

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

CARMEN MARTINEZ,)	
)	
Appellant,)	
vs.)	No. 97-MCA-2413
)	
STATE OF TEXAS,)	
)	
Appellee.)	

OPINION

Appellant appeals her conviction in Municipal Court for failing to maintain financial responsibility.

Appellant contends that she was insured and presented a copy of a letter from her insurance company indicating so. The Court indicated that she would need to present a declaration page of the policy to prove that she was insured on the date she was cited. When she returned to Court with a Copy of the declaration page of the policy and a letter indicating that she was insured on the day in question, the Court said that the information was insufficient and she would need to provide the originals, which her insurance company indicated would not be available to her. The information in the record before this Court clearly indicates that Appellant was insured and met the requirements of the Motor Vehicle Safety Responsibility on the day she was cited Act (§601.001 et seq. Texas Transportation Code).

The issue in this case is what evidence must a person present to a Court to establish that they meet the financial requirements of the Safety Responsibility Act. (§601.053 Texas Transportation Code) The law provides a defense to prosecution for this offense if a person had a motor vehicle liability insurance policy in effect at the time, and produces in Court a motor

vehicle liability insurance 'policy' to substantiate that fact. (§601.193 Texas Transportation Code)

Whereas, under §601.053 (Texas Transportation Code) evidence of financial responsibility which must be produced upon request of a peace officer or a person involved in an accident with the operator is: 1) a motor vehicle liability insurance policy covering the vehicle, or a photocopy of the policy; or 2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance and issued by a liability insurance company for the motor vehicle.¹

It seems to this Court that it is only reasonable to think evidence of financial responsibility that is satisfactory to a peace officer or the person involved in an accident would likewise be sufficient to satisfy the Court. However, the provision of the Texas Transportation Code that establishes a defense to prosecution clearly requires that the motor vehicle liability insurance policy, or a photocopy thereof, be produced before the Court is authorized to dismiss the charge. Neither the insurance form nor a copy of the declaration page are sufficient to establish the defense.²

It seems to this Court that the legislation concerning this offense should be more consistent and allow Trial Courts to accept evidence of financial responsibility by other means than producing the insurance policy itself in Court. What this Court has observed in these cases is the simple fact that most citizens believe that the liability insurance form received from their

¹ The Court recognizes that there are other methods to establish financial responsibility pursuant to §601.053, but deems them not relevant to the discussion of the issues involved in this case.

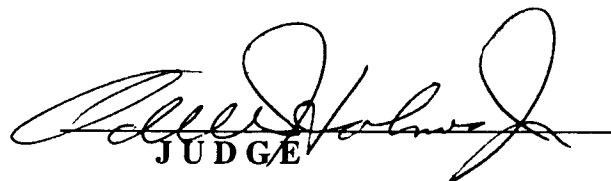
² This Court is aware that the Trial Courts have been presented motor vehicle liability insurance forms that appear to have been forged, altered, or otherwise tampered with, and of course, the Trial Courts are aware that such conduct constitutes a separate offense under §601.196 of the Texas Transportation Code.

insurance company is sufficient evidence to prove that they were insured. When they appear in Court and produce that proof, and it is unacceptable to the Trial Court, both their time and the limited resources of the judiciary are wasted if the case is reset in order for them to produce the policy as required by law. It may be helpful to the Trial Courts to have the Municipal Court Clerks office advise any person who has been cited for this offense that only their insurance policy, or a photocopy thereof, will be acceptable to prove that they were insured when cited and entitle them to a dismissal of the charge.

As far as the present case is concerned, this Court has on other occasions, accepted copies of the declaration page to establish proof of financial responsibility. The record before this Court contains such information, and shows that Appellant did have a policy of liability insurance as required by law. Therefore, to be consistent with its previous opinions, and in the interest of justice, this Court hereby reverses Appellant's conviction and renders a judgment of acquittal in her favor.

However, in the future, this Court will not accept proof of financial responsibility that it is now requiring the Trial Court to accept, and will not grant relief unless the Motor Vehicle Liability Insurance Policy covering the vehicle, or a photocopy thereof, is produced.

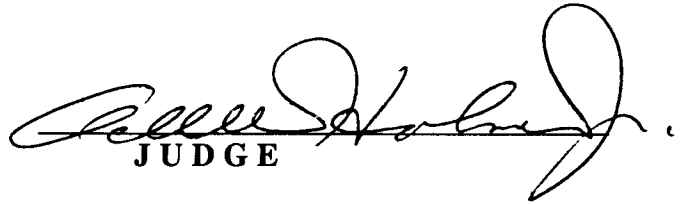
SIGNED this 14 day of Oct, 1997.


JUDGE

JUDGMENT

This case came on to be heard, the same being considered, because it is the opinion of this Court that there was error in the Judgment, it is ORDERED, ADJUDGED and DECREED by the Court that the Judgment be in all things reversed and rendered in Appellant's favor, and judgment of acquittal be entered in her behalf.

SIGNED this 14 day of Oct, 1997.


JUDGE

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OPINION

This Court withdraws its original opinion rendered October 14, 1997.

In that Opinion, this Court suggested that the Legislature address the inconsistencies between Section 601.053 of the Texas Transportation Code which set out what could be considered as evidence of financial responsibility for a police officer or the operator of a vehicle involved in an accident, and Section 601.193 requiring the production of the motor vehicle liability insurance policy in Court to obtain a dismissal of the charge.

At the time of the original Opinion, this Court was unaware that the last Legislature had, in fact, amended Section 601.193 to reflect that evidence of financial responsibility can be established by exhibiting any of the specific items contained in Section 601.053. Those items include, but are not limited to, a motor vehicle liability insurance policy or a photocopy of the policy, or a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance and issued by a liability insurer for the motor vehicle.

As alluded to in this Court's previous opinion, there continues to be a problem concerning presentation of evidence of financial responsibility that may have been forged or altered. The citizens of this community should be made aware that Section 601.196 of the Texas Transportation Code provides serious penalties for forging or signing evidence of financial responsibility without authority.

It is, however, because of this recurrent problem, that this Court has decided that any issue concerning the validity or authenticity of evidence of financial responsibility rests solely

with the Trial Courts and not this Court. This Court, in the past, has attempted to save judicial resources by reviewing the evidence of financial responsibility presented on appeal, and which may not have been presented to the Trial Court in the first instance. In the future, this Court will reverse and remand to the Trial Court all cases in which the Appellant raises the defense that he was insured at the time of the offense, and presents evidence of financial responsibility to that effect. Therefore, if there are any questions concerning the validity or authenticity of that evidence, it will be for the Trial Court to make that determination.

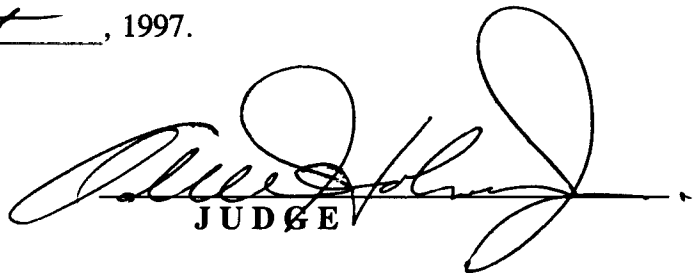
SIGNED this 23 day of Oct, 1997.


JUDGE

JUDGMENT

The Judgment of the Trial Court is hereby reversed and remanded with instructions to proceed in accordance herewith.

SIGNED this 23 day of Oct, 1997.


JUDGE