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

MICHAEL HARMON, Appellant

vs.

No. 89-MCA-1957

STATE OF TEXAS, Appellee

OPINION

Appellant appeals his conviction in Municipal Court for violation of Section 18.52.010 Code of City of El Paso for permitting an accumulation of construction debris.

On appeal, Appellant contends that the complaint is defective because it fails to identify Appellant as a contractor or builder, however, no Motion to Quash was filed at the trial court level.

The complaint identifies the defendant, and basically tracks the language of the ordinance, which is generally sufficient to vest the trial court with jurisdiction, and is therefore, not fundamentally defective on its face. Devaughn vs. State, 749 SW2d 62 (Tex. Cr. App. -1988); Perry vs. State, 88-MCA-1939 (Mun. Ct. App. 1988).

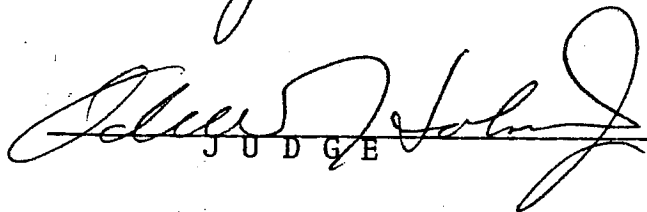
Appellant's contention that he did not have adequate notice of the charge against him requires the filing of a Motion to Quash in order to raise such issue. Brasfield vs. State, 600 SW2d 288 (Tex. Cr. App. 1980). Further, pursuant to Article 21.19 of the Code of Criminal Procedure, a

defect which is characterized as one of form is waived unless the defect prejudices the substantial rights of the defendant. Adams vs. State, 707 SW2d 900 (Tex. Cr. App. 1986).

Therefore, the failure to raise this issue in a timely written Motion to Quash the complaint, waives any defect in the form of the complaint upon which this prosecution was based.

Having found no reversible error, the judgment of the trial court is affirmed.

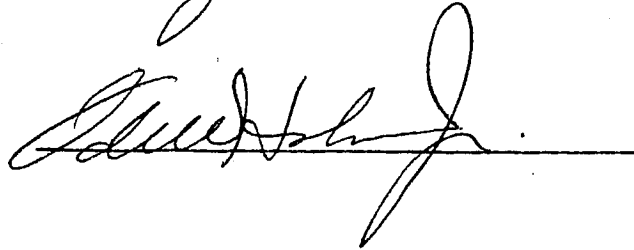
Signed this 11 day of May, 1989.


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 11 day of May, 1989.

A handwritten signature in cursive script, written in black ink, positioned below the date. The signature is written over a horizontal line that extends across the width of the signature.