

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
FOUR

People v. Buckner

Buckner · No. A162304 · Decided November 30, 2023

SUMMARY

The California Court of Appeal held that substantial evidence supported the jury’s finding that the burned house was an inhabited structure because the defendant was living there when the fire was set; proof that he intended to continue living there afterward was unnecessary. The court also held that statements made during the defendant’s police-station interview were admissible because the interview was not custodial under the totality of the circumstances. It reversed the restitution order as to the insurance company and fire department, concluding they were not direct victims, and remanded for a new restitution hearing while otherwise affirming the judgment.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Four
WRITING FOR THE COURT	Justice Goldman; Goldman, J.; Brown, P. J.; Streeter, J.
JURISDICTION	California
DECIDED	November 30, 2023
DOCKET	A162304
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed a judgment after a jury convicted him of arson of an inhabited structure and the trial court sentenced him to three years in state prison and ordered restitution to an insurance company, mortgage lender, and fire department.
STANDARD OF REVIEW	The court independently reviewed the application of law to the facts concerning the Miranda issue, while accepting the trial court's factual findings, inferences, and credibility determinations when supported by substantial evidence. The sufficiency-of-the-evidence issue was reviewed for substantial evidence. The restitution issue was reviewed for abuse of discretion, including whether the order exceeded statutory authority.
PRECEDENTIAL VALUE	Published in part; parts II and III are not certified for publication under California Rules of Court, rules 8.1105(b) and 8.1110.

PARTIES

Jordan Buckner v. The People

TOPICS

criminal procedure

miranda rights

evidence

statutory interpretation

restitution criminal

PRACTICE AREAS

California criminal law

arson

criminal procedure

constitutional criminal procedure

criminal restitution

QUESTIONS PRESENTED

1. Whether substantial evidence supported the jury's finding that the burned house was an inhabited structure when Buckner was living there at the time of the fire, notwithstanding his possible intent not to continue living there after the fire.
2. Whether Buckner's statements during the police-station interview were obtained through custodial interrogation in violation of *Miranda v. Arizona*.
3. Whether the trial court could order restitution to Buckner's insurance company and the fire department as direct victims of his crime.
4. Whether the restitution matter had to be remanded for a hearing concerning the mortgage lender's losses and any applicable insurance offset.

HOLDINGS

1. For arson of an inhabited structure, the prosecution need not prove that the defendant or resident intended to continue living in the structure after the fire. A structure is inhabited when it is currently being used for dwelling purposes at the time the fire is set. Because Buckner was living in the house when the fire was set and the physical evidence corroborated that fact, substantial evidence supported the conviction.
2. Buckner's police-station interview was not custodial under the totality of the circumstances, so *Miranda* applied neither to the interview nor to his statements. The court therefore did not need to decide whether Buckner made an unambiguous request for counsel.
3. The insurance company and fire department were not direct victims of Buckner's crime under Penal Code section 1202.4 and were not entitled to restitution. The restitution order was therefore reversed insofar as it awarded restitution to those entities.
4. The restitution matter had to be remanded for a new hearing because the prosecution had not submitted documentation establishing the mortgage lender's losses and Buckner had not been given an opportunity to contest the amount. If restitution is ordered to the lender, Buckner is entitled to an offset for insurance payments covering the same loss items.

KEY QUOTATIONS

"If the person is using the structure as a habitation when the burglary or robbery occurs, his possible intent to abandon the habitation in the future does not alter its character as an inhabited dwelling." (7)

“On balance, the totality of the circumstances establish that the interrogation was not custodial.” (14)

“Victims are entitled to an amount of restitution so as to make them whole but not more than their actual losses arising out of the defendant’s criminal conduct” (17)

FACTUAL BACKGROUND

A fire damaged Buckner's home on November 30, 2019, and investigators determined that it originated on a bed and involved gasoline residue. Buckner lived alone and testified that he was living in the house on the date of the fire, although he was waiting for the property to be foreclosed or for him to be evicted. The home contained his furniture, clothing, electronic devices, important documents, and vehicle. After the fire, Buckner voluntarily went with an arson investigator to the police station, where he made statements about his financial situation and whereabouts; he was not handcuffed and was told he was not under arrest. The trial court ordered restitution to Buckner's insurance company and the fire department, as well as to the mortgage lender in an amount to be determined.

PROCEDURAL HISTORY

Buckner was charged with one count of arson of an inhabited structure under Penal Code section 451, subdivision (b). The trial court denied his motion to exclude statements made during a police interview, a jury convicted him, and the court imposed a three-year prison sentence and restitution orders. The Court of Appeal affirmed the judgment except for the restitution order, which it reversed in part and remanded for a new restitution hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the restitution order insofar as it orders restitution to the fire department and Buckner's insurance company. Remand for a new restitution hearing at which the prosecution may submit a proper request documenting the mortgage lender's losses and Buckner may contest the amount. If restitution is ordered to the mortgage lender, provide an offset for insurance payments covering loss items included in the restitution order. The judgment is otherwise affirmed.

CASES CITED

- People v. Vang (2016) 1 Cal.App.5th 377, 382, 386
- People v. Jones (1988) 199 Cal.App.3d 543, 545-549
- People v. Knoller (2007) 41 Cal.4th 139, 154-155
- Mason v. Superior Court (2015) 242 Cal.App.4th 773, 789
- People v. Ramos (1997) 52 Cal.App.4th 300, 302
- People v. Villalobos (2006) 145 Cal.App.4th 310, 315-320
- Miranda v. Arizona (1966) 384 U.S. 436, 444

- People v. Orozco (2019) 32 Cal.App.5th 802, 811
- People v. Weaver (2001) 26 Cal.4th 876, 918
- People v. Cunningham (2001) 25 Cal.4th 926, 992
- People v. Duff (2014) 58 Cal.4th 527, 551
- Stansbury v. California (1994) 511 U.S. 318, 322
- People v. Moore (2011) 51 Cal.4th 386, 394-395, 397-403
- People v. Saldana (2018) 19 Cal.App.5th 432, 455
- People v. Boyer (1989) 48 Cal.3d 247, 272
- People v. Stansbury (1995) 9 Cal.4th 824, 830 fn. 1
- United States v. Bautista (10th Cir. 1998) 145 F.3d 1140, 1148
- Sprosty v. Buchler (7th Cir. 1996) 79 F.3d 635, 642
- Davis v. Allsbrooks (4th Cir. 1985) 778 F.2d 168, 172
- United States v. Lewis (6th Cir. 1977) 556 F.2d 446, 449
- United States v. Erving L. (10th Cir. 1998) 147 F.3d 1240, 1247 fn. 5
- Montejo v. Louisiana (2009) 556 U.S. 778, 795
- People v. Mickey (1991) 54 Cal.3d 612, 648
- Bobby v. Dixon (2011) 565 U.S. 23, 28
- People v. Percelle (2005) 126 Cal.App.4th 164, 179
- People v. Martinez (2005) 36 Cal.4th 384, 393-394 & fn. 2
- In re Brian N. (2004) 120 Cal.App.4th 591
- People v. Birkett (1999) 21 Cal.4th 226, 245
- People v. Baker (2005) 126 Cal.App.4th 463, 467
- People v. Fulton (2003) 109 Cal.App.4th 876, 886
- People v. Bernal (2002) 101 Cal.App.4th 155, 162, 168
- People v. Nichols (2017) 8 Cal.App.5th 330, 342
- Barickman v. Mercury Casualty Co. (2016) 2 Cal.App.5th 508, 518