

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

LUIS B. TORRE

Appellant,

v.

STATE OF TEXAS

Appellee.

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**No. 11-MCA-3486
Ticket #: 18209375.2**

OPINION

Appellant appeals his conviction in Municipal Court for failing to maintain financial responsibility. A fine of \$210.00 was assessed.

Appellant contends that he retained an Attorney to represent him and provided that Attorney with the appropriate documentation reflecting that the vehicle that he was driving at the time was covered by a valid policy of liability insurance, as well as, providing to this Court his own personal liability policy covering his vehicle which would extend coverage to his operation of someone else's vehicle with their permission.

Unfortunately, the Attorney he retained evidently did not present that information to the Judge. When Appellant contacted the Attorney he had hired to represent him, the Attorney indicated that the Judge did not accept the proof because it was illegible. Appellant thought that was odd because the insurance information was computer generated and not hand written. This Court has encountered that same excuse used by this Attorney in at least one other case that this Court has addressed on appeal. Appellant's continued efforts to get his Attorney to represent him on this matter were unsuccessful. Finally, the Attorney's office said there was nothing they could do and they were sorry. Eventually,

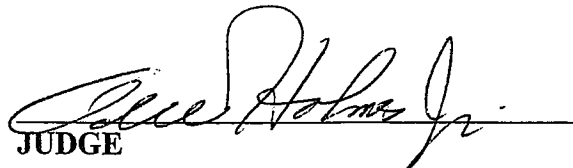
Appellant's Driver's License was suspended, and his efforts to contact his Attorney again proved fruitless.

The City Prosecutor has verified that Appellant was properly insured and was in compliance with the Financial Responsibility Law of the State of Texas on the date he was cited. They, however, oppose Appellant's position because the appeal was not perfected until May 24, 2011. Appellant's conviction was entered on November 9, 2010, and his appeal was not perfected to this Court until May 24, 2011, because of the problems he encountered with his Attorney.

However, this Court has recently held that if a person is in compliance with the Financial Responsibility Law, and through no fault of their own, their defense was not properly and timely presented, that this Court would grant relief. This case is a prime example of why this Court has taken this position because it appears that it was his Attorney's fault, and not his, that his defense was not properly presented to the Trial Court. See (Serna v. State 11-MCA-3464, Mun. Ct. App., 2011; Wilbanks v. State 11-MCA-3489, Mun. Ct. App., 2011; Escobar v. State 11-MCA-3487, Mun. Ct. App., 2011; Luykx v. State 11-MCA-3493, Mun. Ct. App., 2011)

Therefore, the judgment of the Trial Court is hereby reversed and the case is remanded to that Court for further consideration.

SIGNED this 1st day of September, 2011.


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 1st day of September, 2011.


JUDGE