

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

LAURA STERGIOPOULOS,)	
)	
Appellant,)	
vs.)	No. 93-MCA-2246
)	
STATE OF TEXAS,)	
)	
Appellee.)	

OPINION

Appellant appeals her conviction in Municipal Court for failing to yield right-of-way to a pedestrian causing an accident.

Her only point of error on appeal is that venue was not proved before the Trial Court. An allegation of venue is required in the charging document, but need only be proved by a preponderance of the evidence. Venue is not a "criminative fact" and thus is not an essential element of the offense. Fairfield v. State, 610 SW2d 771 (Tex.Cr.App. 1981); Edwards v. State, 427 SW2d 629 (Tex.Cr.App. 1968); Boyle v. State, 820 SW2d 122 (Tex.Cr.App. - 1989); see Article 13.17, Texas Code Criminal Procedure.

Appellant relies on Romay v. State, 442 SW2d 399 (Tex.Cr.App. - 1969), holding that where venue is made an issue in the Trial Court, failure to prove venue in the county of prosecution constitutes reversible error. However, in this case, venue was not made an issue before the Trial Court, and is raised for the first time on appeal. It is the Defendant's

burden of objecting to the prosecution's failure to prove venue, and if the Defendant does not properly raise the issue before the Trial Court's verdict, it is presumed that venue was proved in the Trial Court on appeal. Vasquez v. State, 491 SW2d 173 (Tex.Cr.App. - 1973); see Rule 80(d), Texas Rules of Appellate Procedure.

Therefore, Appellant sole point of error is overruled and the judgment of the Trial Court is hereby affirmed.

SIGNED this 17 day of Sept, 1993.


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 17 day of Sept, 1993.


J U D G E