

CRIMINAL DAMAGE TO PROPERTY OWNERSHIP ISSUES

THE RELEVANT PORTION OF THE STATUTE IS:

§ 21-1. Criminal damage to property.

(a) A person commits criminal damage to property when he or she:

(1) knowingly damages any **property of another**;

720 ILCS 5/21-1

JURY INSTRUCTION 4.40

Definition Of Property Of Another

The term “property of another” means a building or other property, whether real or personal, in which a person other than the offender has an interest which the offender has no authority to defeat or impair, even though the offender may also have an interest in the building or property. :

DEFINITION OF OWNER

§ 15-2. Owner. As used in this Part C, “owner” means a person, other than the offender, who has possession of or any other interest in the property involved, even though such interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

720 ILCS 5/15-2

TENANT

Notwithstanding assertion that State failed, in prosecution for criminal damage to property, to prove that complaining witness was owner of damaged property, evidence, including testimony of such witness that window through which accused allegedly fired shots was in apartment rented and lived in by victim, was sufficient to sustain conviction.

People v. Clemens, 20 Ill. App. 3d 772, 314 N.E.2d 516 (1974)

SECURITY GUARD

The State relied on security guard Maycen to establish the necessary interest in the property involved. As security guard, the property of the owner was entrusted to his care, and it was his duty to secure the premises and to protect it during his hours of employment. There is little doubt that Maycen exercised control over and had the necessary possessory interest in the premises. In the instant case, the premises were sufficiently identified by the evidence. Maycen's property interest in the premises falls under the liberal boundaries of ownership given in section 15-2 of the Criminal Code of 1961. We hold that the State met the statutory requirement of section 21-1(a) of the Code in that the property damaged was that "of another."

People v. Tate, 87 Ill. App. 3d 21, 24, 408 N.E.2d 1158, 1160 (1980), aff'd in part, rev'd in part, 87 Ill. 2d 134, 429 N.E.2d 470 (1981)

JOINT TENANTS

Defendant was convicted in the Circuit Court, Cook County, David Cerda, J., for criminal damage to property and he appealed. The Supreme Court, Kluczynski, J., held that where there was no showing that joint tenant owners of property consented to damaging of their property by defendant, it was not necessary for state to present both joint tenant owners of building to testify that they did not consent to the damage.

People v. May, 46 Ill. 2d 120, 262 N.E.2d 908 (1970)

DEFENDANT IS PART OWNER

The first issue presented by defendant is whether the State proved that the damaged automobile was the “property of another. Defendant contends that, despite the fact that the automobile was titled only in Rita Schneider's name, he had an ownership interest in the car as marital property at the time of the offense and therefore did not cause damage in excess of \$300 to “another's property.”

Assuming for the sake of argument that the instant defendant maintained a property interest in the vehicle at the time of the offense, he cannot be said to have a right, by virtue of his part ownership, to harm the interest of another person in that same property. Section 21-1 must be read to impose criminal responsibility on a person who damages another's interest in property, regardless of whether ownership of the property in question is shared. As the arson statute, the criminal damage provision was designed to protect the property of individuals from criminal harm. To relieve defendant from culpability for his acts disdains the plain legislative intent.

People v. Schneider, 139 Ill. App. 3d 222, 224–25, 487 N.E.2d 379, 380–81 (1985)

JURY INSTRUCTION 16.01A

Interest In The Property Not A Defense

When a defendant is charged with [(criminal damage to property) (criminal defacement of property)] of another, it is not a defense to the charge that the defendant also has an interest in the property.