

WASHINGTON SUPREME COURT

State v. Larson

184 Wash. 2d 843 (2015) · Decided December 24, 2015

SUMMARY

The Washington Supreme Court held that ordinary, unmodified wire cutters are not items or devices "designed to overcome security systems" under former RCW 9A.56.360(1)(b). Because the evidence was insufficient to support Zachary Larson's conviction for retail theft with extenuating circumstances, the court reversed the Court of Appeals.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Madsen, C.J.; Johnson, J.; Owens, J.; Fairhurst, J.; Stephens, J.; Wiggins, J.; González, J.; Gordon McCloud, J.
JURISDICTION	Washington
DECIDED	December 24, 2015
DISPOSITION	reversed
PROCEDURAL POSTURE	Larson sought review of a Washington Court of Appeals Division One decision affirming his conviction for third degree retail theft with extenuating circumstances.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. The sufficiency of the evidence is also reviewed de novo, viewing the evidence in the light most favorable to the State and asking whether any rational trier of fact could have found the essential elements beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Zachary Larson v. State of Washington

TOPICS

- statutory interpretation
- plain meaning rule
- ejusdem generis
- absurdity doctrine
- criminal procedure

PRACTICE AREAS

- criminal law
- statutory interpretation
- retail theft
- sufficiency of the evidence

QUESTIONS PRESENTED

1. Whether ordinary, unmodified wire cutters are an item, article, implement, or device designed to overcome security systems under RCW 9A.56.360(1)(b).
2. Whether the evidence was sufficient to support Larson's conviction for retail theft with extenuating circumstances.

HOLDINGS

1. An item, article, implement, or device is designed to overcome security systems only if it was created, by the manufacturer or the defendant, with the specialized purpose of disabling or evading security systems. Ordinary, unmodified tools such as wire cutters or pliers do not fall within the statute.
2. The evidence was insufficient to support Larson's conviction for retail theft with extenuating circumstances because ordinary wire cutters did not satisfy the statutory requirement that the defendant possess a device designed to overcome security systems.

KEY QUOTATIONS

“For the reasons discussed above, we hold that an item, article, implement, or device is “designed to overcome security systems” within the scope of RCW 9A.56.360(1)(b) if it was created—whether by a manufacturer or a defendant—with the specialized purpose of overcoming security systems, lawfully or otherwise.” (853)

“Ordinary tools, such as pliers or the wire cutters used by Larson, do not fall within the scope of RCW 9A.56.360(1)(b).” (855)

FACTUAL BACKGROUND

Larson used ordinary wire cutters to remove a security tag from a pair of Nike shoes valued at \$32 at a Marshalls store in Bellingham. He was convicted of third degree retail theft with extenuating circumstances under former RCW 9A.56.360(1)(b), which increased the seriousness of retail theft when the defendant possessed an item designed to overcome security systems. The State elected to charge him under that provision instead of the general theft statute.

PROCEDURAL HISTORY

Larson was convicted after using ordinary wire cutters to remove a security tag from a pair of shoes at a Marshalls store. The State charged him under former RCW 9A.56.360(1)(b), rather than the general theft statute. Division One affirmed his conviction in a split decision, and the Washington Supreme Court accepted review to resolve a conflict with Division Two's interpretation of the statute.

DISPOSITION

reversed

CASES CITED

- State v. Sweany, 174 Wn.2d 909, 914, 281 P.3d 305 (2012)
- State v. Budik, 173 Wn.2d 727, 733, 272 P.3d 816 (2012)
- State v. Ervin, 169 Wn.2d 815, 820, 239 P.3d 354 (2010)
- State v. Hirschfelder, 170 Wn.2d 536, 543, 242 P.3d 876 (2010)
- Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002)
- State v. Jacobs, 154 Wn.2d 596, 600, 115 P.3d 281 (2005)
- Burns v. City of Seattle, 161 Wn.2d 129, 148, 164 P.3d 475 (2007)
- State v. Rice, 120 Wn.2d 549, 560-61, 844 P.2d 416 (1993)
- In re Postsentence Review of Leach, 161 Wn.2d 180, 186, 163 P.3d 782 (2007)
- Simpson Inv. Co. v. Dep't of Revenue, 141 Wn.2d 139, 151, 3 P.3d 741 (2000)
- John H. Sellen Constr. Co. v. Dep't of Revenue, 87 Wn.2d 878, 883-84, 558 P.2d 1342 (1976)
- State v. Gonzales Flores, 164 Wn.2d 1, 13, 186 P.3d 1038 (2008)
- State v. Roadhs, 71 Wn.2d 705, 708, 430 P.2d 586 (1967)
- State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003)
- Davis v. Dep't of Licensing, 137 Wn.2d 957, 963, 977 P.2d 554 (1999)
- State v. Alvarado, 164 Wn.2d 556, 562, 192 P.3d 345 (2008)
- Tingey v. Haisch, 159 Wn.2d 652, 664, 152 P.3d 1020 (2007)
- State v. Delgado, 148 Wn.2d 723, 727, 63 P.3d 792 (2003)
- State v. Wilson, 125 Wn.2d 212, 217, 883 P.2d 320 (1994)
- State v. Thornton, 119 Wn.2d 578, 580, 835 P.2d 216 (1992)
- State v. Byrd, 125 Wn.2d 707, 713-14, 887 P.2d 396 (1995)
- In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970)
- State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992)
- State v. Engel, 166 Wn.2d 572, 576, 210 P.3d 1007 (2009)
- State v. Wentz, 149 Wn.2d 342, 347, 68 P.3d 282 (2003)
- State v. Larson, 185 Wn. App. 903, 344 P.3d 244 (2015)
- State v. Reeves, 184 Wn. App. 154, 336 P.3d 105 (2014)
- Cenatis v. State, 120 So. 3d 41 (Fla. Dist. Ct. App. 2013)
- State v. Blunt, 744 So. 2d 1258 (Fla. Dist. Ct. App. 1999)

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