

#69

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

DAVID MCKEE, Appellant

vs.

NO. 83-MCA-748

STATE OF TEXAS, Appellee

O P I N I O N

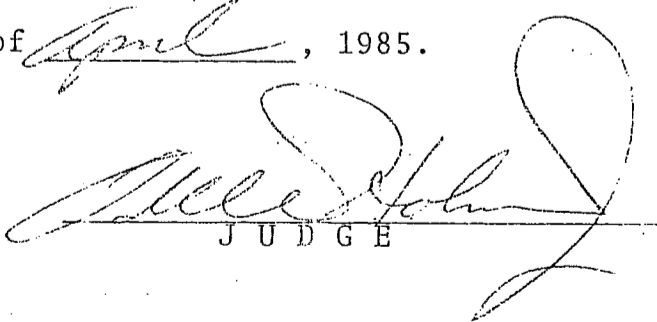
Appellant appeals his conviction in Municipal Court for following too closely, causing an accident.

Appellant's principal contention on appeal is that the complaining witness did not appear at the trial, and therefore he was denied his right to cross-examine, and that the evidence is insufficient to support the conviction.

No statement of facts was requested nor contained in the record before this Court, and therefore any contention that the evidence is insufficient cannot be considered and is therefore overruled.

Further, the absence of the complaining witness does not necessarily prevent the State from securing a conviction, if there is other available evidence introduced or other witnesses who can testify to the facts surrounding the accident itself. Without a statement of facts, this Court presumes that the Trial Court heard sufficient evidence to support the conviction from other available witnesses, and overrules Appellant's point of error respecting the absence of the complaining witness at trial.

Signed this 5 day of April, 1985.

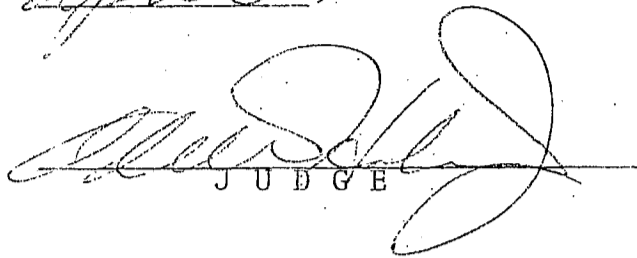

J U D G E

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,
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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 5 day of April, 1985.


J U D G E