

THE CRAIG PRINCIPLE

The Inherent Flaw(s) in Standard Form Tickets and Citations

So for many years now, every bit of twenty, I've been espousing the notion that standard form tickets and citations fail to comport with pleading practice mandatory minimum requirements governing the content for such forms of action for various reasons. Rules of procedure state that a valid claim or complaint must include various requisite elements, including (a) the naked allegation which states the NATURE of the charge or complaint, (b) the CAUSE for the charge, which might take the form of verified statement of the facts alleged by officer or witness in support of the naked charge, (c) a jurisdictional statement, and (d) a demand for relief. Tickets and Citations generally provide only notice of the NATURE of the offense charged, while being inadequate notice and defective service of process for their failure to provide written notice of the other requisite elements mentioned.

What this means, is that standard form Tickets and Citations, generally speaking, are defective on their face, requiring dismissal without prejudice, or that they be amended to provide adequate notice of the requisite elements of a valid cause of action or controversy in law to provide sufficient notice to and apprise the accused of both the NATURE, as well as the CAUSE for the accusation so that he might reasonably be afforded an opportunity to construct his defense(s) or make an informed, intelligent and voluntary plea.

Recently a colleague came along and pointed out another irregularity in such forms of process that I had entirely failed to recognize despite the fact that I had been staring directly at it for nearly a quarter of a century. We all have a blind spot I suppose, and mine, with respect to this new revelation shall forever hereafter be referred to as the "Craig Principle," honoring my good friend, and respected colleague, Eddie Craig.

THE CRAIG PRINCIPLE

Improperly Endorsed Tickets and Citations

To initiate proceedings a valid claim or complaint must include the signature of the officer or witness, under oath, verified and attested, certified or notarized by a witness to that signature, being a notary or one authorized by law to administer oaths.

Whether or not an arrest is made, rules of procedure also require the prosecutor to reduce the accusation to a formal written complaint that must comport with those rules governing proper notice, to be served on the accused defendant before initial appearance or at arraignment.

So... who administers the oath, and witnesses the officer's signature at the side of the road when he drafts a ticket or citation, and signs it under penalty of perjury?

The rules of criminal procedure also say that they're to convert the ticket into a signed/ sworn complaint at the arraignment. So... on the rare occasion that the prosecutor does convert or reduce the accusation to a formal pleading, and attaches the original ticket as his evidence in support...

"I still have the exact same question WHERE is the signature of the person that administered the oath and VERIFIED the signature of the sheriff/deputy WHEN it was being signed? SOMEONE had to do that, and they had to be authorized BY LAW to do that. So, WHO was it, and WHERE were they when this thing was allegedly signed by this person? HOW could they have signed it under penalty of perjury on the side of the road when there is no one there that is authorized by law to administer an oath and to VERIFY the affixing of the signature to same?

If it [the ticket or citation] is going to be used as a sworn statement/affidavit of an offense OR as an official document for the purposes of evidence, then a PROPER jurat is required or it is NOT self-authenticating as it does NOT bear an official seal, which could be affixed ONLY by the person that administered the oath and VERIFIED the signature of the affiant.

If you are saying that they signed it later, at the sheriff's office, under penalty of perjury? If so, then the same question applies. WHO administered the oath and did the verification and are they authorized by law to do so?" - Eddie Craig

"The words in the Sixth Amendment, 'to be informed of the nature and cause of the accusation,' obviously refer to a person accused of crime, whether a felony or misdemeanor for which he is prosecuted by indictment or presentment, or in some other authorized mode which may involve his personal security."

U.S. v. Zucker 161 US 475, 481, 16 S. Ct. 641, 40 U.S. (L. ed.) 778

"Service of an appearance ticket on an accused does not confer personal or subject matter jurisdiction upon a criminal court."

People v. Giusti, 673 N.Y.S.2d 824, 176 Misc.2d 377 (1998)

"No valid conviction can occur if the charging instrument is void." State v. Wilson, 6 S.W.3d 504 (1998)

"Appearance ticket is not accusatory instrument and its filing does not confer jurisdiction over defendant." People v. Gabbay, 670 N.Y.S.2d 962, 175 Misc.2d 421 appeal denied 678 N.Y.S.2d 26, 92 N.Y.2d 879, 700 N.E.2d 564 (1997)