing the Santa Fe Municipal Judge of refusing to provide West with an indigence hearing West had never requested from the Santa Fe Municipal Court. Instead of, and certainly before, making any effort to obtain a hearing in the Santa Fe or Hitchcock Municipal Courts to address the warrants outstanding for his arrest, of which West was well aware, and before either municipality actually executed any warrant, West initiated litigation in federal court. Even after the Santa Fe Municipal Court specifically offered, in February 2017, to provide West with a hearing to address his claimed indigence, West refused to attend a hearing until after this Court addressed West's refusal in a status conference on September 18, 2017, {Doc. No. 34}, during which the Court discussed the issue of West's standing to sue.

7. On October 11, 2017, West appeared in the Santa Fe Municipal Court to address his claimed indigence. The Santa Fe Municipal Judge discovered at the hearing the Santa Fe Judgments underlying the fines against West had not been signed by a Santa Fe Judge. When the Santa Fe Municipal Judge informed the Municipal Court Prosecutor of this, the State agreed to dismiss all Santa Fe charges against West, which resolved all of the fines

that had been assessed against him and warrants for his arrest on charges in Santa Fe. However, West had still done nothing to address his fines in Hitchcock or the warrants for his arrest that had been outstanding in Hitchcock for three years.

8. Under TEX. CRIM. PRO. CODE ARTICLE 15.01, an arrest warrant is a written order from a magistrate directed to every peace officer commanding the officer to take the body of the person accused of an offense to be dealt with according to law. An arrest warrant issued by a magistrate in Texas extends to any part of the State of Texas and authorizes peace officers to execute the warrant anywhere in Texas. TEX. CRIM. PRO. CODE ARTICLE 15.06.

9. Consistent with undeniably valid warrants, Hitchcock peace officer detained West at approximately 3:00 p.m. on October 11, 2017, to assure his appearance in the Hitchcock Municipal Court the next day to address West's unexplained, unpaid fines. The Santa Fe Marshal did not commit any constitutional violation by performing police duties in accordance with Article 15 of the Texas Code of Criminal Procedure. In addition to providing statutory authority for the Hitchcock Marshal to detain and arrest West, the provisions of the Texas Code of Criminal Procedure, including Article 15.17, as well as Article 45.045(a), assured that West would be taken before a magistrate without unnecessary delay not later than 48 hours after West was arrested.

10. The following morning, at 8:52 a.m. on October 12, 2017, West entered his appearance in the Hitchcock Municipal Court, plead guilty to the charges pending against him in Hitchcock, and waived his right to appear before the Municipal Judge. {Ex. 8}. West was given a credit of \$829.40 for his overnight stay which fully satisfied all of his

Hitchcock fines and West was released from Hitchcock's custody on October 12, 2017, at 8:52 a.m. {*Ex. 9*}. West had never before been inside the Hitchcock lock-up and, within a few hours, all of West's charges and fines from Santa Fe and Hitchcock were eliminated. Like anyone else, West could have avoided arrest entirely by simply taking *some action* to deal with his many outstanding warrants before he was arrested. West's arrest by the City of Hitchcock Marshal based on probable cause does not provide West with any basis to prosecute a claim in this litigation under FED. R. CIV. P. 12(b)(1 or 6). *See Glenn v. City of Tyler*, 242 F.3d 307, 313 (5th Cir. 2001). Plaintiffs do not allege any facts suggesting Brady Fuller had any involvement with the City of Hitchcock at all.

ISSUES

11. Defendant moves the Court to dismiss both Plaintiffs' claims against Hitchcock because Plaintiffs lack standing to prosecute any claim based upon the operation of the municipal court, and, even if either had standing, Plaintiffs fail to allege facts to state a plausible claim for relief.

MOTION TO DISMISS STANDARD

12. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 1974 (2007)).

Determining whether a complaint states a plausible claim for relief will, [], be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.

But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged – but it has not “shown” – “that the pleader is entitled to relief.”

Id. at 1950 (quoting FED. R. CIV. P. 8(a)(2)) (internal citation omitted).

13. Although the federal pleading requirements are reasonably low, they are real and the threshold for stating a claim for relief requires factual allegations regarding each material element necessary to sustain recovery under an actionable legal theory. *Dartmouth Review v. Dartmouth College*, 889 F.2d 13, 16 (5th Cir. 1989). “Thread-bare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* A court is not required to accept mere legal conclusions as true, instead, a complaint “must be supported by factual allegations.” *Id.*

ARGUMENT AND AUTHORITIES

I. This Court lacks jurisdiction to police Hitchcock Municipal Court Operations.

14. “Especially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative.” *Eccles v. Peoples Bank*, 333 U.S. 426, 431, 68 S. Ct. 641 (1948). “Principles of comity and federalism, in addition to Article III’s jurisdictional bar, mandate that [federal courts] intervene in the management of state courts only in the extraordinary case.” *Society of Separationists v. Herman*, 959 F.2d 1283,1286 (5th Cir. 1992). The federal courts “should be hesitant to inhibit state judges from exercising the discretion that comes with their job by imposing costs solely to protect against a hypothetical risk of future harm. The practical concerns, combined with concerns of equity, comity, and federalism, tip the balance decisively in favor of restraint.” *Society of Separationists*, 959 F.2d at 1287.

15. This Court lacks jurisdiction to review the orders or operations of the City of Hitchcock Municipal Court. *See Sawyer v. Overton*, 595 F.2d 252 (5th Cir. 1979) (PER CURIAM). “The *Rooker-Feldman* doctrine acts to deprive a federal district court of subject matter jurisdiction to review a final state court decision arising out of a judicial proceeding unless a federal statute specifically authorizes such review.” *Evans v. Williamson County Government, Texas*, 2015 U.S. Dist. LEXIS 100270 *10 (W.D. Tex. 2015).

