

DA 20-0273

IN THE SUPREME COURT OF THE STATE OF MONTANA

2021 MT 113N

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CITY OF HARDIN,

Plaintiff and Appellee,

v.

JAIME ACEVES, JR.,

Defendant and Appellant.

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APPEAL FROM: District Court of the Twenty-Second Judicial District,  
In and For the County of Big Horn, Cause No. DC 2019-57  
Honorable Matthew J. Wald, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Alexa R. Vogel, Attorney at Law, Hardin, Montana

For Appellee:

Austin Knudsen, Montana Attorney General, Helena, Montana

Jordan W. Knudsen, Hardin City Attorney, Hardin, Montana

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Submitted on Briefs: March 31, 2021

Decided: May 4, 2021

Filed:

  
Clerk

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Justice Ingrid Gustafson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), 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 Appellant Jaime Aceves (Aceves) appeals the March 2, 2020 Findings of Fact, Conclusions of Law and Verdict and the March 20, 2020 Sentence and Judgment issued by the Twenty-Second Judicial District Court, Big Horn County. We affirm.

¶3 On January 25, 2019, Aceves was charged with Count I: Community Decay, in violation of Hardin City Code § 6-8-3 and Count II: District Uses Permitted, in violation of Hardin City Code § 11-1-2-3. The City of Hardin (City) alleged Aceves committed Community Decay by maintaining a public nuisance, by purposely or knowingly accumulating iron, metal, machine parts, component parts or other salvage metal items in public view and by possessing junk vehicles in public view and committed the District Uses Permitted offense by purposely or knowingly violating zoning restrictions by operating an automobile wrecking and salvage yard, a use not permitted within the C1 Zoning District in which Aceves's property is located.

¶4 A bench trial was initially held in city court. Aceves was found guilty of both offenses and sentenced. Aceves appealed and the District Court held a bench trial de novo on February 10, 2020. The District Court again found Aceves guilty of both counts and imposed sentence on March 3, 2020.

¶5 On appeal, Aceves challenges the sufficiency of the evidence. He asserts the City failed to prove public nuisance elements—that it affected an “entire community or neighborhood or any considerable number of persons”—with regard to the Community Decay offense, the District Court incorrectly interpreted the term “junk vehicle” in Hardin City Code § 6-8-2 with regard to the Community Decay offense, and the City failed to prove he was operating an “automobile wrecking yard” under Hardin City Code § 11-1-2-1 with regard to the Uses Permitted offense. When viewed in the light most favorable to the City, there was sufficient evidence to support the convictions.

¶6 We review de novo whether sufficient evidence supports conviction—when viewed in the light most favorable to the prosecution, whether a rational trier of fact could find the essential elements of the charged offense beyond a reasonable doubt. *City of Helena v. Strobel*, 2017 MT 55, ¶ 8, 387 Mont. 17, 390 P.3d 921; *State v. Finley*, 2011 MT 89, ¶ 28, 360 Mont. 173, 252 P.3d 199.

¶7 With regard to Count I: Community Decay, Aceves was charged with violating Hardin City Code § 6-8-3. To establish the Community Decay offense, the City had to prove Aceves maintained a public nuisance by violating one of the following subsections:

- D. No person shall store or accumulate iron, metal, machine parts, household appliances, barrels, component parts or other salvage metal items in public view.
- E. No person shall accumulate or store any other rubble, debris, junk or refuse that, upon investigation, is deemed to be a “public nuisance” as defined in this chapter.
- F. Any person possessing one or more junk vehicles, regardless of ownership, shall shield the vehicles from public view or remove the vehicles to a licensed motor vehicle wrecking facility or to a licensed motor vehicle graveyard, as defined by section 75-10-501, Montana Code Annotated.

A public nuisance is “Any nuisance which affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.” Hardin City Code § 6-8-2. A junk vehicle is “A discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully or validly licensed and remains inoperative or incapable of being driven.” Hardin City Code § 6-8-2.

¶8 The District Court found, based on the testimony of witnesses, including that of Aceves, and the photos admitted into evidence, Aceves guilty of Count I: Community Decay.<sup>1</sup> Based on our review of the record, when viewed in the light most favorable to the City, the evidence presented supports the District Court’s factual findings and guilty verdict as to Count I. From the evidence presented, a reasonable trier of fact would conclude Aceves was storing and accumulating machine parts and component parts, possessed several junk vehicles, and was using the property as a junk yard or motor vehicle graveyard in an open and offensive view to the public.

¶9 With regard to Count II: District Uses Permitted, the City had to prove Aceves was

[t]he owner or agent of a building or premises in or upon which a violation of any provisions of this chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which a

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<sup>1</sup> Joseph Connelly, Hardin City Code Enforcement Officer, testified Aceves’s property was located within an area zoned C1 and that the City had received dozens of complaints about the condition of Aceves’s property. Numerous photos were admitted depicting dozens of cars, trucks, vans—many without license plates and some stacked on each other or on other junk and debris—as well as numerous large car parts—drivetrains, suspensions, transmissions, or engines—clearly visible to the public. Aceves himself admitted he stored car parts and wrecked and salvaged vehicles on his property, that the photos accurately depicted the component parts, that some of the vehicles are not operable, and he does not have a motor vehicle dealer’s license.

violation has been committed or shall exist, or the agent, architect, building contractor, or any other person who commits, takes part, or assists in any violation or who maintains any building or premises in or upon which such violation shall exist.

Hardin City Code § 11-1-12. Areas zoned as C1, do not permit scrap yards, junk yards, or auto wrecking yards. Hardin City Code § 11-1-2-3(F) and (I).

¶10 The District Court found, based on the testimony of witnesses, including Aceves, and the photos admitted into evidence, Aceves guilty of Count II for violation of Hardin City Code § 11-1-2-3(F). Again, when viewed in the light most favorable to the City, we conclude there was sufficient evidence to establish this offense. There is no dispute the subject property is owned by Aceves and is located within a C1 zoning area and, from the evidence presented, a reasonable trier of fact would conclude Aceves was using the property as a junk yard or motor vehicle graveyard.

¶11 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶12 Affirmed.

/S/ INGRID GUSTAFSON

We concur:

/S/ MIKE McGRATH  
/S/ BETH BAKER  
/S/ LAURIE McKINNON  
/S/ JAMES JEREMIAH SHEA