

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

ROGELIO ESCAMILLA, JR.

Appellant,

vs.

STATE OF TEXAS,

Appellee.

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No. 05-MCA-3032

OPINION

Appellant appeals his conviction in Municipal Court for driving without his headlights on. A fine of \$25.00 was assessed. Appellant was driving a Sun Metro bus at the time, and claims that he reported a malfunction in regard to headlights to his maintenance department. They evidently serviced the vehicle, but about an hour later, the headlights evidently malfunctioned again, and he was cited. Also attached to his Brief is a work order reflecting that only one headlight was out and that it was repaired shortly before he was cited.

The City contends that even if there was an electrical malfunction, a mechanical failure is not a valid defense to the offense charged. Section 547.321 of the Texas Transportation Code requires that a motor vehicle be equipped with at least two headlamps. Section 547.302 of the Transportation Code requires that each headlamp shall be displayed on each side of the front of the motor vehicle at night time and when light is insufficient or atmospheric conditions are unfavorable so that a person or vehicle on the highway is not clearly discernable at a distance of 1,000 feet ahead.

There appears to be no defense provided based on any malfunction, and therefore, the offense is a strict liability offense. Section 547.004, Tx. Trans. Code, provides that a person commits an offense if he operates a vehicle that is not equipped in a manner that complies with the vehicle equipment standards provided in Chapter 547.

Although it does seem unfair that Appellant was convicted of an offense over which he had no control over, since there is no defense to such offense provided, the trial judge had no other option but to find him guilty and reduce his fine which it did, taking into consideration the mitigating circumstances of the offense.

Unfortunately, for Appellant, that decision was for the trial judge to make and not the judge of this court, and therefore the judgment of the trial court is hereby affirmed.

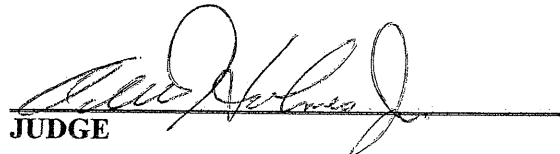
SIGNED this 27 day of January, 2006.


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 Judgment be in all things affirmed, and that the Appellant pay all costs in this behalf expended, and that this decision be certified below for observance.

SIGNED this 27 day of January, 2006.


JUDGE