

SUPREME COURT OF NORTH CAROLINA

State v. McDaniel, 372 N.C. 594

831 S.E.2d 283 (2019) · No. No. 161A18 · Decided August 16, 2019

SUMMARY

The Supreme Court of North Carolina considered whether the State presented sufficient evidence to submit charges of breaking and entering and larceny to the jury under the doctrine of recent possession. The court held that defendant's possession and control of property identified as stolen, viewed in the light most favorable to the State, constituted substantial evidence of exclusive possession, reversed the Court of Appeals, and remanded for consideration of unresolved arguments.

CASE DETAILS

|                       |                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of North Carolina                                                                                                                                                              |
| WRITING FOR THE COURT | Morgan; Earls                                                                                                                                                                                |
| JURISDICTION          | North Carolina                                                                                                                                                                               |
| DECIDED               | August 16, 2019                                                                                                                                                                              |
| DOCKET                | No. 161A18                                                                                                                                                                                   |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Appeal from the Court of Appeals, which had vacated defendant's convictions based on a divided panel decision regarding the sufficiency of evidence under the doctrine of recent possession. |
| STANDARD OF REVIEW    | De novo review of trial court's ruling on motion to dismiss for insufficiency of evidence.                                                                                                   |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                    |
| PARTIES               | State of North Carolina v. Mollie Elizabeth B. McDaniel                                                                                                                                      |

TOPICS

- criminal procedure
- evidence
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence to establish exclusive possession of stolen property under the doctrine of recent possession to survive a motion to dismiss.

## HOLDINGS

1. The evidence was sufficient to support defendant's conviction under the doctrine of recent possession because defendant's possession of the stolen property, either alone or jointly with a co-actor, constituted exclusive possession.

## KEY QUOTATIONS

*“'[E]xclusive' possession may include joint possession of co-conspirators or persons acting in concert in which case the possession of one criminal accomplice would be the possession of all.” (at 606)*

## FACTUAL BACKGROUND

Defendant was charged with breaking and entering and larceny based on stolen property from a vacant house. The property was discovered at a nearby address, and defendant admitted to transporting items in her truck. The State relied on the doctrine of recent possession to prove defendant's guilt.

## PROCEDURAL HISTORY

Defendant was convicted of felonious breaking and entering and larceny. The Court of Appeals vacated the convictions, holding the evidence insufficient to establish exclusive possession under the doctrine of recent possession. The State appealed based on the dissenting opinion.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the Court of Appeals for consideration of defendant's arguments regarding the third prong of the doctrine of recent possession (recency) and the extended term of probation.

## CASES CITED

- State v. Maines, 301 N.C. 669, 273 S.E.2d 289 (1981)
- State v. Wilson, 313 N.C. 516, 330 S.E.2d 450 (1985)
- State v. Powell, 299 N.C. 95, 261 S.E.2d 114 (1980)
- State v. Benson, 331 N.C. 537, 417 S.E.2d 756 (1992)
- State v. Bullard, 312 N.C. 129, 322 S.E.2d 370 (1984)
- State v. Stone, 323 N.C. 447, 373 S.E.2d 430 (1988)
- State v. Thomas, 296 N.C. 236, 250 S.E.2d 204 (1978)
- State v. Miller, 363 N.C. 96, 678 S.E.2d 592 (2009)

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