[F]ederal district courts lack jurisdiction to entertain collateral attacks on state court judgments. Constitutional questions arising in state proceedings are to be resolved by the state courts. If a state trial court errs the judgment is not void, it is to be reviewed and corrected by the appropriate state appellate court. Thereafter, recourse at the federal level is limited solely to an application for a writ of certiorari to the United States Supreme Court. The casting of a complaint in the form of a civil rights action cannot circumvent this rule, as absent a specific delegation "federal district courts, as courts of original jurisdiction, lack[] appellate jurisdiction to review, modify, or nullify final orders of state courts."

Liedtke v. The State Bar of Texas, 18 F.3d 315, 317 (5th Cir. 1994) (internal citations omitted).

16. The Fifth Circuit Court has “long held that a plaintiff may not collaterally attack state court proceedings by couching pleadings as a civil rights suit.” *Flores v. Bedard*, 1993 U.S. App. LEXIS 39726 * 2 (5th Cir. 1993); *see also Brinkman v. Johnson*, 793 F.2d 111, 113 (5th Cir. 1986). “Judicial errors committed in state courts are for correction in the state court systems, at the head of which stands the United States Supreme Court; such errors are no business of” lower federal courts. *Hale v. Harney*, 786 F.2d 688, 691 (5th Cir. 1986).

II. Plaintiff Brady Fuller lacks standing to prosecute a claim against the City.

17. Additionally, “[u]nder Article III of the Constitution, the federal courts have jurisdiction over a claim between a plaintiff and a defendant only if it presents a ‘case or controversy.’” *Okpalobi v. Foster*, 244 F.3d 405, 424 (5th Cir. 2001)(en banc). “This is a ‘bedrock requirement.’” *Id.* (quoting *Raines v. Byrd*, 521 U.S. 811, 818, 117 S. Ct. 2312 (1997)). “In this way, the power granted to federal courts under Article III ‘is not an unconditional authority to determine the constitutionality of legislative or executive acts.’” *Id.* (quoting *Valley Forge Christian College v. Americans United For Separation of Church and State, Inc.*, 454 U.S. 464, 471, 102 S. Ct. 752 (1982)).

18. Because Plaintiffs’ lengthy complaint consists primarily of broad, general assertions that do not have any actual connection to either of the two Plaintiffs in this case, the City moves to dismiss this suit for lack of subject matter jurisdiction. *See Allen v. Wright*, 468 U.S. 737, 104 S. Ct. 3315, 3324 (1984). The issue of subject matter jurisdiction requires analysis of whether the allegations by these Plaintiffs, in this suit, against this City, provide a Plaintiff with standing to pursue a claim and the record demonstrates the Court lacks jurisdiction over Plaintiffs’ claims against the City. *See Society of Separationists v. Herman*, 959 F.2d 1283,1286 (5th Cir. 1992).

19. Plaintiffs’ pleadings show they have not suffered any injury-in-fact from a deprivation of a federally protected interest that is concrete and particularized. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130 (1992). “In order to establish a case or controversy sufficient to give a federal court jurisdiction over their claims, plaintiffs must satisfy three criteria.” *Id.* (quoting *Lujan v. Defenders of Wildlife*, 504

U.S. 555, 560, 112 S. Ct. 2130 (1992). “First, they must show that they have suffered, or are about to suffer, an ‘injury in fact.’” *Id.* To show an injury in fact, a plaintiff must show “an invasion of a legally protected interest” that is both “concrete and particularized” as well as “actual or imminent, not conjectural or hypothetical.” *Lujan*, 504 U.S. at 560 (internal quotation marks omitted). The Supreme Court has “emphasized repeatedly” that an injury “must be concrete in both a qualitative and temporal sense.” *Whitmore v. Arkansas*, 495 U.S. 149, 155, 110 S. Ct. 1717 (1990). Such an injury must be “distinct and palpable, as opposed to merely [a]bstract.” *Id.* In other words, “the ‘injury in fact’ test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured.” *Sierra Club v. Morton*, 405 U.S. 727, 734-35, 92 S. Ct. 1361 (1972).

20. “Second, ‘there must be a causal connection between the injury and the conduct complained of.’” *Okpalobi*, 244 F.3d at 424. “Third, ‘it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.’” *Id.* “If any one of these three elements -- injury, causation, and redressability-- is absent, plaintiffs have no standing in federal court under Article III of the Constitution to assert their claim.” *Id.* “Past exposure to illegal conduct does not in itself show a present case or controversy... if unaccompanied by any continuing, present adverse effects.” *O’Shea v. Littleton*, 414 U.S. 488, 495-96, 94 S. Ct. 669, 675-76 (1974).

21. Plaintiffs have not, and cannot consistent with their duty of candor to the tribunal required under FED. R. CIV. P. 11, alleged facts which show that a case or controversy exists between Plaintiff Brady Fuller and the City of Hitchcock. Fuller has not been

detained in the Hitchcock lock-up or denied any hearing, or right to an attorney in any proceeding in Hitchcock. Therefore, this Court lacks jurisdiction over any claim by Fuller against Hitchcock.

III. Plaintiff George West lacks standing to prosecute a claim against the City.

22. The judicial records, of which the Court may and should take judicial notice, establish that Plaintiff George West never urged indigence in the Hitchcock Municipal Court. Instead, West voluntarily entered his personal appearance in the Hitchcock Municipal Court, plead guilty to the charges brought against him in Hitchcock, and West expressly waived – in writing - his right to appear before the Hitchcock Municipal Judge. {Ex. 8}. Other than his brief overnight stay in the Hitchcock lock-up on October 11th to 12th, 2017, West has never been detained in Hitchcock. West's written waiver plainly establishes he has no case or controversy against the City.

23. Moreover, West has never raised indigence in the Hitchcock Municipal Court. Thus, his purely theoretical claim of liability is not ripe. West did not file a single document claiming or even suggesting he was ever unable to pay the fines assessed against him. In fact, the record proves otherwise. West purchased an appearance bond, from a private bail bond company and submitted it to the Hitchcock Municipal Court. {Ex. 2}. West also made \$100 payments on July 8, 2014, and August 18, 2014, by credit card. {Ex. 4}. These facts do not suggest that West suddenly became so indigent he could not pay another cent of his fines for several years.

