SUPREME COURT OF INDIANA

Keith D. Harper v. S&H Leasing, LLC; K&K Real Estate Holdings, LLC; Thomas Hagen; Brian Brisco; and Jeremy Noetzel

Supreme Court Case No. 26S-PL-111 · No. 26S-PL-111 · Decided April 9, 2026

SUMMARY

The Indiana Supreme Court held that money need not qualify as “special chattel” or be segregated from other funds to support criminal conversion or a civil claim under the Crime Victim’s Relief Act. The plaintiff must instead prove the statutory elements of criminal conversion, including that the defendant knowingly or intentionally exerted unauthorized control over another’s property. The Court affirmed the treble-damages judgment, remanding only to change the award recipient from S&H Leasing to K&K Real Estate Holdings.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Slaughter; Chief Justice Rush; Justice Massa; Justice Goff; Justice Molter
JURISDICTION	Indiana Supreme Court
DECIDED	April 9, 2026
DOCKET	26S-PL-111
DISPOSITION	remanded
PROCEDURAL POSTURE	Harper appealed a bench-trial judgment awarding treble damages under Indiana's Crime Victim's Relief Act, along with judgment on breach-of-fiduciary-duty and unjust-enrichment claims. The Indiana Court of Appeals affirmed in part and reversed in part. The Indiana Supreme Court granted transfer, vacated the appellate opinion, addressed the CVRA claim, and summarily affirmed the appellate court on the fiduciary-duty and unjust-enrichment claims.
STANDARD OF REVIEW	For a bench-trial judgment under Indiana Trial Rule 52, the court considers whether the evidence supports the trial court's findings and will not set them aside unless clearly erroneous. Legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Indiana Supreme Court opinion

PARTIES	Keith D. Harper v. S&H Leasing, LLC, K&K Real Estate Holdings, LLC, Thomas Hagen, Brian Brisco, Jeremy Noetzel

TOPICS

statutory interpretation · plain meaning rule · remedies · limited liability companies · appellate procedure

PRACTICE AREAS

statutory interpretation · remedies · commercial litigation · limited liability companies · breach of fiduciary duty

QUESTIONS PRESENTED

1. Whether money must qualify as special chattel or remain segregated from the defendant's other funds to support a finding of criminal conversion under Indiana law.
2. Whether a plaintiff seeking civil treble damages under the Crime Victim's Relief Act must prove only the statutory elements of criminal conversion, including the required mens rea.
3. Whether the evidence supported the trial court's finding that Harper knowingly exerted unauthorized control over K&K's loan proceeds.
4. Whether the CVRA treble-damages award should be payable to K&K rather than S&H.

HOLDINGS

1. Money need not be special chattel, a determinate sum entrusted for a specific purpose, or segregated from other funds to constitute criminal conversion under Indiana Code section 35-43-4-3(a). The special-chattel requirement is not a statutory element of criminal conversion.
2. A plaintiff seeking relief under the Crime Victim's Relief Act must prove every element, and only the elements, of the underlying criminal-conversion offense, including that the defendant knowingly or intentionally exerted unauthorized control over another's property. The plaintiff need not prove special chattel or segregation.
3. The evidence supported the trial court's finding that Harper knowingly exerted unauthorized control over K&K's loan proceeds by transferring them for personal use without authorization, disclosure, or accounting.
4. The CVRA judgment must be modified so that K&K, which borrowed the funds and was the victim of the conversion, receives the treble damages rather than S&H.

KEY QUOTATIONS

> *"We hold that money need not be "special chattel" for criminal conversion or, what follows, for civil claims under the CVRA."* (p. 1)

> *"In sum, we reject the special-chattel requirement as an element of a criminal-conversion claim involving money."* (p. 9)

> *"In sum, there is no "special chattel" requirement in criminal-conversion cases involving money, which means there is likewise no such requirement for civil claims under the CVRA."* (p. 12)

FACTUAL BACKGROUND

Harper was the sole manager of S&H Leasing, LLC, and K&K Real Estate Holdings, LLC, although Hagen, Brisco, and Noetzel also held ownership interests. Harper caused K&K to borrow approximately $275,000 from RBS Properties and transferred $273,787 of the proceeds into a K&K account, then distributed the money to his personal line of credit and an S&H account without informing the other members, documenting the transaction as a loan, or repaying K&K. The trial court found that Harper used company assets to pay personal obligations, including gambling debts, and knowingly exerted unauthorized control over K&K's property.

