

**Affirmed and Opinion filed June 14, 2001.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-00-00598-CR**  
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**JOSE LOPEZ, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Criminal Court at Law No. 12  
Harris County, Texas  
Trial Court Cause No. 0979621**

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**OPINION**

Jose Lopez appeals a conviction for driving while intoxicated<sup>1</sup> on the ground that the trial court erred in denying his motion to suppress because his videotaped response to interrogation-type questioning was obtained without an express waiver of his rights in violation of article 38.22 of the Texas Code of Criminal Procedure and *Miranda*. We affirm.

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<sup>1</sup> Appellant pled guilty and was sentenced to 180 days, probated for one year.

An oral statement by an accused made as a result of custodial interrogation is admissible if, among other things, the accused knowingly, intelligently, and voluntarily waives his rights prior to making the statement. TEX. CODE CRIM. PROC. ANN. art. 38.22 § 3(a)(2) (Vernon Supp.2001). Similarly, under *Miranda*, before conducting a custodial interrogation, law enforcement officials are required to warn the person being questioned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. *Miranda v. Arizona*, 384 U.S. 436, 445 (1966). The waiver requirements are satisfied if, before making a statement, a defendant is advised of his rights and merely states that he understands them. *Etheridge v. State*, 903 S.W.2d 1, 17 (Tex. Crim. App. 1994). There is no requirement that the confession be preceded by an express statement from the accused that he affirmatively waives his rights. *Rocha v. State*, 16 S.W.3d 1, 12 (Tex. Crim. App. 2000); *Etheridge*, 903 S.W.2d at 16-18.

In this case, it is undisputed that appellant was adequately advised of his rights, as required by article 38.22 and *Miranda*, and stated that he understood them. Therefore, the trial court did not abuse its discretion in overruling appellant's objection to the admission of his videotaped confession based on the lack of an express waiver of his rights. Accordingly, appellant's two issues are overruled, and the judgment of the trial court is affirmed.

/s/ Richard H. Edelman  
Justice

Judgment rendered and Opinion filed June 14, 2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy.<sup>2</sup>

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<sup>2</sup> Senior Chief Justice Paul C. Murphy sitting by assignment.