COX v. STATE OF OKLAHOMA

2026 OK CR 21
Case Number: F-2025-285
Decided: 10/29/2026
Mandate Issued: 10/29/2026
THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Cite as: 2026 OK CR 21, __ P.3d __

CLINTON JOSEPH COX, Appellant,

v.

THE STATE OF OKLAHOMA, Appellee.

SUMMARY OPINION

MUSSEMAN, VICE PRESIDING JUDGE:

¶1 Appellant, Clinton Joseph Cox, appeals his Judgment and Sentence from the District Court of Kiowa County, Case No. CF-2024-5, Grand Larceny, in violation of 21 O.S.2021, § 1705.

¶2 The Honorable Rafe Hall, District Judge, presided over Appellant's jury trial. At the conclusion of the trial, the jury found Appellant guilty and assessed punishment of one year in county jail. At formal sentencing, Judge Hall sentenced Appellant in accordance with the jury's verdict. Appellant appeals his Judgment and Sentence and raises the following issues:

I. whether the evidence presented by the State was insufficient to convict Appellant of grand larceny as defined by statute; and

II. whether the trial court failed to adequately instruct the jury on the law applicable to the case.

¶3 We reverse the Judgment and Sentence and remand this matter to the trial court with instructions to modify the Judgment and Sentence.

I.

¶4 In his first proposition, Appellant asserts that insufficient evidence was presented by the State to prove beyond a reasonable doubt that Appellant committed grand larceny. We agree.

¶5 Appellant challenges the interpretation of the 2018 amendment to Title 21, Section 1705 of the Oklahoma Statutes as adding firearm as an element of grand larceny. We will review *de novo* Appellant's claim, as it raises a question of statutory interpretation. *State v. Allen*, 2021 OK CR 14, ¶ 6, 492 P.3d 27, 29.

¶6 A fundamental principle of statutory construction is to ascertain and give effect to the intention of the Legislature. *Gerhart v. State*, 2015 OK CR 12, ¶ 14, 360 P.3d 1194, 1198. Legislative intent is first determined by the plain and ordinary language of the statute. *Newlun v. State*, 2015 OK CR 7, ¶ 8, 348 P.3d 209, 211. "A statute should be given a construction according to the fair import of its words taken in their usual sense, in connection

with the context, and with reference to the purpose of the provision." *Jordan v. State*, 1988 OK CR 227, ¶ 4, 763 P.2d 130, 131. "We must hold a statute to mean what it plainly expresses, and no room is left for construction and interpretation where the language employed is clear and unambiguous." *McKelvy v. State*, 2026 OK CR 14, ¶ 12, 590 P.3d 504, 507 (citing *Johnson v. State*, 2013 OK CR 12, ¶ 10, 308 P.3d 1053, 1055). We have further held that strict construction requires that penal laws be "interpreted strictly against the state and liberally in favor of the accused; that words not found in the text of a statute will not be read in for the purpose of extending it or giving it an interpretation in conformity with a supposed policy." *State v. Stegall*, 1953 OK CR 13, 96 Okl.Cr. 281, 285, 253 P.2d 183, 187.

¶7 Title 21, Section 1701 of the Oklahoma Statutes defines larceny as the taking of personal property accomplished by fraud or stealth, and with intent to deprive another thereof. 21 O.S.2021, § 1701. Section 1703 divides larceny into two degrees, petit and grand larceny. 21 O.S.2021, § 1703. Section 1704 provides that grand larceny is committed in two cases: (1) when the value of the taken property is $1,000.00 or more; or (2) when property, not valued at $1,000.00 or more, is taken from the person of another. 21 O.S.2021, § 1704. Section 1704 further provides that larceny in other cases is petit larceny. *Id.* Sections 1701, 1703, and 1704 plainly set out the elements of petit and grand larceny. The plain and ordinary language of Section 1704 shows that grand larceny can only be accomplished when property is valued at $1,000.00 or more, or when lesser valued property is taken from the person of another.

¶8 Sections 1705 and 1706 then set forth the penalties for grand and petit larceny, respectively. *See Lewis v. State*, 1969 OK CR 26, ¶ 4, 449 P.2d 930, 931 ("It is a familiar rule that the fixing of penalties for crimes is a matter within legislative function."). Statutory provisions that only address punishment should not be read to define the circumstances under which an act becomes an offense. *Newlun*, 2015 OK CR 7, ¶ 11, 348 P.3d at 212. Thus, the Legislature's decision to include firearm only in the punishment provision makes clear that only after an act has been determined to be grand larceny is the appropriate penalty determined by the language of Section 1705. Section 1705 provides:

A. **Grand Larceny** is a felony punishable as follows:

1. If the value of the property is less than One Thousand Dollars ($1,000.00), the person shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by incarceration in the county jail for one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such imprisonment and fine;

2. If the property is one or more firearms, the property is taken from the person of another, or the value of the property is One Thousand Dollars ($1,000.00) or more but less than Two Thousand Five Hundred Dollars ($2,500.00), the person shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed two (2) years or in the county jail for a term not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such imprisonment and fine;

3. In the event the value of the property is Two Thousand Five Hundred Dollars ($2,500.00) or more but less than Fifteen Thousand Dollars ($15,000.00), the person shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed five (5) years or in the county jail for a term not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such imprisonment and fine; or

4. If the value of the property is Fifteen Thousand Dollars ($15,000.00) or more, the person shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed eight (8) years, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such imprisonment and fine.

