

Prosecuting Attorneys' Council of Georgia

CaseLaw UPDATE

WEEK ENDING FEBRUARY 21, 2014

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THIS WEEK:

• **Burglary; Intent**

Burglary; Intent

Taylor v. State, A13A1705 (2/14/14)

Appellant was convicted of burglary. The evidence showed that around 1:00 a.m., a security guard observed appellant climbing out of a building on the lot of a car dealership. The guard confronted him and told him to stop, but appellant ran away. He was eventually caught.

Appellant contended that the evidence was insufficient to show that he had the intent to commit a felony or theft inside the building he was seen leaving. He argued that there was no evidence presented that there was anything of value contained in the building and that there must be some testimony regarding valuable items being contained in the building to establish the necessary element of intent to sustain a conviction for burglary. The Court disagreed.

The Court noted that burglary is committed “when, without authority and with the intent to commit a felony or theft therein, [a person] enters or remains within the dwelling house of another or any building . . . or other such structure designed for use as the dwelling of another or enters or remains within any other building . . . or any room or any part thereof.” O.C.G.A. § 16-7-1(a) (2008). Whether the defendant entertained an intent to commit a theft after entering is a matter for the jury to say, under the facts and circumstances proved. As a general rule the State must, of necessity, rely on circumstantial

evidence in proving intent. And the fact that the defendant may have failed in accomplishing his apparent purpose does not render a finding of burglary improper.

The Court agreed with appellant that an inference of intent to steal may be raised where evidence shows an unlawful entry into a building where valuable goods are stored inside and no other motive is apparent. However, intent may be inferred from other evidence as well. Intent may be found by the jury upon consideration of the words, conduct, demeanor, motive and all other circumstances connected with the act for which the accused is being prosecuted. Thus, even though there was no evidence that any items were taken or that valuable goods were stored on the premises, a jury could infer an intent to steal based on the evidence of an unlawful entry into a building housing an operating business. Likewise, although there was no evidence presented here that valuable items were located in the building, the jury could infer intent from evidence that the building was located on the lot of an operating business which would customarily contain items of value, that appellant crawled out of the window during a time when the business was closed, and that he ran when he was confronted by the security guard. Thus, the Court concluded, the evidence was sufficient to prove intent, and a rational trier of fact could have found the essential elements of burglary beyond a reasonable doubt.