24. To have standing to assert a claim based on alleged indigence, West was obligated to **actually** appear in the Hitchcock Court and assert his indigence, *See Sorrells v.*

Warner, 1994 U.S. App. LEXIS 41508 *10-11 (5th Cir. 1994) and; *Howard-Barrows v. City of Haltom City*, 106 Fed. Appx. 912, 914 (5th Cir. 2004), but he never did so. West was not entitled to an indigence hearing before he appeared before the Hitchcock Municipal Court and West chose to waive appearing before the Hitchcock Court, so no case or controversy exists. *See Pederson v. City of Haltom City*, 108 Fed. Appx. 845, 848 (5th Cir. 2004).

25. Furthermore, on September 1, 2017, the Texas Legislature made sweeping changes to the provisions of the Texas Code of Criminal Procedure that pertain to municipal court operations which involve an individual who may actually be indigent. See Articles 27.14, 42.15, 43.05, 43.09, 43.091, 45.014, 45.016, 45.041, 45.045, 45.046, 45.048, 45.049, 45.051, 45.0491, and 45.0492. These provisions were available to West on the day he was detained and the day after when he chose to execute his waiver but West simply chose not to avail himself of any of them.² West has no case or controversy before this Court.

IV. Plaintiffs have not alleged facts which show that any City policy caused a constitutional violation.

A. The City cannot be held liable because no Plaintiff was deprived of a protected right.

26. Plaintiffs cannot state a claim against the City because no Plaintiff makes any allegation showing he was deprived of a constitutional right.³ When a plaintiff is not the

² Of course, as this lawsuit shows, West also has learned counsel was available to him to address his warrant, related arrest, and handling of his debt.

³ All of Plaintiffs' claims against the City of Hitchcock stem from complaints about Municipal Court actions and the results of them. There is no allegation any Plaintiff ate a Pop-Tart or TV dinner in Hitchcock, where the City actually provides Jack in the Box prepared meals to detainees.

victim of a deprivation, it is irrelevant whether a City policy would have authorized the alleged conduct. *City of Los Angeles v. Heller*, 475 U.S. 797, 811, 106 S. Ct. 1571, 1573 (1986); *Rios v. City of Del Rio*, 444 F.3d 417, 426 (5th Cir. 2006); *McKee v. City of Rockwall*, 877 F.2d 409, 414 (5th Cir.), *cert. den'd*, 493 U.S. 1023 (1990). Plaintiffs' allegations and the governmental records refute the assertion any fine was automatically converted into a jail term because every Plaintiff was provided accommodations permitting addressing the fines in accordance with *Tate v. Short*, 401 U.S. 395 (1971); *Burks v. Price*, 654 Fed. Appx. 670, 671-672 (5th Cir. 2016); *Jackson v. Herklotz*, 1998 U. S. App. LEXIS 40931 (5th Cir. 1998); *Sorrells v. Warner*, 1994 U.S. App. LEXIS 41508 *10-11 (5th Cir. 1994) (**a claimed indigent is obligated to appear and assert his indigence**); *Howard-Barrows v. City of Haltom City*, 106 Fed. Appx. 912, 914 (5th Cir. 2004); *Pederson v. City of Haltom City*, 108 Fed. Appx. 845, 848 (5th Cir. 2004)(**person is not entitled to indigence hearing before being detained**), or that the meals of which Plaintiffs complain, but do not assert were actually served to them, failed to meet constitutional standards. *See Green v. Ferrell*, 801 F.2d 765, 770-771 (5th Cir. 1986); *Doe v. City of Haltom City*, 106 FED. APPX. 906, 908 (5th Cir. 2004); *Pederson*, 108 Fed. Appx. at 848; *Carcia Guevara v. Haltom City*, 106 Fed.Appx. 900, 903 (5th Cir. 2004).

B. The City cannot be held responsible for Municipal Court actions.

27. “[A] municipal judge acting in his or her judicial capacity to enforce state law does not act as a municipal official or lawmaker.” *Johnson*, 958 F.2d at 94; accord *Krueger*, 66 F.3d at 77; *Harris v. City of Austin*, 2016 U.S. LEXIS 33694 *11-25 (5th Cir. 2016); *Doe*, 106 FED. APPX. at 908; *Carcia Guevara*, 106 Fed. Appx. at 902. The Fifth

Circuit “[C]ourt has repeatedly rejected this argument [otherwise] in analogous cases.” *Cunningham v. City of West Point*, 380 FED. APPX. 419, 421 (5th Cir. 2010).

C. Plaintiff’s failed to allege facts showing an unconstitutional City policy.

28. A city may only be liable under § 1983 if the execution of an unconstitutional policy authorized by the governmental unit’s policymaker caused a constitutional deprivation. *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 403, 117 S. Ct. 1382, 1388 (1997). “[U]nder § 1983, local governments are responsible only for ‘*their own illegal acts.*’” *Connick v. Thompson*, 560 U.S. 51, 60, 131 S.Ct. 1350, 1359 (2011). More simply, a city is not vicariously liable for its employees’ actions, *even if their acts are unconstitutional. Id.* Therefore, in order to support a claim against the City, Plaintiffs must allege facts showing: (1) an unconstitutional City policy which actually existed at the time of the incident; (2) an actual connection between the identified existing policy to the City through its policymaker; and (3) that a plaintiff was subjected to constitutional deprivation *because of* the execution of the particular City policy identified. *Id.*; *Bennett v. City of Slidell*, 728 F.2d 762, 767 (5th Cir.) (en banc), *cert. denied*, 472 U.S. 1016 (1985).

29. To avoid dismissal for failure to state a claim, “[t]he description of a policy or custom and its relationship to the underlying constitutional violation, moreover, cannot be conclusory; it must contain specific facts.” *Spiller v. City of Texas City*, 130 F.3d 162, 167 (5th Cir.1997). The City is entitled to insist that Plaintiffs clearly identify a specific unconstitutional policy for which the City’s policymaker could be held liable, *Piotrowski v. City of Houston*, 237 F.3d 567, 578-581 (5th Cir. 2001), and the Plaintiffs have

certainly failed to do so here.

