

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

**GEORGE MOLINAR**

Appellant,  
v.

**STATE OF TEXAS**

Appellee.

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**No. 09-MCA-3334  
Ticket #: 17901461**

**OPINION**

Appellant appeals his conviction in Municipal Court for crossing property as prohibited by Section 545.423 of the Texas Transportation Code. That Section prohibits an operator of a motor vehicle from crossing a sidewalk or driving through a driveway, parking lot or business or residential entrance without stopping the vehicle or, at an intersection from turning right or left from one highway to another. Appellant was found guilty after a trial before the judge and assessed a fine of \$45.00.

Appellant contacted this Court on a number of occasions complaining of the difficulty that he had been encountering in obtaining a transcription of the Reporter's Record (formally known as a Statement of Facts). Appellant filed a motion to extend the time to secure that record, and this Court on its own volition, attempted to assist Appellant with securing the Reporter's Record, and granted the extension. Despite having done so, Appellant has filed his brief and is proceeding with this appeal without the benefit of the Reporter's Record even though the Reporter's Record was prepared by a Court Reporter. Appellant complains in his brief, that without even ordering the Record from the Court Reporter, he received a call from the Court Reporter wanting payment of over \$100.00 for the transcription, which he claims, was done without his

authorization. The Court Reporter has informed this Court that he was requested to prepare the Reporter's Record, and made it clear to Appellant that it would be his responsibility to pay for it. The Court Reporter further informed this Court that he would not have transcribed the Record without authorization from Appellant.

The law requires Appellant to pay for the Reporter's Record unless he is indigent, and there is no suggestion of that in the Record before this Court. See Section 30.00019 of the Texas Government Code.

Turning to the merits of Appellant's appeal presently before this Court, it would be instructive to repeat that the Trial Judge is the fact finder and must judge the credibility of the witnesses and the weight to be given to their testimony. This Court does not second guess that decision nor does it have the legal authority to do so, particularly, when no Reporter's Record is presented to the Appellate Court showing what evidence was actually presented to the Trial Court.

Moreover, Appellant has presented to this Court a number of photos which he readily admits had been misplaced and were not available to be submitted to the Trial Court, and now he is submitting them to this Court for the first time. In doing so, Appellant is attempting to invoke a trial de novo which was abolished when the Courts of Record Act was passed. See Section 30.00146 of the Texas Government Code. So it was for the Trial Judge to listen to the evidence, resolve any conflict in that evidence and make a decision, and this Court will not disturb that decision on appeal in this case.

Although Appellant claims that he has Constitutional Rights to do what he did, this Court must assume that the State presented evidence showing that he had violated the Statute above, and without the Reporter's Record, this Court is unable to review those

evidentially factors, and finds no error in its judgment. Therefore, the judgment of the Trial Court is hereby affirmed.

Signed this 17<sup>th</sup> day of September 2009

  
JUDGE

JUDGMENT

These cases came on to be heard on the Transcript of the Record of the Court below, the same being considered, they are ORDERED, ADJUDGED and DECREED by the Court that these cases be affirmed.

SIGNED this 17<sup>th</sup> day of September, 2009.

  
JUDGE