

SUPREME COURT OF WASHINGTON

State v. Tinker

118 P.3d 885 (Wash. 2005) · No. 75728-3 · Decided September 1, 2005

SUMMARY

The Supreme Court of Washington held that value is not an essential element of third degree theft under Washington law and therefore need not be alleged in the charging information. The court affirmed Zachary E. Tinker's conviction, distinguishing cases involving higher-degree theft charges or multiple theft degrees where value is necessary to identify the charged offense.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Washington                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Sanders, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.                                                                                                                             |
| JURISDICTION          | Washington                                                                                                                                                                                                                                                 |
| DECIDED               | September 1, 2005                                                                                                                                                                                                                                          |
| DOCKET                | 75728-3                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Tinker appealed his juvenile conviction for third degree theft, arguing that the charging information was constitutionally defective because it did not allege the value of the stolen property. The Washington Supreme Court granted review and affirmed. |
| STANDARD OF REVIEW    | The court strictly construed the charging document because the challenge was raised before verdict and determined de novo whether it included all essential elements.                                                                                      |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                             |
| PARTIES               | Zachary E. Tinker v. State of Washington                                                                                                                                                                                                                   |

TOPICS

- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- statutory interpretation
- theft
- juvenile law

## QUESTIONS PRESENTED

1. Whether value is an essential element of third degree theft under Washington law that must be alleged in the charging information.
2. Whether the information was constitutionally defective because it omitted the value of the property allegedly stolen.

## HOLDINGS

1. Value is not an essential element of third degree theft under Washington law.
2. The information was sufficient because it alleged the elements of third degree theft without specifying the value of the property.

## KEY QUOTATIONS

*“The plain language of the theft statutes compels the conclusion that value is not an essential element of third degree theft.”* (118 P.3d at 886)

*“Value is not an element of third degree theft. Thus, we affirm Tinker's conviction.”* (118 P.3d at 888)

## FACTUAL BACKGROUND

Tinker allegedly shoplifted a pair of snowboarding pants valued at \$100 from a sporting goods store in Woodinville, Washington. The information alleged that he intended to deprive another of property and wrongfully obtained merchandise belonging to Play It Again Sports, but did not state the property's value. He was convicted of third degree theft in juvenile court.

## PROCEDURAL HISTORY

Tinker was charged in the King County Superior Court's Juvenile Division with third degree theft. During closing argument at the fact-finding hearing, he moved to dismiss because the information omitted the property's value; the court denied the motion and found him guilty. The Court of Appeals upheld the conviction, and the Washington Supreme Court affirmed.

## DISPOSITION

affirmed

## CASES CITED

- State v. Kjorsvik, 117 Wash. 2d 93, 97, 812 P.2d 86 (1991)
- State v. Johnson, 119 Wash. 2d 143, 147, 149-50, 829 P.2d 1078 (1992)
- State v. Leach, 113 Wash. 2d 679, 686, 782 P.2d 552 (1989)
- State v. Wadsworth, 139 Wash. 2d 724, 734, 991 P.2d 80 (2000)
- State v. Rogers, 30 Wash. App. 653, 655, 638 P.2d 89 (1981)
- State v. Moavenzadeh, 135 Wash. 2d 359, 361, 364, 956 P.2d 1097 (1998)

- State v. Ward, 148 Wash. 2d 803, 812-13, 64 P.3d 640 (2003)
- State v. Ellard, 46 Wash. App. 242, 730 P.2d 109 (1986)
- Schmidt v. Cornerstone Invs., Inc., 115 Wash. 2d 148, 160, 795 P.2d 1143 (1990)
- Saunders v. Lloyd's of London, 113 Wash. 2d 330, 345, 779 P.2d 249 (1989)
- State v. Rhinehart, 92 Wash. 2d 923, 926, 602 P.2d 1188 (1979)
- State v. Campbell, 125 Wash. 2d 797, 804-05, 888 P.2d 1185 (1995)
- State v. Delcambre, 116 Wash. 2d 444, 805 P.2d 233 (1991)

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