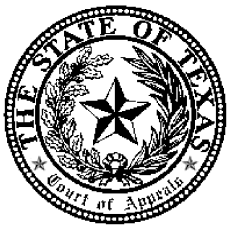
Affirmed and Opinion filed October 4, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-00187-CR
NO. 14-00-00188-CR

GARRY WALSMAN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Criminal Court at Law No. 10
Harris County, Texas
Trial Court Cause Nos. 5253 & 5254

O P I N I O N

A municipal court jury found the appellant, Garry Walsman[1], guilty of the Class C misdemeanors of walking on a roadway where a sidewalk was provided,[2] and of refusing to give his name to a peace officer,[3] and assessed a $700.00 fine. The convictions were

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[1] The appellant refers to himself as "Victor Garry" in his brief, and as "Victor Walsman Garry" in his motion for new trial. We will refer to him as "Garry Walsman," as appears in the municipal court records.

[2] TEX. TRANS. CODE ANN. § 552.006 (Vernon 1999).

[3] TEX. PEN. CODE ANN. § 38.02(a) and (c)(Vernon 1994).

affirmed by the county court at law. The appellant now appeals to our court, *pro se*, arguing under six points of error that the evidence is insufficient to sustain the convictions, and that the trial court erred in failing to take judicial notice of a requested fact. We affirm.

Houston police officer Perry Sable testified that during routine patrol on the night of February 2, 1997, he noticed appellant walking in the roadway in the 200 block of Pacific, an area known for drug trafficking and male prostitution. He testified that there were sidewalks along the street where appellant was walking, but that the appellant was walking in a lane of traffic, as male prostitutes and drug traffickers in that area often did. Officer Sable further testified that when he stopped the appellant and asked what he was doing, the appellant refused to identify himself both before and after his arrest. Appellant was charged with and subsequently found guilty of both offenses. Although couched in different terms, five of the appellant's six points of error on appeal center around one basic argument – that the convictions cannot stand as there are no sidewalks in the 200 block of Pacific.

Sufficiency Review

The appellant raises legal and factual insufficiency of the evidence. In evaluating legal and factual sufficiency, we follow the usual standards of review. See *Wesbrook v. State*, 29 S.W.3d 103, 111 (Tex. Crim. App. 2000) (legal); *King v. State*, 29 S.W.3d 556, 563 (Tex. Crim. App. 2000) (factual).

At trial, Officer Sable testified that there were sidewalks at the location where he saw appellant walking in the street. Appellant argues that he presented irrefutable proof through the introduction of two photographs that there are no sidewalks in the 200 block of Pacific. But the officer testified that appellant's photographs showed the 300 block of Pacific, and did not show the area of the infraction. Faced with conflicting evidence, the jury was required to judge the credibility of the witnesses, and obviously resolved the issue against appellant.

The fact finder is the exclusive judge of the credibility of the witnesses and the

weight to be given their testimony. *Mosley v. State*, 983 S.W.2d 249, 254 (Tex. Crim. App.1998). Applying the standards of review set out above, we find that the evidence is legally and factually sufficient to support the conviction for the offense regarding walking in the street, and we overrule the first, second and third points of error. The appellant's fifth and sixth points of error, attacking the conviction regarding failure to identify himself following arrest, were contingent upon the invalidity of the conviction for walking in the street. As we have upheld that conviction, we overrule the fifth and sixth points of error.

Judicial Notice

The appellant complains in his fourth point of error that the trial court erred in refusing to take judicial notice that the 100 block of Pacific begins at Genesee. At trial, the appellant had requested that the trial court take judicial notice of this fact, which the trial court declined to do, stating "I can't take judicial notice of a fact I'm not aware of. You can enter evidence as to that fact." When the appellant suggested that the trial court could look in the "key map," the court declined.

Under TEX. R. EVID. 201(a) and (d), a court is to take judicial notice of an adjudicative fact if requested by a party and supplied with the necessary information. The record does not show that the appellant introduced a map or other evidence for the court's use. *See Issac v. State*, 982 S.W.2d 96, 99 (Tex. App.–Houston [1st Dist.] 1998), *affirmed*, 989 S.W.2d 754 (Tex. Crim. App. 1999) (taking judicial notice of location of street from map admitted into evidence). Moreover, appellant does not explain how a finding as to where Pacific begins would require us to disregard the evidence that there were sidewalks at the location where he was walking in the roadway. The appellant's fourth point of error is overruled.

Conclusion

The trial court judgments are affirmed.

/s/ Scott Brister
Chief Justice

Judgment rendered and Opinion filed October 4, 2001.

Panel consists of Chief Justice Brister and Justices Fowler and Seymore.

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