

AFFIRM; Opinion Filed March 5, 2018.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00527-CR

No. 05-17-00528-CR

ROBERT EARL MARZETT, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Court at Law No. 7
Collin County, Texas
Trial Court Cause Nos. 007-87283-2016 & 007-87284-2016**

MEMORANDUM OPINION

Before Justices Bridges, Myers, and Schenck
Opinion by Justice Myers

Appellant Robert Earl Marzett was cited for operating an unregistered vehicle and failing to maintain financial responsibility. He challenged these charges in Plano Municipal Court, where a jury found him guilty and the court assessed punishment. He appealed the verdict to a county court at law, which affirmed the municipal court's judgments. Appellant filed notices of appeal to this Court. No appellant's brief was filed. Finding no fundamental error, we affirm the judgments.

DISCUSSION

Appellant was found guilty by a jury in Plano Municipal Court of operating an unregistered vehicle and failing to maintain financial responsibility while driving and operating a motor vehicle in the incorporated limits of the City of Plano, Collin County, Texas. *See* TEX. TRANSP. CODE ANN. §§ 502.472, 601.051. On June 27, 2016, the municipal court entered judgments against

appellant for \$271 for the vehicle registration offense and \$424 for failing to maintain financial responsibility.¹ He appealed to the Collin County Court at Law No. 7. On April 3, 2017, that court affirmed the municipal court's judgments. Appellant filed motions for rehearing on April 18, 2017, which the county court at law later denied. On May 18, 2017, he filed his notices of appeal in the county court at law and his motions to extend time with this Court. On August 14, 2017, the clerk's records from the county court at law were filed.

The clerk's records contain records from the municipal court and the county court at law, but no brief from appellant.² The government code provides that the record and briefs on appeal to the county court "constitute the record and briefs on appeal" to this Court. TEX. GOV'T CODE ANN. § 30.00027(b). We may not consider briefs in a municipal appeal other than those filed in the county court. *See Arias v. State*, 477 S.W.3d 925, 927 (Tex. App.—Houston [14th Dist.] 2015, no pet.) (in appeal from municipal court, the record and briefs from the appeal to the county court constitute the record and briefs at court of appeals); *Brooks v. State*, 226 S.W.3d 607, 609 n. 3 (Tex. App.—Houston [1st Dist.] 2007, no pet.) (court would not consider briefs filed in appellate court because briefs in county criminal court constitute briefs in court of appeals).

When, as in this case, an appellant does not file a brief, our review is limited to fundamental error. *See, e.g., Baker v. State*, No. 02–14–00157–CR, 2015 WL 392640, at *2 (Tex. App.—Fort Worth Jan. 29, 2015, no pet.) (mem. op., not designated for publication). The Texas Court of Criminal Appeals has enumerated the following fundamental errors: (1) denial of the right to counsel; (2) denial of the right to a jury trial; (3) denial of ten days' preparation before trial for appointed counsel; (4) absence of jurisdiction over the defendant; (5) absence of subject-matter

¹ Included in the clerk's records is a notice from the Plano Municipal Court that it became a court of record on July 1, 2012.

² The county court at law's April 3, 2017 judgments state: "Defendant's brief was not timely filed. A request for an extension was requested and granted. A second request for extension was requested and denied; Based on the documents submitted on appeal, the court affirms the Trial Court's Judgment."

jurisdiction; (6) prosecution under a penal statute that does not comply with the Separation of Powers section of the state constitution; (7) jury charge errors resulting in egregious harm; (8) holding trials at a location other than the county seat; (9) prosecution under an ex post facto law; and (10) comments by a trial judge which taint the presumption of innocence. *Saldano v. State*, 70 S.W.3d 873, 887–89 (Tex. Crim. App. 2002); *Burton v. State*, 267 S.W.3d 101, 103 (Tex. App. —Corpus Christi 2008, no pet.).

The clerk’s records, which contain filings from both the municipal court and the county court at law proceedings, reveal that appellant challenged many aspects of the trial process, including jurisdiction, the legal and evidentiary basis for the charges against him, and the trial judge’s impartiality. The reporter’s record of the June 27, 2016 trial before the Plano municipal court, a copy of which is in the clerk’s records, shows that the officer who issued the citations was the only witness who testified. He testified that he saw appellant’s vehicle driving on a public street and initiated a traffic stop of the vehicle after he noticed it was displaying no vehicle registration insignia. The officer testified that, after advising appellant why he had been stopped, appellant said he was exempt from not only the vehicle registration law but any traffic laws. Appellant similarly claimed he was not required to maintain proof of financial responsibility. Our review of the clerk’s records shows no fundamental error.

We affirm the trial court’s judgment.

/Lana Myers/
LANA MYERS
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ROBERT EARL MARZETT, Appellant

No. 05-17-00527-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court at Law
No. 7, Collin County, Texas

Trial Court Cause No. 007-87283-2016

Opinion delivered by Justice Myers.

Justices Bridges and Schenck participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 5th day of March, 2018.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ROBERT EARL MARZETT, Appellant

No. 05-17-00528-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court at Law
No. 7, Collin County, Texas

Trial Court Cause No. 007-87284-2016

Opinion delivered by Justice Myers.

Justices Bridges and Schenck participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 5th day of March, 2018.