

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE CITY OF DETROIT,

Plaintiff-Appellant,

v

SHIRLEY GREENE, LEAH HAMMOND, and
VENESSA VORE,

Defendants-Appellees.

UNPUBLISHED

June 15, 2001

No. 225877

Wayne Circuit Court

LC No. 98-900055

Before: White, P.J., and Cavanagh and Talbot, JJ.

MEMORANDUM.

The prosecution appeals by leave granted the circuit court's affirmance of the district court's dismissal of charges against defendants. We reverse and remand.

This cases involves the applicability of the indecent exposure ordinance § 38-9-1 of the Detroit City Code to two entertainers at the Silk Stockings restaurant which offers adult entertainment. Based upon the observations of an undercover police officer that defendants Leah Hammond and Venessa Vore fully exposed their vaginas and breasts, they were charged with indecent exposure in violation of § 38-9-1 of the Detroit City Code. Defendant Shirley Greene, manager of Silk Stockings, was charged with receiving or admitting persons for immoral acts in violation of § 38-9-6 of the Detroit City Code. The district court granted defendants' motion to dismiss the charges on the authority of *Jads, Inc v City of Detroit*, 41 Mich App 693; 200 NW2d 715 (1972). The circuit court affirmed.

The prosecution argues that the lower courts erred in determining that the indecent exposure ordinance does not proscribe the conduct at issue here. We agree. This Court reviews a lower court's interpretation and application of an ordinance de novo. *Warren's Station, Inc v City of Bronson*, 241 Mich App 384; 615 NW2d 769 (2000). We employ the rules of statutory interpretation to the interpretation of ordinances. *Brandon Charter Tp v Tippet*, 241 Mich App 417, 421-422; 616 NW2d 243 (2000).

We conclude that the lower courts' decisions were based on the erroneous premise that Silk Stockings is a group D cabaret under the Detroit City Code. Article IV § 5-4-1 of the Detroit City Code defines a cabaret as:

any place open to the public wherein food and any type of alcoholic beverage is sold or given away and the premises and the operator thereof holds a yearly license from the state liquor control commission to sell such beverages by the glass and where the patrons are provided with entertainment or space for dancing.

It is undisputed that Silk Stockings does not serve alcoholic beverages and is not licensed to do so. Therefore, it is not properly classed as a cabaret. The consent judgment upon which defendants relied restrained and enjoined the City of Detroit from enforcing the zoning ordinance applicable to group D cabarets based upon a prior non-conforming use. The consent judgment expressly provides that it operates “without prejudice to [the City’s] right to enforce all other lawful statutes, ordinances, and regulations against the [establishment] as the same may be appropriate.”¹

Because Silk Stockings is not a group D cabaret, § 32.0023 and other provisions governing such cabarets are not implicated. However, even assuming that § 32.0023 applies by virtue of the consent decree, § 5-4-7 of the Detroit City Code, which also applies to group D cabarets, prohibits the conduct involved here.

Nor is the holding in *Jads, supra*, applicable. Contrary to defendant’s argument below, *Jads* does not stand for the proposition that the indecent exposure ordinance does not apply to nude dancers. Rather, the *Jads* Court held that the ordinance did not apply to the cabaret in that case because it was not a public place, and therefore the ordinance did not apply to the dancers at the bar. Notably, *Jads* was decided under a prior version of the indecent exposure ordinance, which has since been broadened to include “private property generally frequented by the public for purposes of education, recreation, amusement, entertainment, sport or shopping.” Detroit City Code § 38-9-1. Accordingly, the indecent exposure ordinance applies and the district court erred in dismissing the case.

The dismissal of charges against Greene was necessitated by the improper dismissal of charges against Hammond and Vore. Because we reverse the district court’s dismissal of the charges against Hammond and Vore, we also reverse with respect to Greene.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Helene N. White
/s/ Mark J. Cavanagh
/s/ Michael J. Talbot

¹ The case was brought by Greenfield Eight Restaurant Co against the City of Detroit and appears to have involved the enforcement of a zoning ordinance at the location of the current Silk Stockings. The consent judgment was entered in the United States District Court for the Eastern District of Michigan on January 26, 1984.