

People v. Bradford, 2016 IL 118674

Appellate citation: 2014 IL App (4th) 130288

JUSTICE BURKE delivered the judgment of the court, with opinion.

Chief Justice Garman and Justices Freeman, Thomas, Kilbride, Karmeier, and Theis concurred in the judgment and opinion.

On July 19, 2012, this defendant was seen committing multiple acts of shoplifting in different areas of a Walmart store in Bloomington. Apprehended outside the building, he later confessed to taking two DVDs, a hat, shoes and a bottle of Dr. Pepper. He was not, however, charged with retail theft, but with burglary by knowingly and without authority remaining within a building with intent to commit a felony or theft. He was convicted in a McLean County bench trial and received a three-year sentence. The appellate court affirmed, opining that the defendant remained without authority “as he moved through the store and stole merchandise,” and that the multiple acts of shoplifting showed that he remained in the store with intent to commit a theft.

While conceding that the evidence was sufficient to prove retail theft, the defendant argued that the evidence was insufficient to show burglary as charged. In this decision, the Illinois Supreme Court agreed with him and reversed the conviction.

Burglary is a Class 2 felony punishable by three to seven years in prison. Retail theft of the amount involved here is a Class A misdemeanor. (The State did not dispute that the value of the property here did not exceed \$300.) In this decision, the supreme court said that it did not believe that the legislature intended to classify a single act of shoplifting as retail theft, while classifying several acts of shoplifting in a single course of conduct as the Class 2 felony of burglary. The supreme court said that the appellate court’s reading of the burglary statute was too broad and that “it strains logic to presume that the legislature intended most incidents of retail theft to be prosecuted as burglaries.”

The State failed to prove that the defendant remained within the store without authority as charged under the burglary statute. The courts below were reversed.