

SUPREME COURT OF NEVADA

Barber v. State

2015 NV 103 (Nev. 2015) · No. 62649 · Decided December 31, 2015

SUMMARY

The Nevada Supreme Court held that a juvenile court retains jurisdiction after the one-year disposition period in NRS 62D.310 expires because the statute does not require dismissal or otherwise strip jurisdiction. The court also held that Barber's palm print on the outside of a bathroom window, without additional corroborating evidence linking him to the burglary or stolen property, was insufficient to support convictions for burglary and grand larceny. The court reversed the judgment of conviction and overruled *Geiger v. State* to the extent it was inconsistent with this holding.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Hardesty, C.J.; Saitta; Gibbons; Parraguirre; Pickering
JURISDICTION	Nevada
DECIDED	December 31, 2015
DOCKET	62649
DISPOSITION	reversed
PROCEDURAL POSTURE	Barber appealed a district court judgment of conviction, entered following a jury verdict finding him guilty of burglary and grand larceny.
STANDARD OF REVIEW	Statutory construction and subject-matter jurisdiction are reviewed de novo. Sufficiency of the evidence is reviewed by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jaquez Dejuan Barber v. The State of Nevada

TOPICS

- criminal procedure
- statutory interpretation
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

criminal procedure

juvenile delinquency

criminal evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the juvenile court lost jurisdiction over Barber when it failed to make a final disposition within the one-year period specified in NRS 62D.310.
2. Whether the evidence, consisting principally of Barber's palm print on the outside of the alleged point-of-entry window, was sufficient to support convictions for burglary and grand larceny.
3. Whether Barber's remaining claims concerning speedy trial, an advisory-verdict instruction, certification, counsel, confrontation, restitution, and cumulative error required reversal.

HOLDINGS

1. The juvenile court retains jurisdiction over a juvenile after the one-year period in NRS 62D.310 expires because the statute does not expressly provide that noncompliance strips jurisdiction or requires dismissal.
2. The evidence was insufficient to prove beyond a reasonable doubt that Barber entered the home or committed the theft. A palm print on the outside of the alleged point-of-entry window, without additional corroborating evidence, was insufficient under these circumstances.
3. Geiger is overruled to the extent it held that a fingerprint found on the outside of a structure, without additional evidence, can establish the defendant's identity as the burglar.

KEY QUOTATIONS

“But where, as in Geiger, the fingerprint evidence is found on the outside of the structure, we conclude that additional evidence is necessary to prove the burglar's identity. We thus overrule Geiger to that extent.” (9)

“Based on the evidence in this case, we conclude that the State failed to sufficiently prove the elements of burglary and grand larceny such that any rational juror could have found Barber guilty beyond a reasonable doubt.” (10)

FACTUAL BACKGROUND

Mendoza returned home to find the front door ajar, the home ransacked, and cash and Mexican pesos missing. Police identified the master bathroom window as the likely point of entry and recovered a palm print from the outside of that window that matched Barber. The State presented no evidence placing Barber inside the home, linking him to the stolen property, or showing that he made the marks found inside the bathroom.

PROCEDURAL HISTORY

Barber was 17 when the alleged offenses occurred. The juvenile court issued an arrest warrant, and the State filed a juvenile delinquency petition charging burglary and grand larceny. More than one year later, the State petitioned to certify Barber for adult criminal proceedings; Barber waived objection to the certification petition, and the juvenile court certified him. After a three-day jury trial in district court, Barber was convicted, sentenced

to concurrent terms of 12 to 30 months, and ordered to pay \$7,000 in restitution. The Nevada Supreme Court reversed the judgment because the evidence was insufficient to support the convictions.

DISPOSITION

reversed

CASES CITED

- State v. Lucero, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011)
- In re George J., 128 Nev., Adv. Op. 32, 279 P.3d 187, 190 (2012)
- Hobbs v. State, 127 Nev. 234, 237, 251 P.3d 177, 179 (2011)
- In re Eric A.L., 123 Nev. 26, 31, 153 P.3d 32, 35 (2007)
- Landreth v. Malik, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011)
- Swan v. Swan, 106 Nev. 464, 469, 796 P.2d 221, 224 (1990)
- Ogawa v. Ogawa, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009)
- Kell v. State, 96 Nev. 791, 792-93, 618 P.2d 350, 351 (1980)
- In re J.V., 573 A.2d 1196, 1196 (Vt. 1990)
- FDIC v. Rhodes, 130 Nev., Adv. Op. 88, 336 P.3d 961, 965 (2014)
- Joseph John H. v. State, 113 Nev. 621, 622-24, 939 P.2d 1056, 1057-58 (1997)
- Bustos v. Sheriff, 87 Nev. 622, 623-24, 491 P.2d 1279, 1280-81 (1971)
- Maes v. Sheriff, 86 Nev. 317, 319, 468 P.2d 332, 333 (1970)
- Rose v. State, 123 Nev. 194, 202-03, 163 P.3d 408, 414 (2007)
- Wilkins v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980)
- Carr v. State, 96 Nev. 936, 939, 620 P.2d 869, 871 (1980)
- Geiger v. State, 112 Nev. 938, 940-41, 920 P.2d 993, 995 (1996)
- Merlino v. State, 131 Nev., Adv. Op. 65, 357 P.3d 379, 385 (2015)
- Canape v. State, 109 Nev. 864, 869, 859 P.2d 1023, 1026 (1993)
- Deveroux v. State, 96 Nev. 388, 391, 610 P.2d 722, 724 (1980)