

KENEDY COUNTY

JUSTICE OF THE PEACE, PCT. 4

Honorable Judge P. Fain



220 La Parra Ave./PO Box 8 ~ Sarita, TX 78385 (361) 294-5787

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General Trial Information

Trials conducted in the Justice of the Peace, Pct. 4, Kenedy County, Texas are in accordance with the due process requirements of the United States Constitution, Texas Constitution, and Texas Code of Criminal Procedure. Defendants may be represented by an attorney or may act “pro se” which in Latin term means that the defendant represents himself/herself at trial.

Article 1.05 of the Texas Code of Criminal Procedure states that a defendant cannot be brought to trial until after being formally charged with the offense in a complaint. The complaint is a sworn document which alleges the offense you are alleged to have committed and that your conduct was unlawful. Only the offenses alleged in the complaint may be brought to trial.

Types of Trials

Jury Trial – Jurors from Kenedy County, Texas, will be summoned to appear for service. The County Attorney for Kenedy County, also referred to as “the Attorney representing the State”, and defendant will have the opportunity to question the potential jurors to learn of any biases or prejudices present which could prevent a fair and impartial trial. The defendant and the prosecutor may each strike three (3) potential jurors from the voir dire. All cases tried in the Justice of the Peace, Pct. 4 Court will be heard by a petit jury which consists of six (6) persons.

Bench Trial – If a Defendant elects a Bench Trial, the Judge will hear and decide the case. The defendant and prosecutor will present his or her evidence to the Judge. The Judge then applies the appropriate law, weighs the evidence presented, and renders a verdict of guilty or not guilty. The Judge also assesses the defendant’s fine and orders the costs and fees to be paid by the defendant when the defendant is found guilty. If the defendant is found not guilty, the case is dismissed and no costs or fines are owed by the defendant.

Right to Examine Evidence / Discovery – Article 39.19 TX Code of Criminal Procedure gives the defendant the right to examine evidence which the State will present at trial.

In a “**Jury Trial**” a request for Discovery must be made not later than the 30th day before the date that jury selection in the trial is scheduled to begin.

In a “**Bench Trial**” without a jury, a request for Discovery must be made prior to the beginning of the scheduled trial.

Witnesses – You have the right to call witnesses to testify in your behalf at the trial and have the Court issue a subpoena to any witnesses to demand their appearance at the trial. A subpoena is a Court Order notifying the witness that he/she must be in Court for the trial. If a witness does not appear after receiving a subpoena, he/she may be cited with contempt and a warrant for the witness’ arrest may be issued. Requests for subpoena’s are due at least ten (10) days before trial and must be in writing or requested in person at the Justice of the Peace, Pct. 4, Kenedy County court.

Presenting the Case – As in all criminal trials, the State will present its case first by calling witnesses to testify against you. After each prosecuting witness has finished his testimony, you will have the right to cross-examine the witness. Your examination must be in the form of questions and you must not argue with the witness. Do not attempt to tell your side of the story at this time. You will have an opportunity to do so later in the trial. After the State has presented its case; you may present your case. You have the right to call any witness who has knowledge of the incident.

If you so desire, you may testify on your own behalf, but as a defendant, you may not be compelled to testify. It is your choice, and your silence cannot be used against you. If you do testify, the State has the right to cross-examine you. After all testimony is concluded, both sides can make a closing argument. This is your opportunity to tell the court why you think that you are not guilty of the offense charged.

The State has the right to present first and last arguments. The closing argument may be based only on the testimony presented during the trial. As stated previously, if you so desire, you may testify on your own behalf, but cannot be compelled to do so. It is your own choice and your silence will not and cannot be used against you.

The Verdict – If the Judge tries the case, the Judge’s decision is called a judgment. If a jury tries the case, the jury’s decision is called a verdict.

In determining the defendant’s guilt or innocence, the Judge or jury can consider only the testimony of witnesses and any evidence admitted during the trial. If you are found guilty by either the Judge or jury, the penalty will be announced at that time.

Fines – The amount of the fine the court assesses is determined only by the facts and circumstances of the case. Mitigating circumstances may lower the fine even if you are found guilty. On the other hand, aggravating circumstances may increase the fine. In no case may a fine exceed \$200 for a speeding violation, \$500 for other Class C offenses. State law mandates court costs. The court costs vary according to the offense. Court costs are assessed if you are found guilty of an offense and you will be given ten (10) days in which to pay your fine and court costs.

Right to Appeal – The Justice of the Peace, Pct. 4, Kenedy County, Texas is not a court of record. A defendant has the right to appeal a judgment conviction to the County Court as provided by Chapter 30, Texas Government Code, Subchapter V. To appeal, you must file an appeal bond with the Justice of the Peace, Pct. 4, Kenedy County, Texas twice (2x) the amount of the fine and court costs within ten (10) days of the date of judgment.

Attorneys – The Justice of the Peace, Pct. 4, Kenedy County, Texas does not appoint attorneys or lawyers as provided by law. You may hire an attorney to represent you in court and have the attorney file a letter of representation with the court.

Juveniles - If you are a juvenile or minor, and have an attorney representing you in court, you and your parent must still appear in court with your attorney.

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