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**MUNICIPAL COURT OF APPEALS**

**MARIA B. RAMIREZ**  
JUDGE



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El Paso, Texas 79901  
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May 4, 2022

Michael Smart  
5840 Falcon  
El Paso, TX 79924

**Re: Michael Smart**  
**08MCA4033**

Dear Mr. Smart:

Enclosed is the Court's opinion in this matter.

Please know there is no statute in the Government Code mandating your appeal be adjudicated within 15 days.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Ramirez", is written over a horizontal line.

MARIA B. RAMIREZ

Enclosure:  
As stated

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

MICHAEL SMART

Appellant,

v.

STATE OF TEXAS

Appellee.

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No. 22-MCA-4033  
Ticket No. T4647638

OPINION

Appellant appeals his conviction in Municipal Court for a violation alleging he used a wireless communication device (cellular telephone) while operating a motor vehicle. Appellant was found guilty and assessed a fine of \$50, \$81.00 court costs and \$5.00 arrest fee.

The court has reviewed the record and has carefully considered Appellants filed documents. In his written appeal, Appellant admits he picked up his cell phone while he was being pulled over to call friends to record the police officer citing Appellant. Appellant claims the police officer was targeting him as Appellant is an atheist and for a myriad of other reasons.

Notwithstanding Appellant's admission, this Court's jurisdiction is limited by law to determining whether the Trial Court committed an error of fact or law during the trial and not whether the El Paso Police Department and this specific officer targeted Appellant for his religious beliefs or any other reason. Further, Appellant's claim that the police officer was unable to recall Caucasian individuals he cited for this offense during the trial is an issue of fact reserved for the Trial Court who is the exclusive Fact Finder of the evidence and the credibility of the witnesses.

There is no record of the evidence introduced before the Trial Court, and the record before this Court indicates no record was requested by Appellant.

Under such circumstances, this Court cannot second guess the judgment of the Trial Court or overrule the Trial Court's factual findings without a record to review.

Therefore, the judgment of the Trial Court is affirmed.

SIGNED this 4TH day of MAY, 2022.



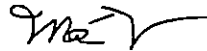
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Maria B. Ramirez., Judge  
El Paso Municipal Court of Appeals

**JUDGEMENT**

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 is affirmed.

SIGNED this 4TH day of MAY, 2022.



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MARIA B. RAMIREZ, Judge  
El Paso Municipal Court of Appeals