



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

April 12, 1967

Honorable Tom Blackwell
District Attorney
Travis County
Austin, Texas

Opinion No. M- 58

Re: Whether a person who has been convicted in a justice court, and does not have the money to pay the fine and court costs is entitled to lay out the fine and court costs at the rate of \$5.00 per day, without being required to stay at least five days in jail.

Dear Mr. Blackwell:

In a recent opinion request of this office you submit the following question:

"When can the Sheriff release a prisoner as having satisfied a fine and court costs of less than \$25.00 on a justice court commitment, when the prisoner fails to pay the fine and costs as assessed?"

Article 43.09, Vernon's Code of Criminal Procedure, provides as follows:

"When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article; or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at five dollars for each day thereof; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the workhouse, or on the county farm, or on the public improvements of the county, or while he is serving his jail sentence, and in such instances he shall

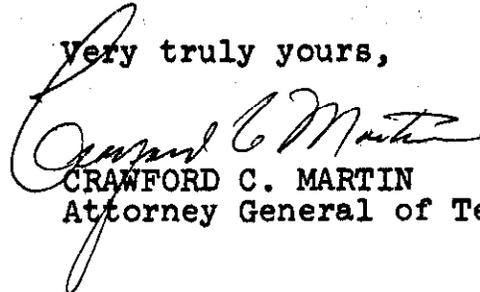
be entitled to a credit of five dollars for each day or fraction of a day that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him."

It is therefore the opinion of this office that the Sheriff is authorized to release a person who has been imprisoned in lieu of paying fine and court costs in an amount less than \$25, after the prisoner has discharged such fine and costs at the rate of \$5 per day, and less such time off as may be allowed by the Sheriff under Article 5118a, Vernon's Civil Statutes, providing for time off for good conduct.

S U M M A R Y

A Sheriff is authorized to release a prisoner who "lays out" his fine and court costs, the amount of which is less than \$25, after such prisoner spends the requisite amount of time to discharge the same at the rate of \$5 per day, less such good conduct time allowed by the Sheriff as permitted by law.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

TWM:lk

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Assistant Attorney General

APPROVED:
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