21 O.S.2021, § 1705(A) (emphasis added).

¶9 We find that the 2018 amendment to Section 1705 did not change the definition of larceny set out in Section 1701 or alter the elements of grand larceny set out in Section 1704. Thus, in order to sustain a conviction for the charge of grand larceny the State was required to prove that the defendant took and carried away personal property of another, either valued at least at $1,000.00, or from the person of another, by fraud or stealth, with the intent to permanently deprive. 21 O.S.2021, §§ 1701-1704. The taking of a firearm is therefore punishable as grand larceny only if it is either taken from the person of another or if the property taken is valued at $1,000.00 or more.

¶10 We must now turn to the evidence as presented at trial. The ultimate question of sufficiency of the evidence should be resolved with deference to the fact finder and in a light most favorable to the State. *Dodd v. State*, 2004 OK CR 31, ¶ 80, 100 P.3d 1017, 1041; *see also Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-04 (finding that viewing evidence in light most favorable to the State, a verdict will not be overturned if any rational trier of fact could have found the elements of the crime to exist beyond a reasonable doubt). We also accept all reasonable inferences and credibility choices that tend to support the verdict. *Coddington v. State*, 2006 OK CR 34, ¶ 70, 142 P.3d 437, 456.

¶11 The evidence presented at trial showed that Appellant took a firearm, valued at $250.00 to $300.00, from the unoccupied property of another. The evidence was sufficient to show beyond a reasonable doubt that Appellant committed the offense of petit larceny, but insufficient to support a conviction of grand larceny. Appellant is therefore entitled to relief.

II.

¶12 Appellant's second proposition alleges that the trial court improperly instructed the jury. As we have found above in Proposition I that Appellant is entitled to relief, we need not address Appellant's second proposition as this claim has been rendered moot. [1]

DECISION

¶13 The Judgment and Sentence is **REVERSED**, and the matter is **REMANDED** to the district court with instructions to **MODIFY** the conviction to misdemeanor petit larceny and to **MODIFY** Appellant's sentence to six months in the county jail. 22 O.S.2021, § 1066. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2026), the **MANDATE** is **ORDERED** issued upon delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF KIOWA COUNTY, THE HONORABLE RAFE HALL, DISTRICT JUDGE

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OPINION BY: MUSSEMAN, V.P.J.
LUMPKIN, P.J.: Concur
LEWIS, J.: Concur
HUDSON, J.: Dissent
ROWLAND, J.: Dissent

ROWLAND, JUDGE DISSENTING:

¶1 I find myself in unfamiliar territory, arguing against what at first blush appears to be a plain reading of the statutory text by the majority. Upon closer inspection of these provisions, however, an ambiguity is revealed, necessitating the use of interpretative tools to ascertain and give meaning to the intent of the Legislature. In applying common rules of statutory construction, I conclude that the Legislature intended to make the theft of any firearm, regardless of value, felony grand larceny.

¶2 Traditionally, grand larceny in Oklahoma was the taking of personal property worth a certain dollar amount or the taking of property from the victim's person regardless of the property's value. *See Camp v. State,* 1912 OK CR 213, 7 Okla. Crim. 531, 124 P. 331, 332 (observing grand larceny after statehood was the taking of personal property valued over twenty dollars or the taking of property from another's person regardless of value); *Hughes v. Territory,* 1899 OK 23, ¶ 5, 8 Okla. 28, 56 P. 708, 709-10 (using same definition of grand larceny in Oklahoma Territory as used after statehood). In 2018, the Legislature amended the grand larceny punishment provision, specifically adding a punishment provision for the theft of firearms:

> A. Grand larceny is a felony punishable as follows:
>
> 2. If the property is one or more firearms, the property is taken from the person of another, or the value of the property is One Thousand Dollars ($1,000.00) or more but less than Two Thousand Five Hundred Dollars ($2,500.00), the person shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed two (2) years or in the county jail for a term not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such imprisonment and fine[.]

21 O.S.Supp.2018, § 1705(A)(2). After 2018, Section 1705 punished three distinct acts as grand larceny: 1) the taking of any firearm regardless of its value; 2) the taking of property worth $1,000.00 or more; or 3) the taking of property from the person of another. Nothing in the amended Section 1705 even hints that the word "firearms" is subject to the $1,000.00 value requirement. In fact, reading it that way renders the word superfluous because a firearm worth that amount would already be covered as property worth $1,000.00 or more.

