

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

AUROLYN LUYKX

Appellant,

v.

STATE OF TEXAS

Appellee.

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**No. 11-MCA-3493
Ticket #: T0275098**

OPINION

Appellant appeals her conviction in Municipal Court for failing to maintain financial responsibility. A fine of \$211.00 was assessed.

Appellant has provided to this Court a Texas Liability Insurance Card which shows the vehicle she was driving at the time she was cited was covered and identifies her as an insured driver. The City Prosecutor has verified that the insurance was valid on the date she was cited. However, he contests the appeal on the fact that it was not submitted to the Trial Court timely.

Appellant contends that she initially intended to contest the citation but missed her Court date, and then as a matter of convenience just decided to pay it rather than reset it and contest it. She contends that she explained her situation to the Clerk at the Court who she claims indicated that her payment would take care of the citation. What she did not know and what the Clerk probably did not know was the fact that the Texas Department of Public Safety Driver's Responsibility Program would assess surcharges based on the conviction. This is not the first time the Court has seen how this scenario develops.

However, consistence with its previous Opinions, this Court continues to believe that if a person had a valid defense to this type of citation, that they should not be penalized if, through no fault of their own, that information is not timely provided. (Serna v. State 11-MCA-3464, Escobar V. State 11-MCA-3487, Wilbanks v. State 11-MCA3489)

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

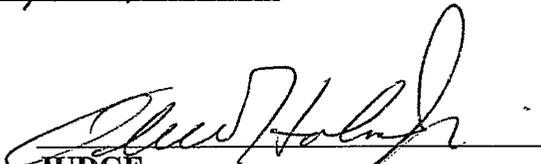
SIGNED this 1st day of September, 2011.


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 1st day of September, 2011.


JUDGE