

DA 13-0495

IN THE SUPREME COURT OF THE STATE OF MONTANA

2014 MT 203N

STATE OF MONTANA,

Plaintiff and Appellee,

v.

VALENTINE ANTONE WALTER,

Defendant and Appellant.

APPEAL FROM: District Court of the Fourth Judicial District,
In and For the County of Missoula, Cause No. DC 12-514
Honorable Edward P. McLean, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

William L. Managhan, Managhan Law Firm, Kalispell, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, Tammy K Plubell,
Assistant Attorney General, Helena, Montana

Fred R. Van Valkenburg, Missoula County Attorney, Matthew Lowy,
Deputy County Attorney, Missoula, Montana

Submitted on Briefs: July 2, 2014
Decided: July 30, 2014

Filed:

Clerk

Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Valentine Walter appeals from his conviction of possession of junk vehicles in the Fourth Judicial District Court, Missoula County. He argues the State presented insufficient evidence to allow the jury to find beyond a reasonable doubt that the vehicles observed on his property were junk vehicles. We affirm.

¶3 Walter is the owner of property on Porter Lane in Missoula County. On October 10, 2011, Missoula County Environmental Health received a complaint about vehicles and trash on Walter's property. Enforcement Officer Jason White visited Walter's property to investigate the complaint on October 21, 2011. White knocked on the front door and received no response. He took photographs of the vehicles from various positions along the road. White did not enter Walter's property to examine the vehicles more closely. On October 26, 2011, White sent Walter a notice of violation and order to take corrective action. A second notice was sent December 2, 2011. White visited the property again to see if the vehicles had been disposed of, and they had not. White then sent a third notice by certified mail on January 6, 2012.

¶4 On June 27, 2012, the State filed a complaint in Justice Court alleging Walter had committed the misdemeanor offenses of possession of junk vehicles, maintaining community decay, accumulating solid waste, and operating a motor wrecking facility without a license. Walter was convicted of all four counts in Justice Court and appealed to the District Court.

¶5 At the District Court trial, the State presented photographs of Walter's property taken by White on October 21, 2011, and October 10, 2012. White testified about his observations of the vehicles on Walter's property, but said he had not further inspected the vehicles to determine if they were operable or properly licensed. A jury convicted Walter of possession of junk vehicles, maintaining community decay, and accumulating solid waste. He was sentenced to 30 days in jail for possession of junk vehicles and ordered to pay \$500 fines for maintaining community decay and accumulating solid waste. He appeals only his conviction of possession of junk vehicles.

¶6 We review de novo whether sufficient evidence supports a conviction. *State v. Torres*, 2013 MT 101, ¶ 16, 369 Mont. 516, 299 P.3d 804. We review the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Torres*, ¶ 16. Direct evidence is not required to prove the elements of an offense beyond a reasonable doubt. *State v. Jackson*, 2009 MT 427, ¶ 28, 354 Mont. 63, 221 P.3d 1213. Circumstantial evidence is sufficient to sustain a conviction if it is of such a quality and quantity as to justify a jury in determining guilt beyond a reasonable doubt. *State v. Morrissey*, 2009 MT 201, ¶ 89, 351 Mont. 144, 214 P.3d 708.

¶7 A person possessing one or more “junk vehicles” is required to shield the vehicles from public view or remove them to a licensed wrecking facility or graveyard. Section 75-10-505, MCA. Failure to do so is a misdemeanor. Section 75-10-542, MCA. A junk vehicle is defined as a vehicle, including component parts, that is “discarded, ruined, wrecked, or dismantled,” “not lawfully and validly licensed,” and “inoperative or incapable of being driven.” Section 75-10-501(4)(a), MCA.

¶8 Walter claims the State failed to offer sufficient evidence proving the vehicles on his property were junk vehicles. The jury was presented with photographs and testimony establishing the presence of an estimated 60-80 vehicles in varying conditions on Walter’s property. State’s exhibit 22 shows a detached pickup bed resting in tall grass. No license plate is displayed. State’s exhibit 26 shows a car with a dented, rusted hood and what appears to be metal grating covering most of the windshield. The car is on a trailer. State’s exhibit 1, dated October 21, 2011, shows a white camper with a dark stripe, a yellow van, a pickup with a canopy, and a white sedan all parked along the fence line of the property near a tall, gate-like metal structure. State’s exhibit 14, dated October 10, 2012, shows the same vehicles in the same positions relative to permanent structures such as the fence, gate, and telephone poles. Similarly, State’s exhibit 2, dated October 21, 2011, and State’s exhibit 15, dated October 10, 2012, both show an older green pickup with a red door. In both photographs, the position of the vehicle is the same relative to permanent structures such as telephone poles. It was reasonable for the jury to infer that these vehicles had not been moved in a year. Based on the visual condition of the vehicles and evidence they had not been moved for a long period of time, it was also

reasonable for the jury to infer that the vehicles were discarded, ruined, wrecked, or dismantled; not validly licensed; and inoperable. Section 75-10-501(4)(a), MCA. The State was not required to prove by direct evidence that the vehicles were junk vehicles. *See Jackson*, ¶ 28. The quantity and quality of circumstantial evidence was sufficient to justify the jury in finding beyond a reasonable doubt that the vehicles on Walter's property were junk vehicles. *See Morrissey*, ¶ 89.

¶9 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for memorandum opinions. Having reviewed the briefs and the record on appeal, we conclude Walter's conviction of possession of junk vehicles was supported by sufficient evidence.

¶10 Affirmed.

/S/ MIKE McGRATH

We Concur:

/S/ LAURIE McKINNON
/S/ PATRICIA COTTER
/S/ BETH BAKER
/S/ MICHAEL E WHEAT