

NO. 07-11-00158-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL E
JUNE 27, 2012

MARTIN HERNANDEZ, APPELLANT

v.

THE STATE OF TEXAS, APPELLEE

FROM THE COUNTY COURT AT LAW NO. 1 OF LUBBOCK COUNTY;
NO. 2009-458,545; HONORABLE LARRY B. "RUSTY" LADD, JUDGE

Before HANCOCK and PIRTLE, JJ. and BOYD, S.J.¹

MEMORANDUM OPINION

After the trial court overruled appellant's, Martin Hernandez, motion to suppress evidence, appellant entered a plea of guilty to possession of marijuana in an amount of two ounces or less.² The trial court assessed appellant's punishment, pursuant to a plea bargain, to confinement in the Lubbock County Jail for 20 days and all costs of court. Appellant appeals his conviction asserting the trial court erred in overruling his

¹ John T. Boyd, Chief Justice (Ret.), Seventh Court of Appeals, sitting by assignment.

² See TEX. HEALTH & SAFETY CODE ANN. § 481.121(a), (b)(1) (West 2010).

motion to suppress the evidence. We agree with appellant and reverse the judgment of conviction.

After appellant filed his brief, the State filed its brief and conceded that the search in question was unlawful. After reviewing the brief and record, we conclude that the State's concession of error is well founded. Therefore, we find that the trial court committed reversible error in overruling appellant's motion to suppress the evidence obtained as a result of the search of appellant. Accordingly, we reverse the judgment of the trial court and remand this matter to the trial court for further proceedings consistent with this opinion.

Mackey K. Hancock
Justice

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