

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

STEFANIE STANFORD,)	
)	
Appellant)	
)	
vs.)	89-MCA-2031
)	
STATE OF TEXAS,)	
)	
Appellee)	

OPINION

Appellant appeals her conviction in Municipal Court for a speeding violation.

On appeal, Appellant contends that the evidence is insufficient to support the allegation in the complaint that the offense occurred in an "urban district".

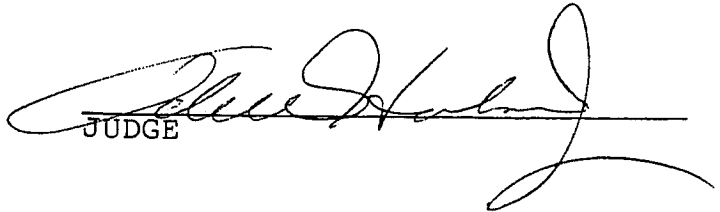
This Court has reviewed the Statement of Facts contained in this record, and agrees with Appellant that there was no evidence introduced to support such allegation. Of course, it is incumbent on the State to prove the necessary and essential allegations of their complaint, and their failure to do so renders the evidence insufficient. When the State alleges an offense under Section 166(a)(1) of Article 6701(d), it is necessary to allege and prove that the offense occurred in an "urban district". Abrams vs. State, 563 SW2d 610 (Tex.Crim.App. - 1978), Urquhart vs. State, 86 MCA 1680 (Mun.Ct.App. - 1986).

The State's proof that the area where the speeding violation

occurred was in a "residential area" is not sufficient to establish that the offense occurred in an "urban district", and this Court has previously held that the terms are not synonymous. McKee vs. State, 87 MCA 1796 (Mun.Ct.App. - 1987), Warren vs. State, 87 MCA 1870 (Mun.Ct.App. - 1988).

Having found the evidence insufficient, the judgment of the Trial Court is reversed and rendered in Appellant's favor.

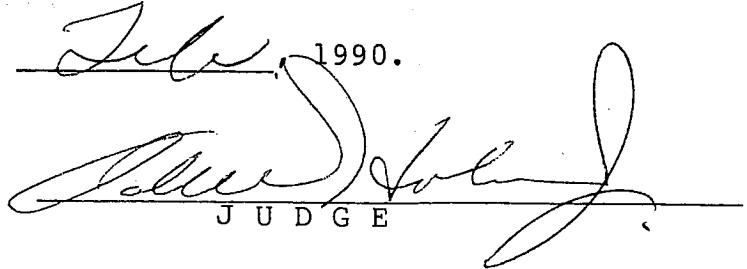
SIGNED this 28 of July, 1990.


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 her behalf.

SIGNED this 28 day of July, 1990.


J U D G E

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