

DISTRICT OF COLUMBIA COURT OF APPEALS

Hebron v. United States

804 A.2d 270 (D.C. 2002) · No. 00-CF-892 · Decided July 25, 2002

SUMMARY

The District of Columbia Court of Appeals held that the evidence was insufficient to support Elauin Hebron’s first-degree theft conviction because the government failed to adequately prove that the stolen property had a value of at least \$250. The court rejected the challenge to the sufficiency of the evidence of intent to deprive the owner of the property. It reversed the first-degree theft conviction, vacated the sentence, and remanded with instructions to enter a second-degree theft conviction and resentence Hebron.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| COURT                 | District of Columbia Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Per curiam; Steadman, Associate Judge; Glickman, Associate Judge; King, Senior Judge                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | District of Columbia                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | July 25, 2002                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 00-CF-892                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Appellant appealed his conviction for first-degree theft, arguing that the evidence was insufficient to establish the value of the stolen property and his intent to deprive the owner of it.                                                                                                                                                                                                                                                                                                                                                 |
| STANDARD OF REVIEW    | The evidence is viewed in the light most favorable to the government, with deference to the factfinder’s weighing of evidence, credibility determinations, and reasonable inferences. The conviction must be reversed if the government presented no evidence from which a reasonable mind could infer guilt beyond a reasonable doubt. For the value element of first-degree theft, the court applied a strict requirement for affirmative, substantial, probative evidence sufficient to eliminate verdicts based on surmise or conjecture. |
| PRECEDENTIAL VALUE    | Published and precedential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PARTIES               | Elauin L. Hebron v. United States                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

## TOPICS

criminal procedure

evidence

appellate procedure

standard of review

preservation of error

## PRACTICE AREAS

criminal law

criminal procedure

appellate litigation

evidence

## QUESTIONS PRESENTED

1. Whether the evidence was sufficient to prove that the stolen property had a fair-market value of at least \$250, as required for first-degree theft.
2. Whether the evidence was sufficient to prove that Hebron intended to deprive the owner of the stolen property.
3. Whether the evidence, although insufficient for first-degree theft, supported entry of a second-degree theft conviction.

## HOLDINGS

1. The government failed to present sufficient evidence that the stolen property had a value of \$250 or more at the time of the theft. Purchase prices alone were insufficient because the government did not adequately establish the condition of the items or the furniture's depreciation rate, leaving the jury to speculate about fair-market value.
2. The evidence was sufficient to support a finding that Hebron intended to deprive Salahuddin or his estate of the property.
3. Because the evidence established that the property had value greater than zero, the evidence was sufficient to sustain a second-degree theft conviction; the case was remanded for entry of that conviction and resentencing.

## KEY QUOTATIONS

*"The government must introduce evidence of value ... sufficient to eliminate the possibility that the jury's verdict was based on surmise or conjecture about the value of the property."* (804 A.2d at 272)

*"While it might be reasonable to presume that the aggregate value of the items was in excess of \$[250], the standard of proof in this jurisdiction does not permit such conjecture."* (804 A.2d at 273)

*"The jury could reasonably infer from this evidence that appellant intended to deprive Salahuddin of his property by withholding it for enough time "as to acquire a substantial portion of its value" or placing it somewhere from which Salahuddin (or his estate) would be unlikely to recover it."* (804 A.2d at 274)

## FACTUAL BACKGROUND

Hebron shared an apartment with Mansoor Salahuddin, whose belongings were removed from the apartment shortly after Salahuddin was found shot to death. Witnesses saw Hebron moving boxes and throwing mattresses from the apartment, and police later recovered Salahuddin's property from the homes of Hebron's girlfriend and mother. The government introduced purchase-price testimony for several items, totaling \$606 for items

purchased within the preceding four months, plus an older stereo, but offered insufficient evidence regarding the items' condition and depreciation.

#### PROCEDURAL HISTORY

A jury acquitted Hebron of the charged murder and related offenses but convicted him of first-degree theft. The District of Columbia Court of Appeals held that the evidence was insufficient to support the first-degree theft valuation threshold but sufficient to establish intent to deprive, reversed the first-degree theft conviction, vacated the sentence, and remanded for entry of a second-degree theft conviction and resentencing.

#### DISPOSITION

reversed\_and\_remanded

#### REMAND INSTRUCTIONS

Vacate the sentence, enter a conviction for second-degree theft, and resentence Hebron.

#### CASES CITED

- *Zellers v. United States*, 682 A.2d 1118, 1120-22 (D.C. 1996)
- *Chappelle v. United States*, 736 A.2d 212, 215 (D.C. 1999)
- *Terrell v. United States*, 721 A.2d 957, 959 (D.C. 1998)
- *Malloy v. United States*, 483 A.2d 678, 680-81 (D.C. 1984)
- *Capers v. United States*, 403 A.2d 1155, 1156 (D.C.), cert. denied, 444 U.S. 934 (1979)
- *In re J.F.T.*, 320 A.2d 322, 325 (D.C. 1974)
- *Comber v. United States*, 398 A.2d 25, 26 & n.1 (D.C. 1979)
- *Moore v. United States*, 388 A.2d 889, 891-92 (D.C. 1978)
- *Williams v. United States*, 376 A.2d 442, 443-44 (D.C. 1977) (per curiam)
- *Boone v. United States*, 296 A.2d 449, 449-50 (D.C. 1972)
- *Bell v. United States*, 790 A.2d 523, 529 (D.C. 2002)
- *M.A.P. v. Ryan*, 285 A.2d 310 (D.C. 1971)
- *Wilson v. United States*, 358 A.2d 324, 325 (D.C. 1976) (per curiam)
- *Smothers v. United States*, 403 A.2d 306, 312 (D.C. 1979)
- *Jones v. United States*, 743 A.2d 1222, 1224 (D.C. 2000)
- *Bell v. United States*, 349 U.S. 81, 83 (1955)
- *In re R D.J.*, 348 A.2d 301, 304 (D.C. 1975) (per curiam)