IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

GREGORIO SANCHEZ, Appellant

vs. NO. 83-MCA-1118

STATE OF TEXAS, Appellee

OPINION

Appellant appeals this conviction in Municipal Court for failure to give right away causing an accident.

On appeal, Appellant contests the in-court identification of Appellant contending that the city prosecutor improperly suggested to the complaining witness who the Defendant was. Certainly, any such conduct on the part of the prosecutor would be improper in assisting the witness to make an in-court identification, and could lead to a tainted identification requiring reversal. Cano v. State, 614 S.W.2d 578 (Tex.Cr.App. - 1981).

However, a review of the statement of facts prepared and filed in this case does not support that such conduct occurred. Although Appellant's able defense counsel moved on a timely basis in respect to this conduct, the city prosecutor denied that any such conduct occurred, and the trial court indicated he did not see any gestures which would indicate who the Defendant actually was. This Court certainly is not in a position to hold otherwise. Further, although there was no other specific identification of the Defendant, other witnesses testified that the Defendant was at the scene of the accident, and was involved in the investigation of the accident itself.

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

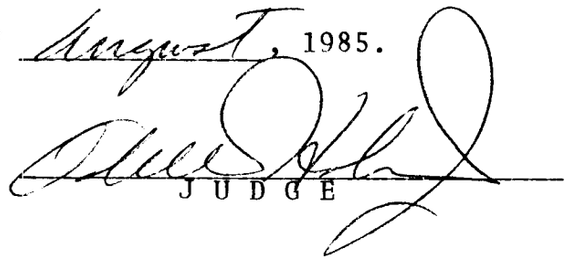
Signed this 21 day of August, 1985.

JUDGE

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 21 day of August, 1985.



J U D G E