

CASE BRIEF REVIEW

Goldilocks and the Three Bears

Factual Background:

The Three Bears™: Papa Bear, Mama Bear, and Baby Bear, are a close-knit family of California black bears that moved to West Hollywood after finding fame on the Internet in a successful series of TikTok videos involving the Bears' family exploits. Mama Bear used the commercial success of her family's TikTok videos to establish a high-end health food store offering foraged honey, gluten-free porridge smoothies, artisanal salmon jerky, and other health foods popular with the Hollywood elite. Papa Bear and Baby Bear assist Mama Bear in running the Three Bears™ business.

The Three Bears™ shop is located on Melrose Avenue in West Hollywood. The Bears purchased the two-story commercial building in 2021, gutting and refurbishing the structure by installing a brand-new boutique on the ground floor and a three-bedroom residential apartment on the second floor. The City of West Hollywood has zoned the building "mixed-use," *i.e.*, the structure may be used for both commercial and residential purposes.¹ The Bears live on the second floor of the building, and consider the mixed-use structure their residence.

Goldilocks, known on Instagram as "baby g," is a twenty-two-year-old aspiring social media star. Goldilocks crashed her Tesla Model S sedan one block from the Three Bears boutique on Melrose Avenue. Goldilocks fled the crash scene and was later discovered passed out inside the Bears' second floor apartment. Evidence suggested that Goldilocks had broken the lock to the residence from the outside, entered, and consumed the entirety of Baby Bear's porridge smoothie. The Bears were not at home during the break-in, having just left their residence to take an evening walk. When the Bears returned, they found Goldilocks asleep in Baby Bear's bed. Mama Bear immediately called 9-1-1 and the police subsequently arrived and arrested Goldilocks on suspicion of drunk driving and burglary.

Goldilocks was later indicted (charged) with the crime of burglary by the Los Angeles County District Attorney George Gascon ("D.A." or the "People of the State of California") in the case captioned *The People v. Goldilocks*.² The matter was to be tried before the Los Angeles County Criminal Court – Central District. During the preliminary hearing, Goldilocks, through her lawyers, brought a successful motion to dismiss the case. The trial court ruled that the Bears' residence was not a "dwelling house" for purposes of the California burglary statute (Penal Code, § 459), since the Bears lived in a mixed-used commercial and residential property, *i.e.*, the property was not solely a residence and therefore the D.A. could not charge Goldilocks with having committed residential burglary under Penal Code section 459.

The D.A. appealed the trial court's ruling to the Court of Appeals for the State of California, Second District (the appellate court).

¹ The property is not zoned for wild animal habitation.

² Goldilocks sued Papa Bear in civil court and is seeking \$10 million in damages after she was partially mauled by Papa Bear when he discovered Goldilocks in Baby Bear's bedroom. The civil lawsuit is separate from the criminal proceedings and is not relevant to your discussion about the criminal case.

In the words of the California Appellate Court:

“The sole issue before this Court is whether a mixed-use commercial and residential building constitutes a ‘dwelling house’ for purposes of Penal Code section 459, which sets forth the definition of the crime of burglary for purposes of California Law.

Penal Code section 459 defines burglary, in relevant part, as:

Every person who enters any dwelling house . . . with the intent to commit grand or petit larceny or any felony is guilty of burglary . . .

There are no published opinions defining a ‘dwelling house’ within the context of section 459 of the Penal Code. In the absence of controlling authority, therefore, the Court must turn to rules of statutory construction to make this determination. *Hassan v. Mercy American River Hospital* (2003) 31 Cal.4th 709, 715-716, provides in relevant part:

Well-established rules of statutory construction require us to ascertain the intent of the enacting legislative body so that we may adopt the construction that best effectuates the purpose of the law. We first examine the words themselves because the statutory language is generally the most reliable indicator of legislative intent. The words of the statute should be given their ordinary and usual meaning and should be construed in their statutory context.

The statute in question, Penal Code section 459, was first enacted by the California Legislature in 1872, and subsequently amended in 1991, then taking its present form. The Legislature patterned the original statute on the common law crime of burglary as set forth in the classic English case, *Rex v. Lithgo*, (1703) Russ. & Ry. 357. The *Lithgo* court defined the crime of burglary at common law as ‘the breaking and entering the dwelling-house of another, in the night, with intent to commit some felony within the same, whether the felonious intent be executed or not.’

In determining the meaning of dwelling house, we turn to the common usage of that term in 1703, the year the *Lithgo* Case was decided, as Penal Code section 459 is based in part upon the English common law definition of burglary, which was first established under the *Lithgo* decision.

According to the historical materials consulted, a ‘dwelling house’ included mixed-use commercial and residential properties, as it was customary in 18th century (1700s) England for merchants to live within their commercial establishments. (Black’s Encyclopedia, 1st Ed. (1700) [defining the term “merchant dwelling house”]; see also, London Trade Directory, 2nd Ed., Johnstons Publishers, Ltd. (1700) [listing City of London manufacturers’ residential/commercial addresses].) We therefore must conclude that the use of dwelling house under Penal Code section 459 encompasses mixed-use commercial and residential properties, such as the Bears’ property, since at common law dwelling houses included mixed-use commercial and residential properties . . . For purposes of California Law, a mixed-use commercial and residential property is a ‘dwelling house’ under Penal Code section 459.” (*People v. Goldilocks* (2021) 32 Cal.App.5th 227.)

The California Court of Appeals reversed the lower court’s ruling and remanded the matter to the trial court to have a jury determine Goldilocks’ guilt or innocence of the crime of burglary³.

³ To “remand” means that the higher court (here, the appellate court) can send a case back to the lower court to take certain actions according to its decision. Here, it means that the appellate court reversed or overturned the dismissal of Goldilocks’ case. Goldilocks will now have to stand trial before a jury for the crime of burglary.

Assignment: Prepare a written brief, using the I-R-A-C method we discussed during class.
Due: January 17, 2023. 5 points. (Due to Canvas by the beginning of class)