¶3 The dilemma is that the Legislature neglected to add the word firearms to Section 1704 which defines grand larceny as taking property worth $1,000.00 or more or taking property from the person of another. My central disagreement with the majority is how to account for the Legislature's omission. As the majority correctly observes, there is nothing ambiguous by itself in Section 1704's language. Similarly, there is nothing ambiguous by itself in Section 1705's language; it clearly punishes the theft of a firearm as grand larceny. The ambiguity arises when the two statutes are read together, and it is our task to reconcile such ambiguities, giving meaning to

both provisions and every word. *See State v. Young,* 1999 OK CR 14, ¶ 27, 989 P.2d 949, 955 ("Statutes are to be construed to determine the intent of the Legislature, reconciling provisions, rendering them consistent and giving intelligent effect to each.").

¶4 To reconcile these statutes, we must consider the legislative intent behind the 2018 amendment to discern what the Legislature intended to accomplish by adding the word "firearms" to Section 1705. There can be but one answer in my view, namely, to exempt stolen guns from the value threshold and to make the theft of *any* stolen gun a felony. Admittedly, we must assume that, in expanding the reach of grand larceny to include all firearms regardless of value in 2018, the Legislature merely overlooked adding it to Section 1704. The alternative, apparently embraced by the majority, is to assume the Legislature intended nothing by adding "firearms" to Section 1705, which, of course, is contrary to the rule of statutory construction that presumes the Legislature does not engage in vain or useless acts. *Nesbitt v. State,* 2011 OK CR 19, ¶ 20, 255 P.3d 435, 440. It is also noteworthy, though not controlling, that our current uniform jury instruction on grand larceny takes the position that stolen firearms need not meet the $1,000.00 threshold to constitute a felony. *See* Instruction No. 5-93, OUJI-CR(2d) (Supp. 2019). It was this instruction that was given by the trial court, followed by the jury, and is now ignored by this Court.

¶5 I would resolve the conflict in Sections 1704 and 1705 by finding that the clear intent of the Legislature in House Bill 2281 in 2018 was to make larceny of any firearm, regardless of the value, a felony. [1] For these reasons, I respectfully dissent from today's opinion dismissing this case.

¶6 I am authorized to state that Judge Hudson joins in this dissent.

FOOTNOTES

MUSSEMAN, VICE PRESIDING JUDGE:

[1] Although we do not address Appellant's second proposition, we invite the Oklahoma Uniform Jury Instruction Committee to consider our analysis in Proposition I in assessing the necessity of revision to its Grand Larceny -- Elements instruction. *See* OUJI-CR(2d) (2019 Supp.) 5-93.

ROWLAND, JUDGE DISSENTING:

[1] I respectfully urge the Legislature to clarify this statute to clearly effect its intent by adding firearms to Section 1704 making this crime clearly a felony or removing the word from Section 1705 making the theft of firearms no different from other property.

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Cite Name Level

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Oklahoma Court of Criminal Appeals Cases

Cite	Name	Level
1988 OK CR 227, 763 P.2d 130,	JORDAN v. STATE	Discussed
1912 OK CR 213, 124 P. 331, 7 Okl.Cr. 531,	Camp v State	Discussed
2004 OK CR 31, 100 P.3d 1017,	DODD v. STATE	Discussed
2006 OK CR 34, 142 P.3d 437,	CODDINGTON v. STATE	Discussed
2011 OK CR 19, 255 P.3d 435,	NESBITT v. STATE	Discussed
2013 OK CR 12, 308 P.3d 1053,	JOHNSON v. STATE	Discussed

Cite	Name	Level
2015 OK CR 7, 348 P.3d 209,	NEWLUN v. STATE	Discussed at Length
2015 OK CR 12, 360 P.3d 1194,	GERHART v. STATE	Discussed
2021 OK CR 14, 492 P.3d 27,	STATE v. ALLEN	Discussed
2026 OK CR 14,	MCKELVY v. STATE	Cited
1969 OK CR 26, 449 P.2d 930,	LEWIS v. STATE	Discussed
1953 OK CR 13, 253 P.2d 183, 96 Okl.Cr. 281,	STATE v. STEGALL	Discussed
1999 OK CR 14, 989 P.2d 949, 70 OBJ 1076,	State v. Young	Discussed
1985 OK CR 132, 709 P.2d 202,	SPUEHLER v. STATE	Discussed

Oklahoma Supreme Court Cases

Cite	Name	Level
1899 OK 23, 56 P. 708, 8 Okla. 28,	HUGHES v. TERRITORY OF OKLAHOMA	Discussed at Length

Title 21. Crimes and Punishments

Cite	Name	Level
21 O.S. 1701,	Definition of Larceny	Discussed
21 O.S. 1703,	Degrees of Larceny	Cited
21 O.S. 1704,	Grand Larceny and Petit Larceny - Definitions	Cited
21 O.S. 1705,	Grand Larceny - Penalty	Discussed at Length

Title 22. Criminal Procedure

Cite	Name	Level
22 O.S. 1066,	Power of Appellate Court - Procedure When Case Reversed for New Trial - Duties of Court Clerk	Cited