

**Affirmed and Opinion filed October 25, 2001.**



**In The**  
**Fourteenth Court of Appeals**

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**NO. 14-00-00705-CR**

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**GARY WAYNE STEVENS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Criminal Court at Law No. 14  
Harris County, Texas  
Trial Court Cause No. 0986480**

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**OPINION**

A jury found appellant, Gary Wayne Stevens, guilty of the misdemeanor offense of driving while intoxicated. The trial court assessed punishment at 120 days confinement in the Harris County Jail and a fine of \$500.00. In two issues, appellant challenges the trial court's decision to admit into evidence an electronic recording of appellant. We affirm.

On February 17, 2000, at approximately 10:45 p.m., a sport utility vehicle driven by appellant rear-ended a sedan which was stopped at a red light. The driver of the sedan notified the police department and, shortly thereafter, Officer Anthony Mock, an accident investigator with the Houston Police Department, arrived at the accident scene. Upon his

arrival, Officer Mock observed appellant appeared off balance; he noticed appellant's speech was slurred; and he detected the odor of alcohol on appellant's person. After administering a battery of field sobriety tests, Officer Mock arrested appellant for the offense of driving while intoxicated and transported him to the police station. Upon their arrival at the police station, another Houston police officer made a video-recording of appellant. Officer Mock was present when the recording was made. At appellant's trial, the court allowed the State to introduce the video-recording into evidence. The trial court's decision to admit the video-recording in evidence is the subject of both of appellant's issues on appeal.

In his first issue, appellant contends that the trial court erred in admitting the video-recording into evidence because the State failed to establish the proper predicate for its admission. Appellant's second issue contends that the trial court abused its discretion by admitting the video-recording because the State failed to establish the proper predicate for its admission. We reject both contentions.

We review a trial court's decision to admit or exclude evidence under an abuse of discretion standard. *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). Texas Rule of Evidence 901(a) governs the authentication of electronic recordings. TEX. R. EVID. 901(a). Rule 901(a) states, "The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." *Id.* Rule 901 does not specify when and in what respect evidence must be authenticated. However, the rule provides some examples and should be applied when logical necessity demands authentication. *See Stapleton v. State*, 868 S.W.2d 781, 785 (Tex. Crim. App. 1993). Rule 901(b)(1) lists "Testimony of Witness with Knowledge" as one example of a proper means of authentication. TEX. R. EVID. 901(b)(1). Prior to the admission of the video-recording into evidence, Officer Mock testified that: (1) he was present when the videotape was made; (2) he recognized the specific videotape as the recording of appellant; and (3) the content

of the tape was not edited. This testimony clearly satisfied the authentication requirement imposed by Rule 901.

Accordingly, we find that the trial court's decision to admit the video-recording was not error and did not constitute an abuse of the trial court's discretion. Both of appellant's issues are overruled, and the judgment of the court below is affirmed.

/s/ J. Harvey Hudson  
Justice

Judgment rendered and Opinion filed October 25, 2001.

Panel consists of Justices Anderson, Hudson, and Seymore.

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