D. Plaintiffs’ fail to allege facts showing the City’s policymaker deliberately maintained a known unconstitutional policy.

30. When “a plaintiff seeking to establish [governmental] liability on the theory that a facially lawful [governmental] action has led an employee to violate a plaintiff’s rights must demonstrate that the [governmental] action was taken with ‘deliberate indifference’ as to its known or obvious consequences.” *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 407, 117 S. Ct. 1382, 1390 (1997). “[P]roof of an inadequate policy, without more, is insufficient to meet the threshold requirements of § 1983.” *Gonzalez v. Ysleta Independent School District*, 996 F.2d 745, 757 (5th Cir. 1993). “[M]unicipal liability must be predicated upon a showing of ‘fault,’ not merely ‘responsibility.’” *Id.* Equally, negligence is insufficient to establish a constitutional deprivation. *Daniels v. Williams*, 474 U.S. 327, 328, 106 S. Ct. 662, 663 (1986); *Campbell v. City of San Antonio*, 43 F.3d 973, 977 (5th Cir.1995).

31. “[D]eliberate indifference’ is a stringent standard of fault, requiring proof that a [governmental] actor disregarded a known or obvious consequence of his action.” *Brown*, 520 U.S. at 410, 117 S. Ct. at 1391. To establish a claim here, Plaintiffs must allege facts which show not only an unconstitutional decision, but a decision by the City’s policymaker to violate the Constitution. *See Gonzalez*, 996 F.2d at 759. Plaintiffs’ allegations do not meet these requirements so their complaint fails to state a claim against the City. The Constitution provides protections from a governmental agency *causing a constitutional deprivation* but it does not, and could not, effectively require a

governmental entity to enact a transcendent policy that prevents law enforcement officers from using excessive force. *See Roberts v. City of Shreveport*, 397 F.3d 287, 293 (5th Cir. 2005); *Pineda v. City of Houston*, 291 F.3d 325, 333 (5th Cir. 2002).

E. Plaintiffs fail to allege facts showing that a City policy caused a Plaintiff to suffer a Constitutional deprivation.

32. Plaintiffs have failed to allege facts which show that the City policymaker's conduct was a moving force that caused a Plaintiff to suffer a constitutional injury. *See James v. Harris County*, 577 F.3d 612, 618-619 (5th Cir. 2009). Even if an unconstitutional City policy existed, liability inures to the City under § 1983 only when the execution of the City's government's policy actually *causes* a Constitutional violation, *Piotrowski*, 237 F.3d at 581, and there is no allegation in this case. "[I]t is not enough for a § 1983 plaintiff merely to identify conduct properly attributable to the municipality. The plaintiff must also demonstrate that, through its deliberate conduct, the municipality was the moving force behind the injury alleged." *Brown*, 520 U.S. at 404, 117 S. Ct. at 1388. To hold otherwise would be a clear departure from controlling precedent regarding municipal liability in a § 1983 claim; therefore, to subject a municipality to liability under § 1983, "[i]n addition to culpability, there must be a direct causal link between the municipal policy and the constitutional deprivation." *Piotrowski*, 237 F.3d at 579. It is crucial that the requirements of governmental culpability and governmental causation "not be diluted, for '[w]here a court fails to adhere to rigorous requirements of culpability and causation, municipal liability collapses into respondeat superior liability.'" *Piotrowski*, 237 F.3d at 579 (quoting *Snyder*, 142 F.3d at 798). Therefore, Plaintiffs'

claims against the City should be dismissed for this reason, in addition to the several other reasons identified in this motion.

CONCLUSION AND PRAYER

33. Since Plaintiffs lack standing to assert any claim, and Plaintiff fail to allege facts which state a claim for relief against the City, the Defendant moves the Court to grant this motion to dismiss this lawsuit, and afford the City all relief to which it is justly entitled in law and equity.

Respectfully submitted,

/s/ William S. Helfand
WILLIAM S. HELFAND
Attorney-in-Charge
SBOT: 09388250
NORMAN RAY GILES
SBOT: 24014084

OF COUNSEL:
LEWIS BRISBOIS BISGAARD & SMITH, LLP
24 Greenway Plaza, Suite 1400
Houston, Texas 77046
(713) 659-6767
(713) 759-6830 (Fax)
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served via hand delivery, electronic submission, facsimile, U.S. Mail, and/or certified mail, return receipt requested, on this the 14th day of February, 2018, to the following:

Trisha Trigilio
Rebecca L. Robertson
American Civil Liberties Union of Texas
1500 McGowen St., Suite 250

Houston, TX 77004
(713) 942-8966 fax
Email ttrigilio@aclutx.org
rrobertson@aclutx.org

