

IN THE MUNICIPAL COURT OF APPEALS
OF THE CITY OF EL PASO, TEXAS

VALERIE CHACON

Appellant,

v.

STATE OF TEXAS

Appellee.

No. 10-MCA-3396

Ticket #: T0205097.1

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OPINION

Appellant appeals her conviction in Municipal Court for a speeding violation. A fine of \$50.00 was assessed.

Appellant contends that there is no Reporter's Record (formerly known as a Statement of Facts) before this Court because no notice was given by the Trial Court that such would be needed in the event of an appeal. She further contends that the Trial Court is under an affirmative duty to advise persons what steps need to be taken to perfect an appeal before the trial commences and that such failure was a violation of her due process rights.

She further contends that she was not afforded the opportunity to tell her version of the facts, which, by the way, would be revealed had a Reporter's Record been included. Her contention is that since she was a pro se litigant, that the Court has a greater responsibility to help people like her navigate through a complicated legal system.

Unfortunately, although a person has the right to retain an attorney to represent them in any prosecutions in Municipal Court, many people appear pro se, that is, they represent themselves in such cases. The Law is clear that if they do so, they do so at their peril. A pro se litigant is held to the same standard as an attorney would be if an attorney were handling the case. Lopez v. State, 96-MCA-2386 (Mun. Ct. Appeals). Appellant's contention that somehow

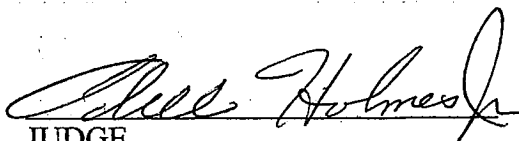
the Court has a further responsibility to assist a pro se defendant would make the Trial Judge an advocate for one of the parties appearing before him rather than a mutual and impartial Judge and fact finder.

There is no affirmative duty for the Trial Court to inform persons appearing before them of their right to a Record. Even though this Court is aware that most Judges do so in some form or fashion, the Law places the burden on the defendant to request a Record, otherwise, none is required. See Section 30.00130 Tex. Gov't. Code.

That is not to say, however, that had a Record been requested, and included in the Record before this Court, that the result of this case would be any different. A Record does allow this Court to review what evidence was actually presented, and to address questions relating to the admissibility of the evidence and/or the legal or factual sufficiency of the evidence that was presented. In this case, it could have reflected whether Appellant's contention that she was not allowed to present her defense was supported by that Record, but it could have shown the contrary.

Consequently, this Court holds that no error has been shown, and the judgment of the Trial Court is affirmed.


SIGNED this 26th day of August, 2010.


JUDGE

JUDGMENT

This case came on to be heard on the Transcript of the Record of the Court below, the same being considered, it is ORDERED, ADJUDGED and DECREED by the Court that the case be affirmed.

SIGNED this 26th day of August, 2010.


JUDGE