

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

**ADRIAN L. BOLANOS,**  
Appellant

v.

**STATE OF TEXAS,**  
Appellee

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No. 95-MCA-2348

**OPINION**

Appellant appeals his conviction in Municipal Court for a minor in possession of alcohol.

On appeal, Appellant attacks the sufficiency of the evidence to support the conviction. He contends that the alcohol was found behind a trash can, not on his person, and the fact that he was running in the area was not evidence of guilt, but he was running only to meet a friend of his.

Although no Statement of Facts is contained in the record, Appellant's brief quotes the officer's testimony that he evidently saw Appellant with the article (alcohol) in his hand, running to the trash can where it was eventually found. That evidence, if it was submitted to the Court, would raise a contested fact issue between the testimony of Appellant and the police officer. This Court is not in a position to second-guess the Trial Court's decision in weighing that evidence without the benefit of a Statement of Facts showing what evidence was actually introduced before the Trial Court. It is the function of the Trial Judge, sitting as the fact finder, to judge the credibility of the witnesses and the weight to be given to their testimony. The Trial Judge's determination on contested fact issues, cannot be disturbed on appeal. No error is shown.

The Trial Courts are again reminded that this Court's decision in Williams v. State, 94-MCA-2296 (Mun.Ct.App.) requires the State to prove that the person possesses the alcohol, intentionally or knowingly, and that in turn, requires proof of some "affirmative link" between the person accused of possession and the substance itself. See Brown v. State, 911 S.W.2d. 744 (Tx.Cr.App. 1995).

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

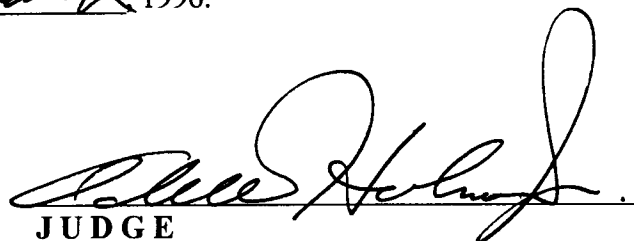
SIGNED this 1 day of March, 1996.

  
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 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 1 day of March, 1996.

  
JUDGE