/s/ William S. Helfand

Citation # 117719

* * * CITATION * * *

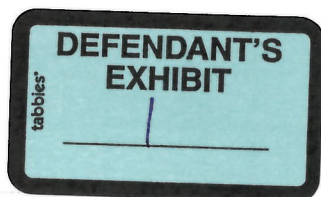
HITCHCOCK POLICE DEPARTMENT

VIOLATOR					
Name WEST, GEORGE ANTHONY					
Residence Address [REDACTED]					
City, State, and Zip LA MARQUE, TX 44568					
Race B	Sex M	Date of Birth [REDACTED]/1959	Height 5'07	SSN [REDACTED]	
Occupation RECYCLING		Employer (Name and Number) SELF EMPLOYED			
Work Phone [REDACTED]		Home Phone [REDACTED] 39		Other Identifiers	
DRIVER'S LICENSE					
State TX		Number [REDACTED]		CDL NO	
County HPD		Date 05/13/2014		Time 10:44 AM	
Location 6834 FM 2004 RD, HITCHCOCK					
Weather CLOUDY		Road Surface BLACKTOP		Traffic LIGHT	
School Zone YES (NO)		Haz Mat YES (NO)		Accident YES (NO)	
Alleged Speed 55		Radar YES (NO)		Permissible Speed 55	
Other Conditions					
VIOLATIONS CHARGED					
1) TC 521.021 NO DRIVERS LICENSE					
2) TC 601.191 (1) NO MOTOR VEHICLE LIABILITY INS					
3)					
4)					
VEHICLE LICENSE					
Number [REDACTED]		State TX		Year 2015	
Color WHITE	Year 1996	Model SILVERADO	Make CHEV	Type PK	
COURT INFORMATION					
<p>You are hereby notified to <u>appear</u> or <u>contact</u> the Municipal Court of the City of Hitchcock, located at 6815 2nd Street, City of Hitchcock, State of Texas, on or before the following date <u> </u>, 20<u> </u> to answer the above charges(s) against you. Prior payment of the fine for this violation may be made on or before the above contact date. <u>For a court date or extension you need to appear by contact date.</u></p>					
ISSUED BY					
Name ARREDONO, E. D.				Badge No. 908	

I hereby promise to appear at the time and place designated in this notice

Signature: *[Signature]*

THIS IS NOT A PLEA OF GUILTY



**IN THE HITCHCOCK MUNICIPAL COURT
APPEARANCE BOND**

**THE STATE OF TEXAS
COUNTY OF GALVESTON**

KNOW ALL MEN BY THESE PRESENTS

That we, George West as principal, and Gale Lillman DBA Gulf Coast Bail Bonds and the undersigned, as surety are held and firmly bound unto the State of Texas and the city of Hitchcock, in just and full sum of Six hundred eighty eight DOLLARS for the payment of which well and truly to be made, we bind ourselves, our heirs, our executors, and administrators and assign jointly and severally.

The conditions of the above obligation are such that, whereas the bond has been entered into by Hitchcock, who has been arrested on a charge of a misdemeanor in violation of the laws of the State of Texas, or Ordinances of the City of Hitchcock.

CHARGE No Driver's License BOND AMOUNT \$ 269.
CHARGE No Motor Vehicle Liability Ins. BOND AMOUNT \$ 419.
CHARGE _____ BOND AMOUNT \$ _____
CHARGE _____ BOND AMOUNT \$ _____
CHARGE _____ BOND AMOUNT \$ _____

Now if the said George West shall well and personally appear at the Municipal Court Clerk's office 6815 2nd Street, Hitchcock, Texas 77563, on or before ten (10) working days from the date of the bond being posted to set up a court appearance to answer for the aforesaid accusations against him to the above charges, or to pay his fine(s). This day being May 27, 20 14.

WITNESS OUR HAND, this 13 day of May, 20 14.

X George West Principal

X Edward D. Nishol

Principal's signature witnessed by

TS

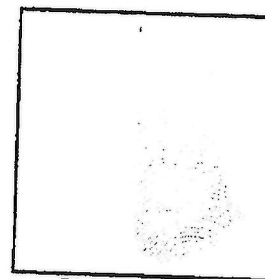
Address Lamarque, TX 77568 Phone _____

Taken, approved and filed on this, the _____ day of _____, 20 _____

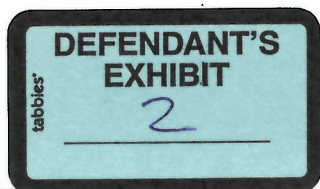
X [Signature]
Surety Signature
5324 Ball, Galv. TX (409) 762-0188
Address Phone

CLAY KENNELLY, CHIEF OF POLICE

by _____



Right Thumb Print



That the affiant desires and proposes to become a surety on the bond of George West Principal, in connection with a misdemeanor, and in order to induce the Chief of Police of the City of Hitchcock, Texas the official charged with the duty of approving or accepting said bond, to accept the bond of said Principal with the affiant and another or others as sureties thereon, makes the following statement concerning affiant's financial condition and with reference to properties owned by affiant to-wit:

That the affiant is the sole owner of the following described properties; that each piece of the same is presently of the market value set opposite each piece of the same; that the same is encumbered only to the extent and the amount set opposite each piece of said property, and that each piece of the same, after deducting the amount of the encumbrance shown from present market value thereof, has the net set opposite each piece thereof to-wit:

LOCATION AND DESCRIPTION	PRESENT MARKET VALUE	ENCUMBRANCE	NET VALUE
--------------------------	----------------------	-------------	-----------

That none of the property above described is affiant's homestead, and that affiant is not using, and does not intend to use the same, or any part thereof, for any homestead or business purpose. That no part of said property is exempt from forced sale under the laws of the State of Texas; that no part of said property is involved in litigation of any kind or character; that the title of the above described property is good of record and in fact in the affiant; that the affiant has never heard his title to any part of said property questioned by any person or corporation whomsoever, and that no part of the same is occupied by any person or corporation claiming adversely to the affiant.

Affiant further agrees that the above described property, all or part of the same, will not be transferred to any person or corporation during the period this bond is in force and effect, this bond constituting a lien on said property.

That the following is a full and complete list and statement of all bonds of every kind and character on which the affiant is a surety or principal, and the amounts of such bonds, to-wit:

That there are no abstracts of judgement recorded in Galveston County or elsewhere, against the affiant.

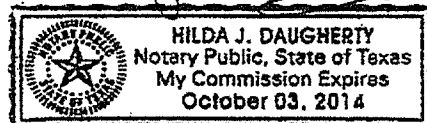
That the affiant makes this statement for the purpose of inducing the approval and acceptance of said bond with himself as a surety thereon, well know and believing that the making of this statement will induce the official charged with the duty of accepting and approving said bond to accept and approve the bond and all statements herein contained are true, SO HELP ME GOD.

[Signature]
Affiant - Surety

Subscribed and sworn to me this 13 day of May, 2014, by Gale Lilliman, Affiant.

Witness, my hand and seal of office this 13 day of May, 2014.

