

SUPREME COURT OF THE STATE OF MONTANA

City of Helena, Montana v. Charles Elliot Magraw

2013 MT 126N · No. DA 12-0610 · Decided May 7, 2013

SUMMARY

The Montana Supreme Court affirmed Charles Elliot Magraw’s convictions for two violations of Helena’s ordinance prohibiting animals from running at large. The court held that the factual record was insufficient to determine whether Magraw’s interpretation of the ordinance applied to his conduct and rejected his constitutional vagueness challenge. The decision was issued as a noncitable memorandum opinion.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Jim Rice; Mike McGrath; Beth Baker; Michael E. Wheat; Laurie McKinnon
JURISDICTION	Montana
DECIDED	May 7, 2013
DOCKET	DA 12-0610
DISPOSITION	affirmed
PROCEDURAL POSTURE	Magraw appealed municipal-court convictions for two violations of the Helena City Code to the District Court, which affirmed. He then appealed to the Montana Supreme Court.
STANDARD OF REVIEW	On appeal from municipal court, the district court functions as an intermediate appellate court; on subsequent appeal, the Montana Supreme Court reviews the case as if the appeal originally had been filed there.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Charles Elliot Magraw v. City of Helena, Montana

TOPICS

appellate procedure

municipal law

ordinances

void for vagueness

constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Magraw's interpretation of Helena City Code § 5-2-14 could support reversal of his convictions despite the absence of an evidentiary record showing that his dog was at heel, securely restrained, or otherwise prevented from running at large.
2. Whether Helena City Code § 5-2-14 is unconstitutionally vague.

HOLDINGS

1. Magraw was not entitled to reversal based on his interpretation of the ordinance because the record lacked evidence establishing the facts necessary to determine whether the dog was at heel, securely restrained, or otherwise prevented from running at large.
2. Magraw failed to prove beyond a reasonable doubt that Helena City Code § 5-2-14 was unconstitutionally vague.

KEY QUOTATIONS

“this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.” (§1)

“Even if we were to agree with Magraw’s interpretation of the ordinance, there would not be an evidentiary basis to reverse his conviction.” (§7)

FACTUAL BACKGROUND

Magraw was cited on May 5, 2011, and July 30, 2011, for owning or harboring a dog that was running at large and not on a leash. He acknowledged that the dog was not leashed but argued that it was 'at-heel' and therefore satisfied the ordinance's restraint requirements. The trial record contained photographs showing a loose dog but no testimony establishing whether the dog stayed at heel, was securely restrained, or was otherwise prevented from running at large.

PROCEDURAL HISTORY

Magraw was cited twice for violating Helena City Code § 5-2-14 by owning or harboring a dog running at large without a leash. The Helena Municipal Court consolidated the citations, conducted a bench trial, and found him guilty of both offenses. The First Judicial District Court affirmed, and the Montana Supreme Court affirmed the District Court's order.

DISPOSITION

affirmed

CASES CITED

- City of Bozeman v. Cantu, 2013 MT 40, ¶ 10, 369 Mont. 81, 296 P.3d 461

- *Confederated Salish and Kootenai Tribes v. Clinch*, 2007 MT 63, ¶ 31, 336 Mont. 302, 158 P.3d 377
- *State v. Benn*, 2012 MT 33, ¶ 9, 364 Mont. 153, 274 P.3d 47

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