Summary of SC98298, *State of Missouri v. Rodney Knox*
Appeal from the St. Louis circuit court, Judge Clinton R. Wright
Argued and submitted May 23, 2020; opinion issued August 11, 2020

Attorneys: Knox was represented by Nina McDonnell of the public defender's office in St. Louis, (314) 340-7662. The state was represented by Richard A. Starnes of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals his judgments of conviction for felony and misdemeanor stealing. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the judgment and remands (sends back) the case to the circuit court. Based on the instructions given, and because the state failed to prove the value of items stolen, the jury's verdict supports only a judgment for two counts of class D misdemeanor stealing, the maximum punishment for which is a $500 fine. The circuit court, therefore, erroneously entered judgment for two class A misdemeanors and sentenced the man to six months in jail on each count. Additionally, although the evidence supports the jury's verdict of felony stealing of $750 or more, such an offense constitutes a class D, not a class C felony; on remand, the circuit court is directed to correct the judgment accordingly.

Facts: The state charged Rodney Knox with three counts each of first-degree robbery and armed criminal action. At trial, Jabari Turner testified Knox was one of four armed men who forced their way into his apartment in January 2017 and robbed him and two of his friends. The state presented evidence the intruders took items including a watch, a wireless speaker and headphones but did not present evidence of the items' value. Turner testified he had $1,200 in rent money in his pockets and the intruders went through his pockets, but the state did not ask him whether the intruders took the cash. Knox testified he carried a gun for his own protection and carried his savings in cash but never was in the apartment and did not participate in the robbery. He testified the other men carried property out of the apartment and he picked up items falling out of the bags when the others asked him to do so. As the men exited the elevator, there was a police officer in the lobby. The other three men ran; Knox was detained and arrested. Without objection from the state, the circuit court gave instructions to the jury directing the jury, if it did not find Knox guilty of the robbery charges, it should consider whether he was guilty of lesser-included stealing charges. The jury acquitted Knox of armed criminal action and found him guilty of one charge of felony stealing from Turner and guilty of two charges of misdemeanor stealing from Turner's friends. The circuit court entered its judgment of conviction for one count of class C felony stealing and two counts of class A misdemeanor stealing. Knox was sentenced to a five-year suspended sentence for felony stealing and to six months in jail for misdemeanor stealing, and he was released for time served. Knox appeals.

REVERSED AND REMANDED.

Court en banc holds: (1) The circuit court erred in entering judgment for two class A misdemeanors rather than class D misdemeanors and sentencing Knox to six months in jail on each count. Section 570.030, RSMo, governing stealing offenses, was revised shortly before Knox committed his offenses. Giving effect to all the legislature's changes, and ensuring no interpretation renders a provision a nullity, a penalty either is specified for certain conduct in the statute or the offense is a class A misdemeanor because "no other penalty is specified." The statute specifies that first-time stealing offenders who are convicted of stealing an item with a value of less than $150 are guilty of a class D misdemeanor. Knox is a first-time offender, the state offered no evidence of the stolen items' value, and the instructions the circuit court submitted did not require the jury to find the value of either the watch or the speaker. These two thefts, therefore, constitute class D misdemeanors under the revised statute. Knox's convictions for two class A misdemeanor stealing offenses are reversed, and the case is remanded with directions to sentence him for class D misdemeanor stealing.

(2) The circuit court erred in entering judgment for class C felony stealing. Although the state did not ask Turner whether the intruders stole the $1,200 he had in his pockets, his testimony was sufficient to support a reasonable inference by the jury that the intruders stole the money. The jury was free to disbelieve Knox's alternate explanation for the cash he had when arrested and to infer some of the cash in his possession had just been stolen from Turner's pockets. Under the revision to section 570.030, stealing more than $750 is a class D felony, not a class C felony. The five-year suspended sentence the circuit court rendered, however, was within the range of punishment permitted for a class D felony. On remand, the circuit court is directed to correct the judgment to reflect Knox's conviction was for a class D felony.