[Signature]
Notary Public in and for Galveston County, Texas



CAUSE NUMBER: 117719-02

STATE OF TEXAS

VS

GEORGE ANTHONY WEST

IN THE MUNICIPAL COURT

CITY OF HITCHCOCK

GALVESTON COUNTY, TEXAS

On this the 27th day of MAY, 2014, at the required time of this court, came the described cause to be heard, and the defendant,

✓ having been informed of his right to trial, entered his appearance and waived said right to trial by pleading NO CONTEST on FAIL TO SHOW PROOF OF FINANCIAL RESPONSIBILITY.

 was present in court and announced ready for trial, waived a jury and entered a plea of NOT GUILTY in open court; and after hearing the evidence and argument, and after due consideration of the same, this court finds the defendant (**guilty**) (**not guilty**) of the offense charged in the complaint in this cause.

and after hearing the evidence and argument, and after due consideration of the same, (**court**) (**Jury**) finds the Defendant (**guilty**) (**not guilty**) of the offense charged in the complaint in this case.

✓ It is therefore ordered and adjudged by the court that the State of Texas for the use and benefit of the CITY OF HITCHCOCK, Texas, due have and recover of the defendant the sum of 0.00, the fine assessed and all cost in this case incurred. 174.00 Authorized Deferred Adjudication: mm

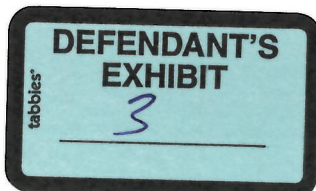
 It is therefore ordered and adjudged by the court that the defendant be committed to and remain in the custody of the Chief of Police of the CITY OF HITCHCOCK, until said fine and cost shall have been fully paid or otherwise discharged by law.

 The Defendant, being found **not guilty** is immediately discharged from all further liability for the offence which the Defendant has herein been tried, and the Defendant may go hence without payment of the cost.

M.W. [Signature]
Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas

On this the 27th day of MAY, 2014, this case is ordered dismissed on the grounds stated in the (State's) (**Defendant's**) motion noted in the minutes for this cause.

Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas



CAUSE NUMBER: 117719-01

STATE OF TEXAS

VS

GEORGE ANTHONY WEST

IN THE MUNICIPAL COURT

CITY OF HITCHCOCK

GALVESTON COUNTY, TEXAS

On this the 27th day of MAY, 2014, at the required time of this court, came the described cause to be heard, and the defendant,

✓ having been informed of his right to trial, entered his appearance and waived said right to trial by pleading NO CONTEST on NO DRIVER'S LICENSE.


 was present in court and announced ready for trial, waived a jury and entered a plea of NOT GUILTY in open court; and after hearing the evidence and argument, and after due consideration of the same, this court finds the defendant (**guilty**) (**not guilty**) of the offense charged in the complaint in this cause.

and after hearing the evidence and argument, and after due consideration of the same, (**court**) (**Jury**) finds the Defendant (**guilty**) (**not guilty**) of the offence charged in the complaint in this case.

✓ It is therefore ordered and adjudged by the court that the State of Texas for the use and benefit of the CITY OF HITCHCOCK, Texas, due have and recover of the defendant the sum of 200.00, the fine assessed and all cost in this case incurred, 146.00 Authorized Deferred Adjudication. *M.W.*

 It is therefore ordered and adjudged by the court that the defendant be committed to and remain in the custody of the Chief of Police of the CITY OF HITCHCOCK, until said fine and cost shall have been fully paid or otherwise discharged by law.

 The Defendant, being found **not guilty** is immediately discharged from all further liability for the offence which the Defendant has herein been tried, and the Defendant may go hence without payment of the cost.



Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas

On this the 27th day of MAY, 2014, this case is ordered dismissed on the grounds stated in the (State's) (**Defendant's**) motion noted in the minutes for this cause.

Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas

VS

CITY OF HITCHCOCK
GALVESTON COUNTY, TEXAS

GEORGE ANTHONY WEST

ORDER OF THE COURT FOR INSTALLMENT AGREEMENT

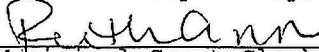
On this the 27th day of May, 2014, the Defendant, having been found guilty by the court/jury is assessed the following fine and court costs:

Citation #	Amount	Offense
117719 -01	\$294.00	NO DRIVER'S LICENSE
117719 -02	\$444.00	FAIL TO SHOW PROOF OF FINANCIAL RESPONSIBILITY

TOTAL AMOUNT DUE \$738.00

and agreed to pay the fine and cost at designated intervals. The Court, therefore, orders the Defendant to make payments as scheduled until the full amount is paid to the court. If the Defendant fails to comply, a warrant will be issued for the Defendant's arrest. The warrant will be for the remaining amount of the fine plus warrant fees.

Witness my signature and seal of office this the 27th day of May, 2014.


Municipal Court Clerk
CITY OF HITCHCOCK
GALVESTON, Texas

SCHEDULED PAYMENTS

PAYMENTS OF \$100.00 ARE DUE Monthly BEGINNING ON 06/27/2014 AND SHALL BE MADE THE TOTAL AMOUNT OF \$738.00 IS PAID IN FULL

No personal checks accepted.

The signature below certifies that the Defendant has been furnished a copy of this order with the schedule of the payments. I hereby acknowledge by my signature that I fully understand all the provisions of this order.


GEORGE ANTHONY WEST

Phone Number

MANDATORY TODAY: \$25.00 per violation. Senate Bill 1417 (Adds Subchapter K to VTCA Govt. Code Chapter 51) \$25.00 Time payment fee will be added to each outstanding case balance.

