IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

GARY A. TRUNK, Appellant

v. 83-MCA-1135

STATE OF TEXAS, Appellee

O P I N I O N

Appellant appeals his conviction for fleeing and eluding a police officer under Article 6701D, Section 186. After hearing oral argument on this case, and reviewing the record and statement of facts contained therein, this Court has concluded that the complaint is fundamentally defective, and therefore, Appellant's conviction cannot stand.

The complaint does not set out the essential elements of the offense which were contained in such Section, and which are required to substantiate proof, but rather, merely alleges a violation incident to the Section itself. The allegations of the complaint should allege the essential elements of the offense, and failure to do so constitutes fundamental error. See Alejos v. State, 555 S.W.2d 444 (Tex.Crim.App. - 1977).

The Judgment of the Trial Court is hereby reversed, and the complaint is hereby ordered dismissed.

Signed this 17 day of August, 1984.

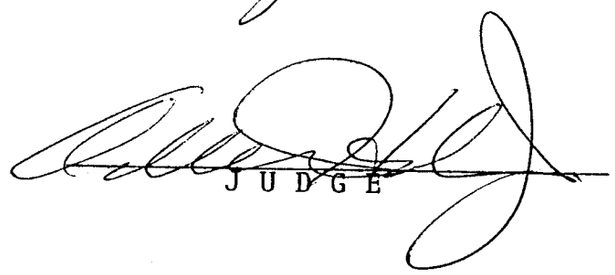
JUDGE

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 the complaint be dismissed.

Signed this 12 day of Sept, 1984.



JUDGE