

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

MANUEL CORRAL

Appellant,

vs.

STATE OF TEXAS,

Appellee.

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No. 03-MCA-2835

OPINION

Appellant appeals his conviction in Municipal Court for failing to obey a traffic control device. A fine of \$35.00 was assessed.

The Complaint upon which this prosecution is based alleges that Appellant failed to obey a traffic control device, to wit, a sign that prohibited him from parking, stopping, or standing, on property adjacent to a school zone under the Municipal Code of the City of El Paso, Texas.

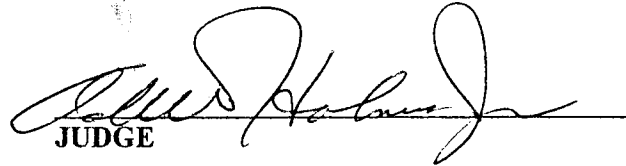
On appeal, Appellant contends that this violation is a parking violation and not a moving violation for failing to obey a traffic control device. Appellant's contentions are well taken because this clearly is an ordinance that prohibits parking or stopping a vehicle in a prohibited area around a school zone, and not at a regulation of the movement of the vehicle.

The City contends that the sign advising Appellant not to park or stop in this area is a traffic control device as defined by the Texas Transportation Code Section 541.304. The City is correct in its definition under that section, but its application to this particular offense appears to this court as being overly broad. As defined in that section, an official traffic control device means a sign, signal, marking, or device that is used to regulate, warn, or guide traffic. However, applying that broad definition would make violation of any sign relating to parking violations such as expired meter or handicapped parking, or fire lane, or any other myriad parking violations, a violation of a traffic control device rather than a parking violation.

Clearly, the specific provisions under the Municipal Code relating to prohibiting parking around a school zone, for which Appellant was cited, is a parking violation and not a moving violation. Thus, the matter should have been heard pursuant to Section 12 85.010, City Code of El Paso, Texas, granting original jurisdiction involving violations of the City Ordinance relating to the stopping or parking of vehicles as contained in Title 12 to the Parking Violations Bureau and Hearing Officers duly appointed thereunder.

Therefore, the judgment of the Trial Court is hereby reversed and remanded to the Trial Court to refer this matter to the appropriate Hearing Officer.

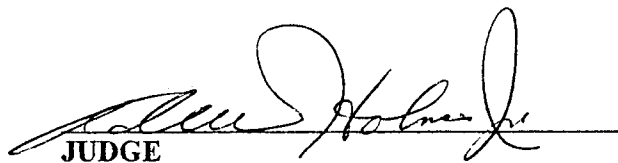
SIGNED this 27 day of April, 2004.


JUDGE

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, it is ORDERED, ADJUDGED and DECREED by the Court that the case be reversed and remanded to the Trial Court for re-trial.

SIGNED this 27 day of April, 2004.


JUDGE