

*Aguirre v. State*

The owners of several adult businesses were prosecuted under a city ordinance which prohibited the business from operating within 1,000 feet of a school. The charges were dismissed by the court of appeals because the complaints failed to allege a culpable mental state. The State appealed this decision on the basis that the ordinance contained no intent language and that therefore it should be considered a strict liability offense. The court explained that under Penal Code Section 6.02, even if the ordinance did not contain the requirement of a mental state, a culpable mental state is required nonetheless unless the definition of the offense clearly negates the necessity of any mental component. After examining the nature of the conduct prohibited by the ordinance, the court decided that it could not classify the offense as one typically punishable regardless of fault, and therefore affirmed the dismissal of the charges.

As a threshold issue, the court extensively addressed the authority of the court to hear the appeal. The Government Code had altered the manner of appeal from the city's municipal court from the county court to a municipal court of record. Further appeals were to be conducted by the city attorney. A minority of the court argued that this deprived the State of authority to pursue the appeal on behalf of the city. After extensive discussion of the establishment of municipal courts under the Texas Constitution and the concurrent jurisdictions of various courts, the court concluded that the Legislature had decided to establish municipal courts as extensions of the State, and that all such prosecutions were brought in the name of the people. Therefore, it was proper for the State to represent the city in the matter.