

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

HUGO SANCHEZ,

Appellant,

vs.

STATE OF TEXAS,

Appellee.

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OPINION

No. 09-MCA-3312
Ticket # T0085605.2

This Court's previous opinion issued June 29, 2009, is hereby withdrawn and the following substituted therefore.

Appellant appeals his conviction in Municipal Court for driving without a valid driver's license. A fine of \$61.00 was assessed.

Appellant contends that he has a Mexican driver's license, but just didn't have it at the time he appeared before the Court. Appellant has provided a photo copy of that license to this Court to support his contentions.

Appellant appeared before the Arraignment court and pled guilty to this offense and the Arraignment Court assessed the above fine. The Arraignment Court clearly has limited authority to accept a plea of guilty and to assess a fine without referring the case to a regular Municipal Court Judge for disposition.

This Court recognizes that a Mexican driver's license which was validly issued by Mexican authorities and effective on the date a person is cited is legal and entitles a Mexican citizen to drive legally on Texas roads, without obtaining a Texas driver's license. This privilege extends for a period of up to one year after the date of the person's entry into the United States. State law, namely provisions in the Transportation and Administrative Codes, also provides for an individual with a driver's license issued by another state or nation to be granted driving privileges in Texas.

See DRIVING ACROSS THE BORDER: DRIVER'S LICENSES AND FINANCIAL RESPONSIBILITY ISSUED IN MEXICO, THE RECORDER*, VOLUME 16-2007, THE JOURNAL OF THE TEXAS MUNICIPAL COURTS, PUBLISHED BY THE TEXAS MUNICIPAL COURT EDUCATION CENTER, BY JESSICA MARSH. *

That article identifies two federal treaties, the United Nations Road Traffic Convention and the Convention on the Regulation of Inter-American Automotive Traffic as the primary basis for such authority.

In addition, the Tex. Transp. Code, Section 521.030 and the Texas Administrative Code, 37 TAC Section 5091(C) (2007) also provide for an individual with a driver's license issued by another state or nation to be granted driving privileges in Texas and represents the State's codification of the above identified treaties into Texas law. However, the Texas statute incorporates additional restrictions requiring that a non-resident must be 18 years of age or older to drive vehicles as permitted by a Class A or Class B driver's license, and must be 16 years of age or older to drive vehicles permitted to be operated with a Class C or Class M driver's license. It is also required that the nonresident state or country of residence recognize driver's license issued by Texas.

Therefore, Municipal Court must make the following determinations in deciding whether a person is legally driving with a Mexican driver's license. First, the Court must determine the age of the person and determine if he is age appropriate for the type of driver's license involved as indicated above. Second, the Court must determine how long the individual has been driving in Texas because the nonresident may only use their driver's license in Texas for a period of one year. Third, the Court must decide whether the person is just visiting Texas or has relocated here

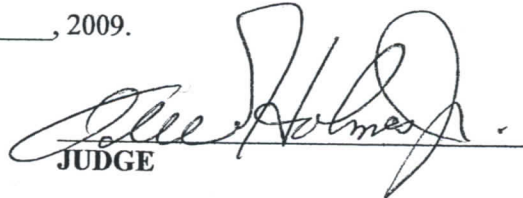
*The Recorder is an excellent resource for Municipal Court Judges. That resource can be accessed on the Texas Municipal Court Education Center website at www.tmcec.com.

permanently. If the person has been driving in Texas for more than a year or it appears that he has moved to Texas permanently, then he would need a Texas driver's license.

Turning now to the issue before this Court, Appellant was cited for not having a driver's license on December 6, 2008. A copy of the Mexican license which he has presented to this Court shows the date of issuance as 08/01/2009. This Court mistakenly believed that that date reflected that his license had been issued on August 1, 2009, and held that it did not present a defense because it was issued a substantial amount of time after he was cited. After it was called to the attention of this Court that the August 1, 2009, date had not even occurred at the time of the issuance of the opinion, the Court reviewed its holding, and upon further inquiry, discovered that the date cited on the Mexican Driver's License is read differently in Mexico. That is, the 08 represents the day, the 01 represents the month, and of course the 2009 represents the year unlike such numerical designation of the date in the United States is read. Therefore, the date of issuance of Appellant's license was actually on January 8, 2009, but again, was clearly after the date he was cited. Clearly the proof offered by Appellant fails to establish a defense to the present charge, that is, that he had a valid Mexican driver's license at the time he was cited. That fact, coupled with the fact that he pled guilty to this charge, suggest to this Court that Appellant is attempting to raise a defense after the fact.

Having found no error, the judgment, therefore, of the Trial Court is affirmed.

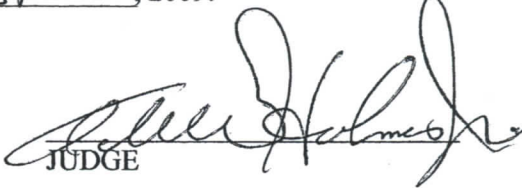
SIGNED this 4 day of August, 2009.


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 4 day of August, 2009.


JUDGE