**CAUSE**

**STATE OF TEXAS § THE 182nd DISTRICT COURT**

**VS § OF**

**Lee Defendant § HARRIS COUNTY, TEXAS**

**Motion to Waive Court Costs Due to Defendant’s Indigent Status/Insufficient Funds**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the Defendant in the above entitled and numbered cause, by and through his attorney of record, and pursuant to Article 43.091, Texas Code of Criminal Procedure, amended by Senate Bill 1913 in May 2017, presents this Motion to Waive Court Costs Due to Indigent Status/Insufficient Funds, and as grounds therefore, would show this Court the following:

**I.**

**OVERVIEW OF RELIEF REQUESTED**

The Defendant respectfully requests that at this juncture the Court waive all court costs associated with the above numbered cause. The Defendant is shown to have limited resources, so that an imposition of court costs would result in undue hardship. Therefore, the Defendant asks this Court to exercise its power under Article 43.091, Texas Code of Criminal Procedure, and waive all court costs.

**II.**

**COURTS HAVE STATUTORY AUTHORITY TO WAIVE COURT COSTS**

Senate Bill 1913, set to take effect September 1, 2017, amends Article 43.091 to read as follows:

“WAIVER OF PAYMENT OF FINES AND COSTS FOR CERTAIN DEFENDANTS AND FOR CHILDREN. A court may waive payment of all or part of a fine or costs imposed on a defendant if the court determines that:

1. The defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs ….”

In amending the statute this way, Senate Bill 1913 struck language that specified the Defendant must be one “who defaults on payment,” and conferred upon courts the authority to waive court costs at any time during the case proceedings, before a defendant reaches the point of default.

**III.**

**THE DEFENDANT’S INDIGENT STATUS/INSUFFICIENT FUNDS QUALIFY DEFENDANT FOR A WAIVER OF COURT COSTS**

` Art. 26.04(p) of the Tex. Code Crim. Proc. States, in pertinent part, that “a defendant who is determined by the court to be indigent is presumed to remain indigent for the remainder of the proceedings in a case….” Given this court’s finding of the Defendant’s indigent status/limited finances, the Defendant respectfully asks this court to adhere to its finding of indigency/limited resources and waive court costs at this time.

**IV.**

**REQUEST FOR A HEARING IN THE EVENT COURT COSTS ARE NOT WAIVED**

Further, without waiving the foregoing requests, the Defendant submits that should this Honorable Court fail to grant this request to waive court costs, that a hearing be held for the Court to make a finding of the Defendant’s financial circumstances, for the purpose of determining the amount the Defendant be ordered to reimburse.

**V.**

**CONCLUSION & PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that this Honorable Court will grant this, the Defendant's Motion to Waive Court Costs Due to Defendant’s Indigent Status/Insufficient Funds; or in the alternative, that this Court schedule this matter for a hearing on the merits and that at such hearing this Motion will be in all things granted.

Respectfully Submitted,

DEFENSE ATTORNEY

**CAUSE**

**STATE OF TEXAS § THE 182nd DISTRICT COURT**

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**Lee Defendant § HARRIS COUNTY, TEXAS**

**ORDER**

Having considered the Defendant’s Motion to Waive Court Costs, the Court, having considered such motion and the evidence in support of the motion, and arguments of counsel, and having found the Defendant indigent/lacking sufficient funds, it is hereby ORDERED AND DECREED that said Motion to Waive Court Costs be GRANTED, and that all court costs be waived in this cause.

SIGNED this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2017

\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE PRESIDING