IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

RAMON J. JEANMARIE, II	§	
	§	
Appellant,	§	
	§	
vs.	§	**No. 05-MCA-2993, 05-MCA-2994**
	§	
STATE OF TEXAS,	§	
	§	
Appellee.	§	

OPINION

Appellant appeals his conviction in Municipal Court for a speeding violation, and driving in violation of the restrictions on his driver's license, to wit: not being accompanied by someone over the age 21 years. A fine of $100.00 was assessed on each offense.

At the time Appellant was cited, he was a juvenile, being 16 years of age, but at the time of trial, Appellant had reached the age of 17, and was no longer considered a juvenile. Pursuant to Article 45.0215, Tex. Code of Crim. Pro. , if the Defendant is younger than 17 years of age, the Court must secure the appearance of the Defendant's parent or others identified in that Section, in order to proceed. However, those requirements are not applicable when the Defendant is not a minor at the time of his trial as opposed to the time he was cited. So the issue raised by Appellant for the Trial Court not allowing the parent to participate in the proceedings is moot.

Nonetheless, the role of parents appearing in juvenile proceedings is limited, and certainly, the parent cannot act as the minor's attorney if they are not a licensed attorney nor can they testify to the facts of a case if they were not a witness to the incident. Both under the above sections cited, applicable to juvenile proceedings in juvenile court, and Section 51.115 of the Texas Family Code relating to juvenile proceedings and other matters, the attendance of a parent or guardian is mandatory unless excused by the specific provisions of that statute. The intent of requiring the presence of a parent in those proceedings

appears to be intended to induce greater parental responsibility in the judicial process, and clearly, to make the parent aware of the conduct of their child and any charges that may be pending against them.

In this case, the Trial Judge had the parent removed from the courtroom because she was unable to make the Appellant's father understand that he could not act as his son's attorney, and since he was not a witness to the incident, could not testify as to the facts concerning the same. Although the record does not reflect the seriousness of that discussion totally, evidently the Trial Judge felt compelled to have the father removed from the courtroom, because of his repeated interruptions of the proceedings and his insistence on participating in the proceedings in a manner which the Trial Court deemed inappropriate.

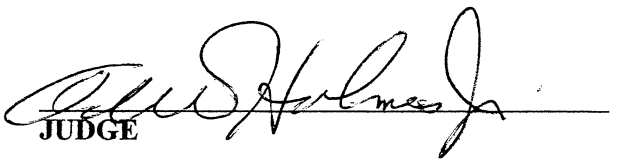
Because the Appellant was an adult for purposes of this proceeding, and not a juvenile, the issue relating to removal of the parent under these circumstances presents no error, but that is not to say, had Appellant been a juvenile, that the actions of the Trial Court would have been sanctioned totally. Clearly, the Trial Court was correct in its judgment that the parent could not act as an attorney or be a witness in the case, but this Court is of the opinion that the parent should not be relegated to the role of a silent spectator either. The parent may well have something to say that is relevant and material to the citation, or that directly is related to the merits of the case or the situation that their child finds himself in, so trial judges should be encouraged to allow parents active participation in those proceedings in a manner that serves the best interest of their child.

Active participation by the parent in the proceedings, not as an attorney or witness, helps them fulfill their responsibility as a parent, and should be encouraged, not discouraged by the Trial Judge.

As far as the merits of this case is presented, this Court has reviewed the Statement of Facts as contained in this record, and finds ample evidence to support the Trial Court's Judgment as regards to the speeding violation, even though Appellant contended that he did not see the posted speed limit sign nor know that he was in a thirty mile per hour zone when he was cited for traveling at fifty-four miles per hour in that area. Additionally, Appellant admitted there was no one in the car accompanying him who was over the age of 21 and therefore admitted his guilt on the second violation.

I can find no reversible error, and the Judgment of the Trial Court is affirmed.

SIGNED this 6 day of May, 2006.

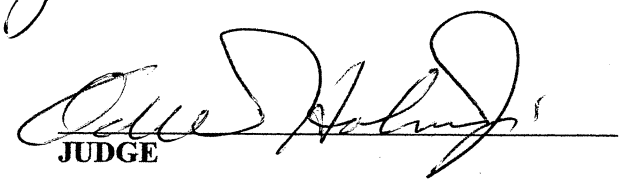


JUDGE

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 in No.05-MCA-2993 and No. 05-MCA-2994, and that the Appellant pay all costs in this behalf expended, and that this decision be certified below for observance.

SIGNED this 6 day of May, 2006.



JUDGE