

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

NOEL LIFE

Appellant,

v.

STATE OF TEXAS

Appellee.

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No. 10-MCA-3411
Ticket #: T0214992

OPINION

Appellant appeals her conviction in Municipal Court for speeding in a school zone. A fine of \$100.00 was assessed.

Appellant signed a document on June 16, 2010, requesting a Court Hearing and indicating her desire to have a Court Reporter present at her trial. Despite that request, when Appellant appeared before the Trial Judge, she evidently did not again request a Court Reporter, and there is no Record before this Court because of the Court's failure to accommodate her initial request. Section 30.00130, Tex. Gov. Code, requires that a Court Reporter take or record the testimony in the case in which a Defendant requests it. That Section does not indicate when that request must be made, but this Court has continually held that if a request is made, it is the obligation of the Trial Court to provide a Court Reporter so that the testimony can be preserved. Presently, the Trial Courts in El Paso have available to them recording equipment which can accommodate a person's request for a Record by the flip of a switch. And, although it appears, that Appellant did not renew her request for a Record when the case was called for Trial, nothing in the Law requires that.

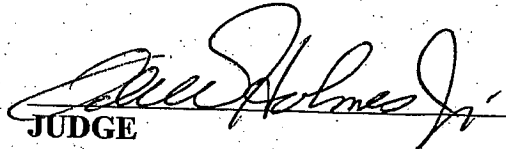
This Court extensively reviewed the history and evolution of El Paso's Court of Records Statute in Duncan vs. State, 02-MCA-2806 (Mun. Ct. App. 2004).

In that case, as well as every case in which this Court has had to address the issue concerning the right to have a Court Reporter record the testimony, this Court has held that if a request is made for a Court Reporter, it becomes mandatory to provide one, and failure to grant that request requires reversal. Hall vs. State, 03-MCA-2896 (Mun. Ct. App. 2004); Marquez vs. State, 97-MCA-2432 (Mun. Ct. App. 1998); Maxie vs. State, 86-MCA-1782 (Mun. Ct. App. 1986); Aguirre vs. State, 87-MCA-1798 (Mun. Ct. App. 1987); Trevizo vs. State, 90-MCA-2044 (Mun. Ct. App. 1990); Hixon vs. State, 87-MCA-1803 (Mun. Ct. App. 1987); and Cartwright vs. State 527 SW2^d 545 (Tex. Crim. App. 1975)

Additionally, the City Prosecutor has filed a Brief in this case acknowledging that Appellant's request for a Record invoked her right to have the trial proceedings recorded and has no objection to this case being reversed and remanded for a retrial to provide Appellant that right.

Accordingly, this case is hereby reversed and remanded to the Trial Court for a retrial, and to insure that Appellant's right to a Court Reporter is preserved.

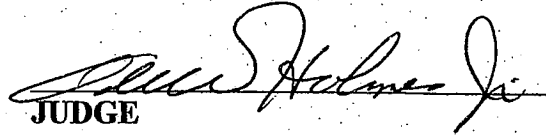
SIGNED this 12th day of January, 2011.


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 case be reversed and remanded to the Trial Court for re-trial.

SIGNED this 12th day of January, 2011.


JUDGE