



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

February 25, 1972

Honorable W. G. Woods, Jr.  
District Attorney  
Liberty County  
P. O. Box 431  
Liberty, Texas 77575

Opinion No. M-1071  
Re: Entry of Judgment in  
Criminal Cases

Dear Mr. Woods:

This is in response to your recent inquiry in which you posed the following two questions:

1. Does the law require separate forms or drafts of judgments and sentences to be prepared for approval and signature of the trial court in felony cases separate and apart from the entry of the court's pronouncement of judgments and sentences in the minutes and the court's signature certifying to the minutes at the end of the term?

2. If your answer to my first question is affirmative, then whose duty is it to prepare such drafts of judgments and sentences for the court's approval and signature?

Article 37.12, Texas Code of Criminal Procedure, provides:

"On each verdict of acquittal or conviction, the proper judgment shall be entered immediately. . ."

Article 42.01, Texas Code of Criminal Procedure, defines a judgment as ". . . the declaration of the Court entered of record. . ."

Article 42.02, Texas Code of Criminal Procedure, defines sentence as follows:

"A 'sentence' is the order of the court in a felony or misdemeanor case made in the presence of the defendant, except in misdemeanor cases where the maximum possible

punishment is by fine only, and entered of record, pronouncing the judgment, and ordering the same to be carried into execution in the manner prescribed by law."

Unlike the procedure in civil cases contained in Rules 300 through 314, Texas Rules of Civil Procedure, the Code of Criminal Procedure is silent concerning the necessity of a separate written judgment and sentence in criminal cases. Review of the decisions of the Court of Criminal Appeals also reveals nothing determinate of whether the judgment of the Court may be announced orally and subsequently "entered" in the written record or must be first reduced to writing and signed by the Judge and then entered into the record. In Barber v. State, 374 S.W.2d 246, (Tex.Crim. 1964), the Court stated:

"While the action of the Clerk of the County Court in waiting as long as a year before performing the ministerial act of entering the judgment into the minutes of the Court is not to be condoned, we cannot agree that reversible error has been committed. The better practice seems to be to enter the judgment contemporaneously with its pronouncement, but delay in making the entry will not invalidate the judgment where no injury is shown to have resulted to the appellant." (Emphasis added.)

Although this case makes it clear that the actual entry of the judgment in the minutes of the Court is an obligatory duty of the Clerk, it apparently remains discretionary with the Court whether or not he should direct the clerk to also prepare separate written judgments and sentences to be filed among the papers in each cause. We find no authority for requiring counsel for the State (or the Defendant) to prepare such written documents.

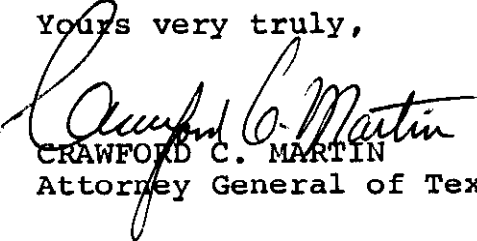
#### S U M M A R Y

In criminal cases it is discretionary with the Court whether judgments and sentences shall be announced orally and subsequently entered by the clerk or prepared in writing by the clerk

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and signed before being entered in the minutes.

Yours very truly,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Howard M. Fender  
Assistant Attorney General

APPROVED:  
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