

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

CECILIA ACOSTA,	)	
	)	
Appellant,	)	
vs.	)	No. 97-MCA-2412
	)	
STATE OF TEXAS,	)	
	)	
Appellee.	)	

OPINION

Appellant appeals her conviction in Municipal Court for theft.

Although no Statement of Facts is contained in the record before this Court which would indicate what evidence was introduced either by the State or Appellant, Appellant contends that she inadvertently placed the merchandise under her purse, but intended to return to the store to pay for it when she realized it was there after she left the store. However, before she was able to do so, she was approached by a security guard who arrested her for this offense. The Trial Court alone is vested with the authority to resolve factual disputes which this case presents. This Court has no authority to second guess that judgment. The Trial Court is the exclusive judge of the credibility of the witnesses and the weight to be given to their testimony, and must resolve factual disputes even when there is conflicting evidence. Flanagan v. State, 675 S.W.2d 734 (Tex.Crim.App. 1984); Adelman v. State, 828 S.W.2d 418 (Tex.Crim.App. 1992).

Appellant further contends that there are a number of errors in regard to the contents of the citation that she was issued. The prosecution of this case is not controlled by the citation, but rather the complaint that was filed against her. This Court has previously held on a number of

occasions that once the complaint is filed, it, and not the citation, controls the prosecution of the case, and the citation becomes immaterial. Scheurer v. State, 86-MCA-1730 (Mun.Ct.App.); Ponce v. State, 83-MCA-9 (Mun.Ct.App.); Dabbagh v. State, 83-MCA-1259 (Mun.Ct.App.).

Having found no reversible error, the Judgment of the Trial Court is hereby affirmed.

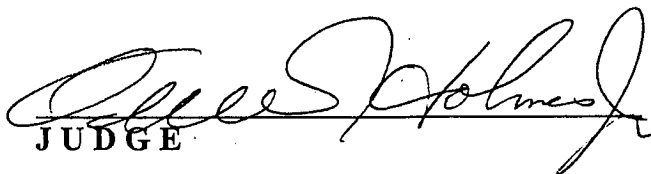
SIGNED this 15 day of Oct, 1997.

  
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 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 15 day of Oct, 1997.

  
JUDGE