IN THE MUNICIPAL COURT OF APPEALS

OF THE CITY OF EL PASO, TEXAS

JEFF DUNN, Appellant

vs. NO. 83-MCA-722

STATE OF TEXAS, Appellee

O P I N I O N

Appellant appeals his conviction in Municipal Court for driving without a valid operator's license.

In an able brief filed by Appellant's attorney, he attacks his conviction on the basis that the complaint is fundamentally defective for failing to allege a culpable mental state. The basis of that argument is that the statute in question does not clearly dispense with such a requirement, and therefore, pursuant to Section 6.02(b) of the Texas Penal Code, that a culpable mental state is required.

This Court has held that driving without a valid operator's license is in the nature of a strict liability offense, and therefore no mental culpability need be alleged or proven in order to sustain a conviction. Aguilar v. State, 83-MCA-617 (Mun.Ct.App. - 1985), Brune v. State, 83-MCA-259 (Mun.Ct.App. - 1984).

The point of error is overruled.

Secondly, Appellant contends that the complaint in this case is defective because it does not have the Court's seal imprinted thereon.

The requirements relating to a seal were contained in Article 1200ee-1, Section 29, and have been carried forward in the exact language under the Successor Statute, Article 1200ee-2, Section 2.12. The requirements of both sections required the seal to be attached to all papers, except subpoenas issued out of the Court, and shall be used by each

Municipal Judge or his clerk to authenticate all official acts of the Clerk and the Municipal Judge. The use of the seal to authenticate documents issued out of the Court addresses itself more to the evidentiary issue relating to the introduction of such documents in other trial proceedings rather than the validity of the complaint itself. Although the prosecution is founded on the validity of the complaint in Municipal Court, the complaint is not introduced in evidence, but only the facts supporting its allegations are presented by evidence.

Further, under both statutes referred to above creating El Paso Municipal Courts of record, the form and requirements of a complaint do not require that the complaint be sealed. For the requirements of a complaint, see Section 10 of Article 1200ee-2, and Section 2.09 of Article 1200ee-2.

Therefore, this Court holds specifically that a complaint in Municipal Court is not fundamentally defective for failing to have the Municipal Court's seal impressed thereon. The point of error is overruled. The judgment of the Trial Court is affirmed.

Signed this 8 day of April, 1985.

JUDGE

JUDGMENT

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 7 day of April, 1985.

JUDGE