IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

ALICIA LOZOYA,	§	
	§	
Appellant,	§	
	§	
vs.	§	**No. 07-MCA-3127**
	§	**07-MCA-3128**
STATE OF TEXAS,	§	
	§	
Appellee.	§	

OPINION

Appellant appeals her conviction in Municipal Court for driving an automobile for personal use which was equipped with Dealer's Temporary Cardboard tags, a violation of Sec. 503.068 Tex. Trans. Code. She was also convicted for not having a current inspection sticker on that vehicle. A fine of $45.00 on each of these cases was assessed.

The use of Dealer's Temporary Cardboard Tags, also known as "Black Tags", has presented our Trial Courts and this Court continuing problems over the years. Attached to this Opinion is part of Appellant's brief that more succinctly states the law applicable to the use of these tags than this Court has seen, even in its research of the issue on other occasions. Torres v. State, 06-MCA-3098, 06-MCA-3099; Gerber v. State, 99MCA2503; Silva v. State, 97MCA2420. The Temporary Black Tag can be used for demo drives and to transport vehicles for repair or reconditioning among other uses listed in Sec. 503.062 Tex. Trans. Code. But the Black Tag may not be used to drive the vehicle for personal use, no matter how seemingly innocent. Sec. 503.068 Tex. Trans. Code. As stated in the Exhibit attached, people try to obtain black tags instead of registering their vehicle because there is no expiration date on the tag and are not required to have a Certificate of Inspection if they are being used for the exempt purpose for which a Black Dealer's Tag can be used. However, if being driven for personal use, a Certificate of Inspection is required because the vehicle is being used for exempt purposes.

Generally, the question is then presented to the Trial Court, as the fact finder, as to whether the vehicle was being used for road testing or demonstration for sale, which is what Appellant contends, or as prohibited by the law, for personal use. That question is uniquely a fact issue, which only the Trial Court has authority to resolve. It is Trial Court's function to judge the credibility of the witnesses and the weight to be given to their testimony, and this Court cannot second guess that Judgment if there is sufficient evidence to support it.

In this case, no record of the trial proceedings was requested by Appellant nor is there a record before this Court so that this Court can review what evidence was actually presented. Even if a record had been included in this Court's file, it is more than likely that this Court's holding would be the same, that is, that the Trial Court would have to resolve the factual dispute that may have arisen in the evidence before it.

Obviously, the Trial Court resolved that factual dispute against Appellant, and determined that she was driving the vehicle for personal use, and therefore, justified her conviction on those charges alleged.

Therefore, no error is shown, and the Trial Court's Judgment in both cases is hereby affirmed.

SIGNED on this 26 day of April, 2007.

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.07-MCA-3127 and No. 07-MCA-3128, and that the Appellant pay all costs in this behalf expended, and that this decision be certified below for observance.

SIGNED this 26 day of April, 2007.

JUDGE