

jlac...@deltacountymi.org  
<jlacarte@deltacountymi.org>  
unread,  
May 4, 2021, 2:08:15 PM



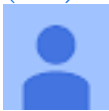
to madcm  
Good afternoon,

I recently had an Informal hearing. At the time of the hearing it was determined that the officer wrote the ticket for 8/11/2021. The date of incident actually occurred on 2/11/2021. As you know, a material defect is an error pertaining to the fact that is necessary to prove an element of the offense, or that attacks the essence of the complaint. Failing to specify the date of offense, or entering an incorrect date may be included in material defects. Since the date of 8/11/2021 hasn't yet occurred, I feel there should be no confusion if I believe the violation occurred on 2/11/2021. Do you agree? What do you do when officers enter an incorrect date on the ticket?

Thank you!

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Jeana LaCarte  
94th District Court Magistrate/Sobriety Court Case Manager  
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tanya.todd  
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to madcm@googlegroups.com  
Good question!

My magistrate manual says to "ask their chief judges what to do if a citation contains a material defect. The case may be dismissed without prejudice by the judge or

magistrate...and the citing officer may reissue the citation, or move to have it reinstated."

I'm not sure if there is a right/wrong answer, but I would be inclined to dismiss without prejudice and the officer has the option to reissue sans error. When possible, it doesn't hurt to give the public a break, especially if it is technically justified. But I think either way is fine. I just don't prefer guessing what officers "meant" to write on a ticket.

Tanya Todd

61st District Court Clerk of the Court

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*"Serve the public and serve each other with integrity."*

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**From:** [ma...@googlegroups.com](mailto:ma...@googlegroups.com) <[ma...@googlegroups.com](mailto:ma...@googlegroups.com)> on behalf of Jeana LaCarte

<[jlac...@deltacountymi.org](mailto:jlac...@deltacountymi.org)>

**Sent:** Tuesday, May 4, 2021 2:08 PM

**To:** madcm <[ma...@googlegroups.com](mailto:ma...@googlegroups.com)>

**Subject:** Material Defect Question



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Milroy,Michael

<michael.milroy@kentcountymi.gov>

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to madcm@googlegroups.com

As you will see from any and all responses, your decision is completely within your discretion. On the citation there is a dateline for the offense date and a dateline for the officer's signature. Is it wrong on both lines? The offense date is an element of the offense so technically the error is a defect. Material, your call. Any dismissal is without prejudice and the citation may be served again. I tend to proceed with the hearing, but address the date issue at time of hearing. Your staff will need to enter the correct date for SOS if defendant is found responsible. However, with the officer error I am reluctant to enter default if the defendant fails to appear for the hearing.

Michael J. Milroy

63<sup>rd</sup> District Court

**From:** [ma...@googlegroups.com](mailto:ma...@googlegroups.com) [mailto:[ma...@googlegroups.com](mailto:ma...@googlegroups.com)] **On Behalf Of** Jeana LaCarte

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jbpahl0824

<jbpahl0824@gmail.com>

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May 4, 2021, 9:33:19 PM

□

□

□

to MADCM

I dismiss for material defect.

Jim  
55th