IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

RAMON JEAN MARIE,	§	
Appellant	§	
vs.	§	90-MCA-2079
STATE OF TEXAS,	§	
Appellee	§	

OPINION

Appellant appeals his conviction in Municipal Court after a jury trial in Municipal Court for a speeding offense.

It should be noted that no Statement of Facts is included in the record before this Court, and nothing in the record indicates Appellant timely requested a court reporter as required by Chapter 30, Subchapter B, Section 30.040(b). Therefore, this Court is not in a position to rule on Appellant's numerous complaints relating to objectionable evidence or the sufficiency of the evidence presented. This Court has held on numerous occasions that those questions cannot be reviewed without a Statement of Facts. Paoli v. State, 83 MCA 98 (Mun.Ct.App.); Covey v. State, 85 MCA 1262 (Mun.Ct.App.); Quezada v. State, 88 MCA 1940 (Mun.Ct.App.); Beck v. State, 583 SW2d 338 (Tex.Cv.App. 1979).

The same is true about Appellant's attack on the denial of

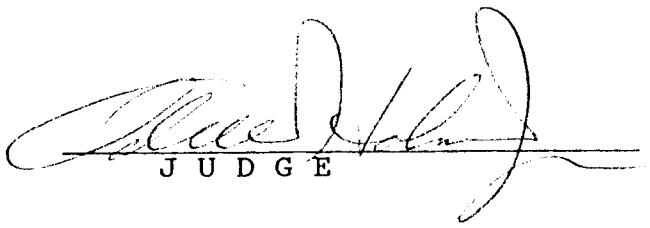
making an opening statement or objections to the Court's charge. This Court cannot review whether or not any harm was done as a result of not allowing Appellant to make an opening statement, even if Appellant requested such right before the Trial Court. As far as Appellant's objection to the Court's charge, the instruction given that a person arrested, confined or indicted or otherwise charged with an offense gives rise to no inference of guilt at his trial, is used to benefit a person charged with an offense. It is given so that the Factfinder, in this case the jury, is not mislead that the mere charge itself gives rise to any inference or presumption of guilt, but requires the State to prove the Appellant's guilt beyond a reasonable doubt.

Lastly, Appellant contends that he was denied the right to be represented by an attorney. There is no showing in this record that Appellant ever requested the appointment of counsel, or any indication that Appellant was indigent, but more importantly, Appellant is not entitled to an attorney for an offense for which a possible punishment is by fine only. Scott v. Illinois, 440 U.S. 367, 59 LE2d 383 99 S.Ct.526.

Appellant has also asked this Court to assess Five Thousand Dollars ($5,000.00) in damages, which this Court has no authority or jurisdiction to do.

Having found Appellant's points of error to be without merit, and that no reversible error occurred in the trial of this case, the Judgment of the Trial Court is affirmed.

SIGNED this 12 day of Feb, 1991.

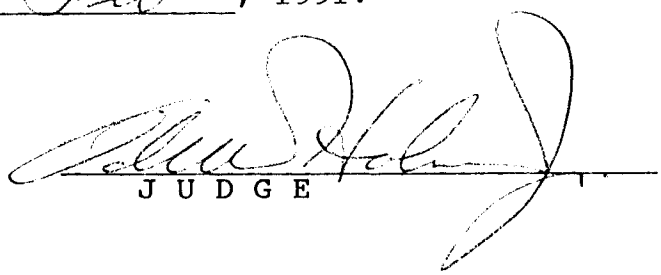


JUDGE

J U D G M E N T

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 Judgment be in all things affirmed, and that the Appellant pay all costs in this behalf expended, and that this decision be certified below for observance.

SIGNED this 12 day of Feb, 1991.



JUDGE

24.56

IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

RAMON J. JEANMARIE, Appellant,	)	
vs.	)	No. 90-MCA-2079
STATE OF TEXAS, Appellee.	)	

OPINION ON MOTION FOR RE-HEARING

Appellant has filed a Motion for Re-hearing after this Court rendered its Opinion on February 12, 1991, affirming the Judgment of the Trial Court. This Court has considered the Motion for Re-Hearing, and concluded that same should be denied.

In passing, however, Appellant requests that the matter be reviewed by another Court. Appellant is hereby apprised that his only relief at this point is to appeal the decision to the Court of Appeals pursuant to Chapter 30, Subchapter B, Section 30.073 of the Government Code.

The Motion for Re-Hearing is hereby denied.

SIGNED this 14 day of March, 1991.

JUDGE

25.05