

SUPREME COURT OF VIRGINIA

Scott v. Commonwealth

789 S.E.2d 608 (Va. 2016) · No. Record No. 150932 · Decided August 18, 2016

SUMMARY

The Supreme Court of Virginia considered whether Virginia Code § 18.2-192(1)(a) requires proof of specific intent to use, sell, or transfer a credit card when the defendant unlawfully takes it from the cardholder. The court held that the statute creates two distinct offenses and that credit card theft under the first prong is a general-intent crime completed upon the unlawful taking. The court affirmed the Court of Appeals and Scott’s credit card theft conviction.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Senior Justice Charles S. Russell; Chief Justice Lemons; Justice Goodwyn; Justice Mims; Justice McClanahan; Justice Powell; Justice McCullough; Senior Justice Russell
JURISDICTION	Virginia
DECIDED	August 18, 2016
DOCKET	Record No. 150932
DISPOSITION	affirmed
PROCEDURAL POSTURE	Scott appealed his conviction for credit card theft under Code § 18.2-192(1)(a). The Court of Appeals of Virginia denied his petition for appeal by per curiam order, and the Supreme Court of Virginia awarded an appeal.
STANDARD OF REVIEW	Statutory-construction issues are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Artavius Darrell Scott v. Commonwealth of Virginia

TOPICS

- statutory interpretation
- canons of construction
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- statutory interpretation
- criminal procedure
- appellate law

QUESTIONS PRESENTED

1. Whether Code § 18.2-192(1)(a) requires proof of specific intent to use, sell, or transfer a credit card when the defendant is prosecuted under the statute's first prong for taking, obtaining, or withholding the card without the cardholder's consent.
2. Whether credit card theft under the first prong of Code § 18.2-192(1)(a) is a general-intent crime completed upon the unlawful taking.

HOLDINGS

1. The specific-intent requirement to use, sell, or transfer a credit card applies only to the second prong of Code § 18.2-192(1)(a), which concerns knowingly receiving a stolen credit card; it does not apply to the first prong, which prohibits taking, obtaining, or withholding a credit card without the cardholder's consent.
2. Credit card theft under the first prong of Code § 18.2-192(1)(a) is a general-intent crime completed when the credit card or credit card number is unlawfully taken from its rightful owner.

KEY QUOTATIONS

“We adhere to our interpretation of Code § 18.2-192(1)(a) in Meeks, and hold that credit card theft under the first prong of the statute is a general intent crime completed upon an unlawful taking.” (at 5-6)

“It does not require that the Commonwealth allege or prove the specific intent required to support a conviction under the second prong of the statute.” (at 6)

FACTUAL BACKGROUND

Scott entered the victim's home through a bedroom window after she refused him entry and threatened to call the police. He pointed a handgun at her, threatened to shoot her, and took her purse without permission. The purse contained credit cards, which remained in the purse when it was recovered the next day; the victim had already cancelled the accounts and did not believe the cards had been used. Scott was convicted of credit card theft under the first prong of Code § 18.2-192(1)(a).

PROCEDURAL HISTORY

Following a bench trial in the Circuit Court of the City of Richmond, Scott was convicted of several offenses, including credit card theft. The Court of Appeals denied review by per curiam order. The Supreme Court of Virginia granted an appeal limited to whether the credit card theft statute required proof of specific intent to use, sell, or transfer a credit card taken without the cardholder's consent.

DISPOSITION

affirmed

CASES CITED

- Baldwin v. Commonwealth, 274 Va. 276, 645 S.E.2d 433 (2007)

- Warrington v. Commonwealth, 280 Va. 365, 699 S.E.2d 233 (2010)
- Newberry Station Homeowners Ass'n v. Board of Supervisors, 285 Va. 604, 740 S.E.2d 548 (2013)
- Wilder v. Commonwealth, 217 Va. 145, 225 S.E.2d 411 (1976)
- Meeks v. Commonwealth, 274 Va. 798, 651 S.E.2d 637 (2007)
- Cheatham v. Commonwealth, 215 Va. 286, 208 S.E.2d 760 (1974)
- Scott v. Commonwealth, 36 Va. App. 276, 549 S.E.2d 624 (2010)
- Darnell v. Commonwealth, 12 Va. App. 948, 408 S.E.2d 540 (1991)

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