

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

JAMES CARTENSEN, Appellant

NO. 83-MCA-¹⁰⁷⁶~~1310~~

Appeal from El Paso
Municipal Court

STATE OF TEXAS, Appellee

O P I N I O N

This case involves the application of the Speedy Trial Act to the prosecution of this case. The record reflects that the case was not brought to trial within 60 days of the date of arrest, that is, the date the citation was issued, and the question raised is whether the State was ready to proceed to trial within the applicable time limits of the Speedy Trial Act.

This Court holds that it is incumbent on the prosecution to have the record reflect in some manner that the State was in fact ready to proceed within those time limits, and its failure to do so constitutes reversible error, and the Trial Court should have granted the Defendant's Motion under the Speedy Trial Act provisions. See Velez v. State of Texas, 83-MCA-288 and 83-MCA-289; also Smith v. State 659/2/828 (Tex.Cr.App. 1983).

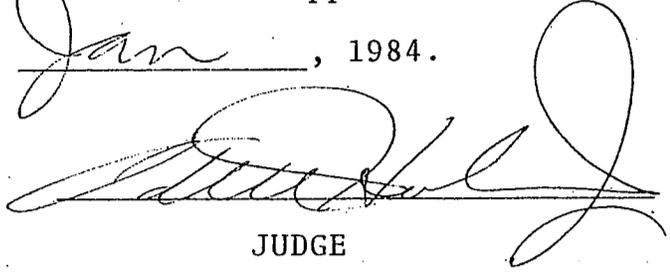
The City, in its brief filed in this case, contends that the provisions of the Speedy Trial Act do not apply unless the Defendant was "detained in custody" or "arrested". And that Section 148 of Article 6701d, V.A.T.S., makes it mandatory in a speeding violation that a citation be issued, and therefore the person is not arrested under the provisions of the Speedy Trial Act.

It is this Court's holding that the date of the issuance of the citation controls, and the provisions of the Speedy Trial Act commence running from that date since the issuance

of the citation, even in the speeding case, constitutes an arrest under the law.

The case is reversed and rendered in Appellant's favor.

Dated this 30 day of Jan, 1984.



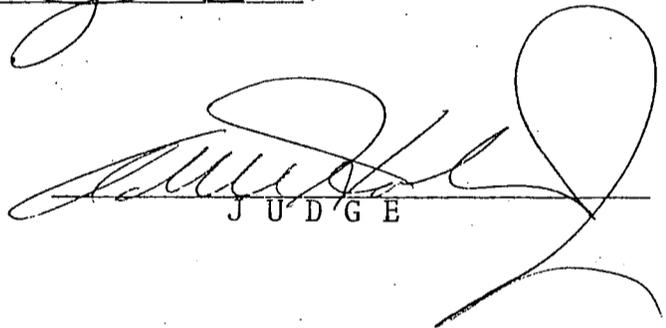
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JUDGE

J U D G M E N T

This case came on to be heard, the same being considered, because it is the opinion of this Court that there was error in the Judgment, it is ORDERED, ADJUDGED and DECREED by the Court that the Judgment be in all things reversed and rendered in Appellant's favor, and judgment of acquittal be entered in his behalf.

Dated this 30 day of Jan, 1984.



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J U D G E