

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

NASSAR YOUSIF, Appellant

vs.

No. 88-MCA-1899

STATE OF TEXAS, Appellee

OPINION

Appellant appeals his conviction in Municipal Court for failing to maintain financial responsibility.

Appellant was issued a citation on January 31, 1988 for the above offense. Appellant presented to the Court an insurance identification card showing coverage on the vehicle in question from August 11, 1987 through August 11, 1988, which covers the time frame when the citation was issued. However, the Trial Court refused to accept the evidence presented as proof of the necessary financial responsibility because it failed to satisfy the requirements of 6701h Sec. 1B(b)(2). That section provides that the written instrument issued by a liability insurance carrier to evidence satisfactory proof of financial responsibility must include the following:

- A. The name of the insurer.
- B. The insurance policy number.
- C. The policy.
- D. The name of the insured.
- E. The policy limits or a statement that the coverage of the policy complies with the minimum amount of liability insurance required by this act.

In this case, the identification card did not reflect the policy limits or that the coverage which Appellant had in effect complied with the minimal amount of liability insurance required by the act. Appellant was given an opportunity to present his policy of insurance to the Court, but instead, presented a policy of insurance issued by a different insurance company effective February 18, 1988, eighteen (18) days after he was given the citation.

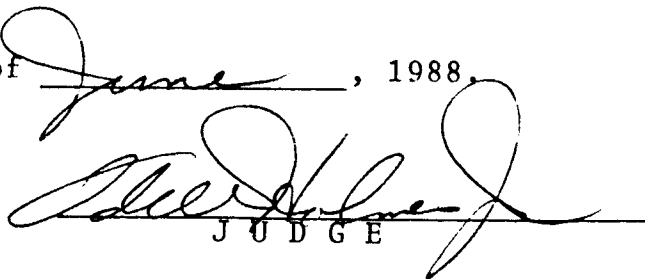
Under Article 6701h Section 1D Appellant has a defense to prosecution for failing to maintain financial responsibility if he produces in Court an automobile liability insurance policy which shows compliance with the law.

Section 2.03 of the Penal Code imposes a burden on the Appellant to produce evidence as to a defense even though the State is required to disprove the application of the defense beyond a reasonable doubt after the issue has been properly raised by the evidence. In other words, the defendant has a burden of producing evidence to raise the defense, but the prosecution has the final burden of persuasion to disprove it. Ramos v. State, 478 S.W. 2d 102 (Tx.Cri. App. - 1972).

In this connection, Appellant had the burden of producing sufficient evidence to raise the defense provided by law, and his failure to do so justified the Court's action.

Finding to reversible error, the judgment of the Trial Court is affirmed.

Signed this 8 day of June, 1988.

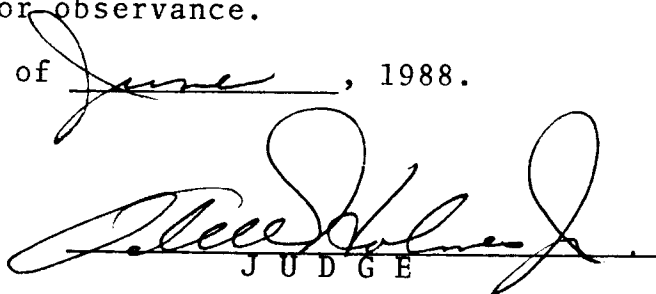


J U D G E

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 8 day of June, 1988.



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