

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

ARTURO MARQUEZ

Appellant,

v.

STATE OF TEXAS

Appellee.

§
§
§
§
§
§
§
§
§

**No. 10-MCA-3423
Ticket #: T0238399**

OPINION

Appellant appeals his conviction in Municipal Court for a speeding violation. A fine of \$60.00 was assessed.

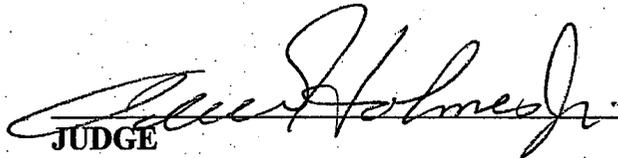
Appellant contends that the Trial Judge refused to allow him to introduce certain photographs in evidence. Those photographs show a street corner which reflects an intersection at Betel and Burgundy. Appellant was charged with speeding at or near 1000 Burgundy but the street sign does not clearly reflect that it is a picture of the 1000 block of Burgundy.

The other two pictures, whether or not they are in the location at which Appellant was cited or in the direction in which he was traveling, show a mostly obscured speed limit sign which cannot be read.

Section 544.004 requires an operator of a vehicle to comply with all applicable official traffic control devices. However, Subsection (b) provides that compliance with an official traffic control device may not be enforced against an alleged violator if at the time and place of the alleged violation the device is not in proper position and sufficiently legible to an ordinarily observant person.

Therefore, this Court believes the Trial Court erred not allowing Appellant to introduce the photographs and considering the content of those photographs to determine if the photographs reflected an obscured traffic control device at or near the location where Appellant was charged with speeding. Therefore the case is hereby reversed and remanded to the Trial Court for further consideration and to allow, to introduce the photographs in support of his defense.

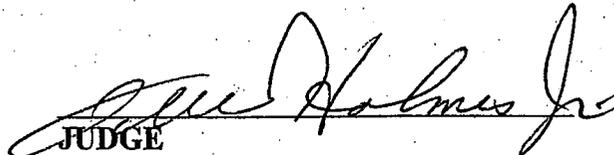
SIGNED this 5th day of January, 2011.


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 5th day of January, 2011.


JUDGE