CITY OF HITCHCOCK MUNICIPAL COURT
6815 2ND ST
HITCHCOCK, TX 77563
(409) 986-9702 fax (409) 986-6260

CITY OF HITCHCOCK
409 986 9702

REC#: 00012396 7/08/2014 3:42 PM
OPER: RS TERM: 002
REF#:

ACCT #: XXXXXXXXXXXXXXXXXX
AUTH #: 000024
TRAN #: 000000000224
TOTAL: 100.00

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer.

pd by phone

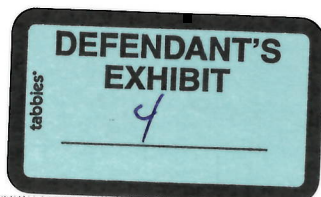
CITY OF HITCHCOCK
409 986 9702

REC#: 00012766 8/18/2014 9:19 AM
OPER: RS TERM: 002
REF#:

ACCT #: XXXXXXXXXXXXXXXXXX
AUTH #: 000029
TRAN #: 000000000387
TOTAL: 100.00

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer.

pd by phone



CAPIAS PRO FINE WARRANT

IN THE MUNICIPAL COURT
OF HITCHCOCK, TEXAS
GALVESTON COUNTY, TX

FINE/COST/WARRANT \$144.00
BOND SET: \$144.00
CITATION # 117719-01

WARRANT #117719
STATE OF TEXAS
VS
GEORGE ANTHONY WEST

Address: [REDACTED]
City/State/Zip: LA MARQUE, TX 44568
Date of Birth: [REDACTED] 1959
Social Security: # [REDACTED]
Driver's License: TX #16061516
Home Phone: #
Race: BLACK Sex: MALE

To any Peace Officer of the State of Texas:

GREETINGS:

YOU ARE HEREBY COMMANDED to arrest GEORGE ANTHONY WEST,
defendant, and bring him before the Municipal Court to be dealt with according to law. Said defendant has been accused
of the offense of:

NO DRIVER'S LICENSE

which is against the laws of the State of Texas, and against the city ordinances of said city.

Herein fail not, but due service and return of this warrant of arrest, showing how you executed the same.

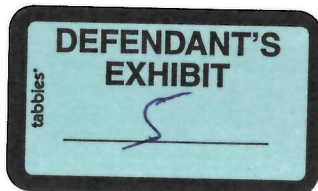
Signed this the 8th day of October, 2014.

R. M. Dailey
Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas

OFFICER'S RETURN

Came to hand _____ day of _____, 20____, at _____ o'clock __M and executed on the _____ day of
_____, 20____, at _____ o'clock ____M.
by _____

Officer's Signature



CAPIAS PRO FINE WARRANT

IN THE MUNICIPAL COURT
OF HITCHCOCK, TEXAS
GALVESTON COUNTY, TX

FINE/COST/WARRANT \$494.00
BOND SET: \$494.00
CITATION # 117719-02

WARRANT #117719
STATE OF TEXAS
VS
GEORGE ANTHONY WEST

Address: [REDACTED]
City/State/Zip: LA MARQUE, TX 44568
Date of Birth: [REDACTED] 1959
Social Security: # [REDACTED]
Driver's License: TX #16061516
Home Phone: #
Race: BLACK Sex: MALE

To any Peace Officer of the State of Texas:

GREETINGS:

YOU ARE HEREBY COMMANDED to arrest GEORGE ANTHONY WEST, defendant, and bring him before the Municipal Court to be dealt with according to law. Said defendant has been accused of the offense of:

FAIL TO SHOW PROOF OF FINANCIAL RESPONSIBILITY
which is against the laws of the State of Texas, and against the city ordinances of said city.

Herein fail not, but due service and return of this warrant of arrest, showing how you executed the same.

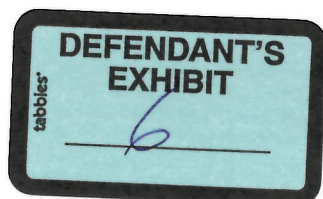
Signed this the 8th day of October, 2014.

R.M. Daily
Judge, Municipal Court
CITY OF HITCHCOCK
GALVESTON County, Texas

OFFICER'S RETURN

Came to hand _____ day of _____, 20____, at _____ o'clock ____M and executed on the _____ day of _____, 20____, at _____ o'clock ____M.
by _____

Officer's Signature



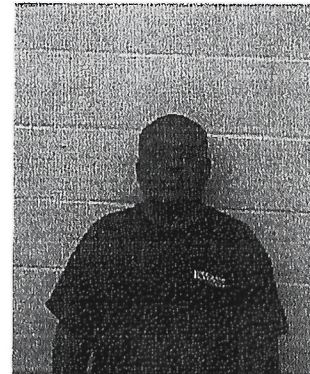
User: MALLEN,

HITCHCOCK POLICE DEPARTMENT

10/26/2017 16:58

BOOKING REPORT

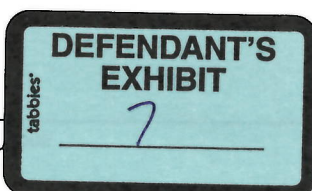
Booking # 300052	*JM300052*		Status Inactive
Date/Time 10/11/2017 15:20	Cell Location		
Booking Officer ALLEN, M. (7677)	Name ID 249516		
Fingerprint Officer ALLEN, M. (7677)	Prior Bookings 267282, 205171, 187847, 160620, 158169, 64548, 1316		
Search Officer ALLEN, M. (7677)	Security MIN		
Fingerprint N/A	Property Bins None		
INMATE INFORMATION			
Name WEST, GEORGE ANTHONY	Local ID (Names) 133463		
Address [REDACTED] LA MARQUE, TX 77568	Race B	Sex M	
	Hair BLK	Eye BRO	
DOB [REDACTED] 59	Age 58	Height 5'07	Weight 220
SSN [REDACTED]	Marital Status Divorced, 6 Dependents		Time Lived In Area Unk
Local ID (Jail) N/A	SID 02396195	FBI # 903694R11	
Juvenile Adult	Country of Birth United States		Citizenship United States
Employer Self Employed	Religion Unk		
Employer Address N/A	Employer Phone # N/A		
Attorney Unk	Attorney Phone # N/A		
AKA WEST, GEORGE ANTHONY; WEST, GEORGE			
Jail Alerts None			
CHARGES			

***IM249516***

Docket #	Date Arrested	Officer	Agency	Charge	Charge:	Bond:
					UCR Type Status	Amount Status Type
	10/11/2017	Allen, M.	HPD	NO DRIVERS LICENSE	99XX M MUNC	\$187.20 CTS FINE
	10/11/2017	Allen, M.	HPD	NO MOTOR VEHICLE LIABILITY INS	99XX M MUNC	\$187.20 CTS FINE

NOTES

Defendant arrested at Santa Fe Municipal Court on 2xcapias Hitchcock City Warrants w/o incident. Defendant transported to Hitchcock City Jail for processing.