PROCEDURAL HISTORY

The appellees sued Harper in Elkhart Superior Court over ownership and management disputes involving two limited liability companies and later added claims arising from Harper's transfer of company loan proceeds to personal accounts. After a two-day bench trial, the trial court found Harper liable under the CVRA, for breach of fiduciary duty, and for unjust enrichment, awarding $821,361 in treble damages, costs, and attorney's fees. The Court of Appeals affirmed the CVRA award on a theft theory while rejecting criminal conversion based on the supposed special-chattel requirement. The Indiana Supreme Court granted transfer, affirmed the CVRA judgment with a modification identifying K&K as the proper recipient of the treble damages, and summarily affirmed the fiduciary-duty and unjust-enrichment rulings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must modify its judgment to award the CVRA treble damages to K&K Real Estate Holdings, LLC rather than S&H Leasing, LLC. The court summarily affirmed the Court of Appeals' rulings on breach of fiduciary duty and unjust enrichment.

CASES CITED

- Harper v. S&H Leasing, LLC, 260 N.E.3d 960 (Ind. Ct. App. 2025)
- Coppolillo v. Cort, 947 N.E.2d 994, 998-99 (Ind. Ct. App. 2011)
- Klinker v. First Merchants Bank, N.A., 964 N.E.2d 190, 193 (Ind. 2012)
- Wysocki v. Johnson, 18 N.E.3d 600, 606 (Ind. 2014)
- Kesling v. Hubler Nissan, Inc., 997 N.E.2d 327, 334 (Ind. 2013)
- Clark-Silberman v. Silberman, 78 N.E.3d 708, 715-16 (Ind. Ct. App. 2017)
- Willis v. Dilden Bros., Inc., 184 N.E.3d 1167, 1175 (Ind. Ct. App. 2022)
- Snow v. State, 137 N.E.3d 965, 968 (Ind. Ct. App. 2019)
- Auto Liquidation Ctr., Inc. v. Chaca, 47 N.E.3d 650, 652-53 (Ind. Ct. App. 2015)

- Bowden v. Agnew, 2 N.E.3d 743, 750-51 (Ind. Ct. App. 2014)
- Trietsch v. Circle Design Grp., Inc., 868 N.E.2d 812, 821 (Ind. Ct. App. 2007)
- Sutherland v. O'Malley, 882 F.2d 1196, 1200 (7th Cir. 1989)
- Kopis v. Savage, 498 N.E.2d 1266, 1269-70 (Ind. Ct. App. 1986)
- Coffin v. Anderson, 4 Blackf. 395, 396, 403-04 (Ind. 1837)
- Bunger v. Roddy, 70 Ind. 26, 28 (1880)
- Wojtowicz v. State, 545 N.E.2d 562, 563 (Ind. 1989)
- Roderick Dev. Inv. Co. v. Cmty. Bank of Edgewater, 668 N.E.2d 1129, 1135, 1137 (Ill. App. Ct. 1996)
- Ford Motor Credit Co. v. Fincannon Ford, Inc., No. 1:19-CV-502-HAB, 2021 WL 1379941, at *7 (N.D. Ind. Apr. 12, 2021)
- French-Tex Cleaners, Inc. v. Cafaro Co., 893 N.E.2d 1156, 1167-68 (Ind. Ct. App. 2008)
- Benaugh v. Garner, 876 N.E.2d 344, 349 (Ind. Ct. App. 2007)
- Greg Allen Constr. Co. v. Estelle, 798 N.E.2d 171, 173 (Ind. 2003)
- Ind. & Mich. Elec. Co. v. Terre Haute Indus., Inc., 507 N.E.2d 588, 610 (Ind. Ct. App. 1987)
- Catellier v. Depco, Inc., 696 N.E.2d 75, 77-78 (Ind. Ct. App. 1998)
- Tobin v. Ruman, 819 N.E.2d 78, 89 (Ind. Ct. App. 2004)
- CT102 LLC v. Auto. Fin. Corp., 175 N.E.3d 869, 874 (Ind. Ct. App. 2021)
- Town of Brownsburg v. Fight Against Brownsburg Annexation, 124 N.E.3d 597, 601 (Ind. 2019)