

Affirmed and Opinion filed November 24, 1999.



In The

Fourteenth Court of Appeals

NO. 14-98-00190-CR

DOUGLAS LEROY HOPKINS, II, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Criminal Court at Law No. 7
Harris County, Texas
Trial Court Cause No. 97-52442**

O P I N I O N

Appellant, Douglas Leroy Hopkins, was convicted of driving while intoxicated and sentenced to twenty-eight days in jail and a fine of \$1000. In two points of error, he contends that the trial court erred in denying his motion to quash because the State's information did not allege the offense was committed before the information was filed.

On December 20, 1997, the Harris County District Attorney filed a complaint and information against appellant for driving while intoxicated. The information alleged that "Douglas Leroy Hopkins, II, hereafter styled the Defendant, on or about December 20, 1997, did then and there unlawfully while intoxicated . . . operate a motor vehicle in a public place."

Appellant moved to quash, arguing that because the date of the information is the same as the date of the offense, there is no proof the offense was anterior to the filing of the information as required by Article 21.21(6) of the Texas Code of Criminal Procedure. The trial court denied appellant's motion to quash.

Appellant contends that when an information does not specify the offense took place anterior to the filing of the information, the information is fatally defective. Thus, appellant contends the trial court erred in denying his motion to quash and cites several cases in support of his position that if an information is filed on the same day as the offense it alleges, it must contain an averment that the offense occurred prior to the presentation of the information. *See Cockrell v. State*, 154 Tex. Crim. 290, 227 S.W.2d 216 (1950); *Martini v. State*, 151 Tex. Crim. 215, 205 S.W.2d 988 (1947); and *Gill v. State*, 20 S.W. 578 (Tex. Crim. App. 1892).

Here, the information alleged the offense occurred "on or about" December 20, 1997. It is now well-established that the term "on or about" in an information means any time before the date of presentation of the information that falls within the applicable statute of limitations. *See Mireles v. State*, 901 S.W.2d 458, 459 (Tex. Crim. App. 1995). By using the term "on or about," the information did, in fact, allege that the charged offense occurred prior to the presentation of the information.

Appellant's points of error are overruled.

/s/ J. Harvey Hudson
Justice

Judgment rendered and Opinion filed November 24, 1999.

Panel consists of Chief Justice Murphy and Justices Hudson and Wittig.

Do Not Publish — TEX. R. APP. P. 47.3(b).