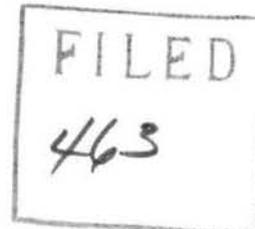


CRIMINAL LAW:
RECEIVING STOLEN GOODS:

Person charged with receiving stolen property may be prosecuted in any county in which he is shown to have been in possession of the property.

OPINION NO. 463

October 30, 1969



Honorable C. M. Bassman
State Representative
House District 106
9th & Gutenberg
Hermann, Missouri 65041

Dear Mr. Bassman:

This official opinion is issued pursuant to your request of October 11, 1969, in which you ask the opinion of this office with regard to a fact situation substantially as follows:

Property is stolen in County A, delivered to the defendant in County B, and then transported by the defendant into County C, where he sells it.

You ask whether defendant may be prosecuted in County C on charges of receiving stolen property in violation of Section 560.270, RSMo 1959. This section provides the same penalties for receiving stolen property as are prescribed for stealing.

Section 541.060, RSMo 1959, provides in part as follows:

"When any person shall be liable to prosecution as the receiver of any personal property that shall have been feloniously stolen, taken or embezzled, he may be indicted, tried and convicted in any county where he received or had such property, notwithstanding such theft or embezzlement was committed in another county." (Emphasis supplied)

Section 541.070, RSMo 1959, provides for the prosecution of the alleged thief rather than of the receiver, and permits such prosecution ". . . in the county into which such stolen property was brought . . ." This section is of assistance in construing Section 541.060, even though it is not directly in point in a "receiving" case.

Honorable C. M. Bassman

We find no judicial construction of Section 541.060, but Section 541.070 has been construed in several cases. In *State v. Smith*, 66 Mo. 61 (1877), it is said that each asportation of stolen property into another county is a separate offense for venue purposes. In *State v. Crow*, 337 Mo. 397, 84 S.W.2d 926 (1935), the court said that a defendant charged with stealing personal property could be tried in any county into which he has brought the property, and that this includes a county which he simply passes through on his way to a destination beyond.

The evident purpose of the venue provisions of Section 541.070 is to facilitate the prosecution of persons charged with stealing, without the need for aborting prosecutions if it is shown that the actual theft occurred in another county.

We consider that Section 541.060 has a similar purpose. In this connection the words, "or had" are of particular significance. These words can logically be construed as meaning that one charged with receiving stolen property may be charged and tried in the county in which he receives the property, or in any other county into which he is shown to have been in possession of the property. Words of a statute are presumed to serve some purpose, and a construction which would render them meaningless is avoided if possible. The words, "or had" necessarily refer to some county other than the county in which the property is received. Otherwise, they would be without meaning or significance. The meaning we suggest is a reasonable one and would be in accordance with the purpose of the venue statutes for stealing cases as discussed above.

If a person receives stolen goods in one county and takes them into another county where he sells them, then, he may be tried and convicted in the latter county.

Section 541.033, RSMo Supp. 1967, is a general venue statute for criminal offenses, actually representing an extension of the general venue provisions of Section 541.030, RSMo 1959. Both of these statutes by their terms apply ". . . except as may be otherwise provided by law." The provisions of Section 541.060, relate specifically to the offense of receiving stolen property, and these specific provisions prevail over the general provisions of Section 541.030 and 541.033. There is no reason to think that the legislature in enacting the latter section in 1965 had any purpose of repealing Section 541.060. The language of 541.033 shows expressly that there was no such intention.

Honorable C. M. Bassman

CONCLUSION

It is the opinion of this office that an individual who allegedly receives stolen property in one county and takes it into another county where he sells it, may be prosecuted in either of these counties.

The foregoing opinion, which I hereby approve, was prepared by my Special Assistant, Charles B. Blackmar.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General