

IN THE MUNICIPAL COURT OF APPEALS  
OF THE CITY OF EL PASO, TEXAS

JESUS MORALES and A.M. AGUILAR, Appellants

vs.

No. 88-MCA-1900  
88-MCA-1901

STATE OF TEXAS, Appellee

OPINION

Appellants appeal their conviction in Municipal Court for an alleged violation of Section 2202.2 of the Standard Building Code as adopted in Title 18, Chapter 18.08, Section 18.08.010 of the Code of City of El Paso. The Appellants allegedly obstructed the public right of way with junked vehicles.

The cases involving Appellants were consolidated on appeal because the same factual and legal issues are involved.

Appellants contend that the charge is inappropriate for the offense since the specific section of the City Code involved, Section 18.08.010, merely adopts all of the appropriate sections of the Standard Building Code, including the one at issue, Section 2202.2. That Section provides that public property shall be maintained clear of any obstructions, but seems most inappropriate for the present offense since there are certainly more specific charges

which could have been initiated in this case relating to junked vehicles. For instance, the exhibits introduced in the record before this court reflect that there were vehicles parked on an unpaved portion of the roadway in a remote area on the outskirts of the desert, but not in any proximity to a building or other structure. The Standard Building Code is primarily directed to the construction, alteration or repair of buildings rather than their use, even though in specific instances, use and occupancy of buildings is addressed. The instant offense, although it may be within the technical letter of the law, certainly falls beyond the spirit of it.

Although the general prohibitions concerning the use of the premises in question are probably covered under the Standard Building Code, such application can only be achieved by the broadest interpretation of the specific provision under which this case was prosecuted.

On the other hand, there are certainly more specific laws which proscribe this same conduct, particularly Chapter 9.08 of the Code of City of El Paso, and Article 4477-9(a) V.A.T.C.S. specifically relating to storage of junked vehicles. Under either law, the Municipal Court has jurisdiction.

Therefore, there appears to be both a general statute, the Standard Building Code; and a specific statute, Chapter 9.08 of the City Code of El Paso or Article 4477-9(a) which

prohibit the conduct involved in this case. Thus, this Court is confronted with two statutes that deal with the same subject matter, one of which is general and the other specific. Therefore, this Court is confronted with the necessity to interpret the various statutes. In Ex Parte Harrell, 542 SW2d 169 (Tex. Cr.App. 1976), the Court stated:

"It is a settled rule of statutory interpretation that statutes that deal with the same general subject, have the same general purposes, or relate to the same person or thing or class of persons or things, are considered as being in *pari materia* though they contain no reference to one another, and though they were passed at different times or at different sessions of the legislature.

"In order to arrive at a proper construction of a statute, and determine the exact legislative intent, all acts and parts of acts in *pari materia* will, therefore, be taken, read, and construed together, each enactment in reference to the other, as they were parts of one and the same law. Any conflict between their provisions will be harmonized, if possible, and effect will be given to all the provisions of each act if they can be made to stand together and have concurrent efficacy.

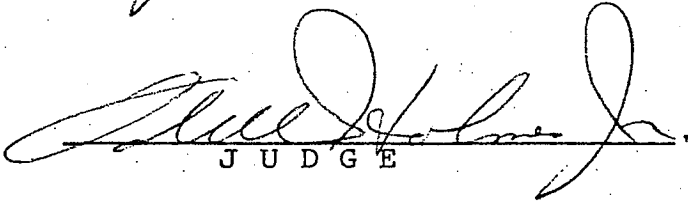
"The purpose of the *in pari materia* rule of construction is to carry out the full legislative intent, by giving effect to all laws and provisions bearing on the same subject. The rule proceeds on the supposition that several statutes relating to one subject are governed by one spirit and policy, and are intended to be consistent and harmonious in their several parts and provisions. Thus, it applies where one statute deals with a subject in comprehensive terms and another deals with a portion of the same subject in a more definite way. But where a general statute and a more detailed enactment are in conflict, the latter will prevail, regardless of whether it was passed prior or subsequently to the general statute, unless it appears that the legislature intended to make the general act controlling. And, the rule is not applicable

to enactments that cover different situations and that were apparently not intended to be considered together."

Such a statutory construction is applicable to this case, and therefore, this Court holds that the specific statute controls, and the Appellants should have been charged with the specific statutory violation relating to junk vehicles rather than the general statute applicable under the Standard Building Code. Ex parte Harrell, supra, Williams vs. State, 641 SW2d, 236 (Tex. Crim. App. 1982), Jones vs. State, 552 SW2d, 836 (Tex. Crim. App. 1977), Texas Gov't and Tex. Code Ann. Section 311.026 (Vernon 1985), Tex. Penal Code Ann., Section SCC 1.05(b) (Vernon 1985).

Accordingly, this Court holds that the conviction of the Appellants is hereby reversed, and the complaints order dismissed.

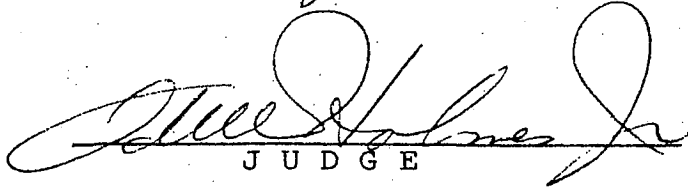
Signed this 8 day of Sept, 1988.

  
J U D G E

J U D G M E N T

This case came on to be heard, the same being considered, because it is the opinion of this Court that there was error in the Judgment, it is ORDERED, ADJUDGED and DECREED by the Court that the Judgment be in all things reversed and the complaint be dismissed.

Signed this 8 day of Sept., 1988.

  
J U D G E