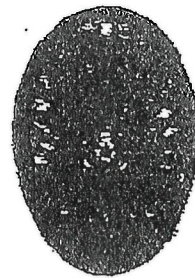


CITY OF HITCHCOCK

HITCHCOCK POLICE DEPARTMENT

6815 Second Street • Hitchcock, Texas 77563

Phone: 409-986-5559 • Fax: 409-986-9246



TIME SERVED

STATE OF TEXAS
COUNTY OF GALVESTON

IN THE MUNICIPAL COURT
CITY OF HITCHCOCK

APPEARANCE, PLEA OF GUILTY, AND WAIVER

In consideration of my not appearing in court, I, the undersigned, do hereby enter my appearance on the Affidavit for the offense(s) charged as listed below on this Notice and Waive the reading of the Affidavit in the above named cause and the right to be present at the trial of said action. I hereby enter a plea of Guilty and waive the right to prosecution, appeal, or error proceedings. I understand the nature of the charge(s) against me, I understand my right to have counsel, and I WAIVE my right to trial before a Judge or Jury. I plead Guilty to the charge(s), being fully aware that my signature to this plea will have the same effect as a judgement of this court and that a record of it will be sent to the State of Texas as a final conviction.

REPORT OF TIMED SERVED

I, Officer Sgt. M. Allen, do hereby attest and otherwise affirm that:

George Anthony West, identified, as the Dependant was lawfully incarcerated in the Hitchcock City Jail, for the offense(s) of:

1. No Drivers Lic 117719⁰¹ FT MFR-117719-02

3. _____ 4. _____

on the 11th day of October 2017. Same has remained in Jail and has been

given credit for time served in the amount of \$ 829.40 MA and has satisfied the fine or bond as required. 642.20

Defendant: West George Anthony
Last First Middle

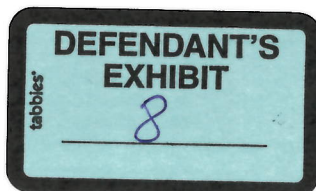
Defendant DOB: 1/1/1959

George West
Defendant

10-12-17
Date Released

Sgt. M. Allen
Releasing Officer's Signature
0852 AM/PM
Time Released

M.W. [Signature]
Municipal Judge's Signature



100.00/mth start 6/27/14

DOCKET: 117719

DEFENDANT: WEST, GEORGE ANTHONY

LA MARQUE, TX 44568

DOB: [REDACTED]/1959

DL#: [REDACTED]

DATE FILED: 5/13/2014

OFFICER: ARREDONDO, ELIUD D

APPEARANCE DATE: INSTANTER

	Offense	Fine	Fees	Total
01	NO DRIVER'S LICENSE	\$200.00	\$69.00	\$269.00 +25.00
02	FAIL TO SHOW PROOF OF FINANCIAL RESPONSIBILITY	\$350.00	\$69.00	\$419.00 +25.00

TOTAL AMOUNT DUE: 688.00

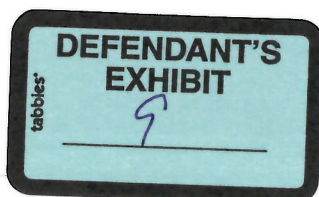
5/13/14 Posted Surety Bond
Appeared by 8/27/14

Total 738.00
100.00 pd 7/8/14
638.00
100.00 pd 8/19/14
538.00

Iss 10/3/14

117719 1. 144.00 + 43.20 = 187.20
2. 494.00 + 148.20 = 642.20
829.40

Time Served 10/12/17



COURT RECORDS AFFIDAVIT

Before me, the undersigned authority, personally appeared Municipal Court Supervisor Jamie Turner, who, being by me duly sworn deposed as follows:

My name is Jamie Turner. I am of sound mind, capable of making this affidavit, and am personally acquainted with the facts herein stated. I am a custodian of the court records of the Municipal Court of the City of Hitchcock, Texas. Attached hereto are 14 pages of court records from the Municipal Court of the City of Hitchcock, Texas. These court records are kept by the Municipal Court of the City of Hitchcock, Texas in the regular course of business, and it was the regular course of business of the Municipal Court of the City of Hitchcock, Texas for an employee or representative of the Municipal Court of the City of Hitchcock, Texas with knowledge of the act, event, condition, or opinion, recorded to make the court record or to transmit information thereof to be included in such court record; and the court record was made at or near the time or reasonably soon thereafter. The court records attached hereto are the originals or exact duplicates of the originals.

Signed this 26th day of October, 2017.

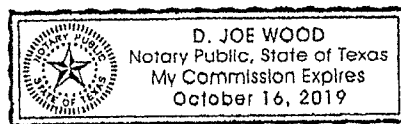
Jamie Turner
Affiant Jamie Turner

Sworn to and subscribed before me on the 26th day of October, 2017.

D. Joe Wood
Notary Public - State of Texas

My Commission Expires:

Oct. 16, 2019



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

GEORGE WEST, and
BRADY FULLER,
Plaintiffs,

v.

CITY OF SANTA FE, TEXAS; and CITY
OF HITCHCOCK, TEXAS;
Defendants.

Civil Action No. 3:16-cv-00309

ORDER

Defendant City of Hitchcock's motion to dismiss Plaintiff's claims is **GRANTED**.

It is therefore;

ORDERED that Plaintiff's claims against the City of Hitchcock, Texas are
DISMISSED WITH PREJUDICE.

SIGNED on this ____ day of _____, 2018.

GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE