

1988 CarswellOnt 1752
Ontario Court of Appeal

R. v. Elvis

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The Queen, Respondent v. L. Elvis, Appellant

Blair J.A., Krever J.A., Morden J.A.

Heard: May 26, 1988

Judgment: May 26, 1988

Docket: CA 689/87

Counsel: *D. Midanik*, for the Appellant.

Eric Siebenmorgen, for the Respondent.

Subject: Criminal; Property

Headnote

Criminal law --- Offences against rights of property — Theft and offences resembling theft — Theft — Nature and elements of offence — General

Per Curiam:

Endorsement

1 We are all of the view that the finding of guilt on the charge of possession of a stolen vehicle cannot stand. That the vehicle in question was stolen, an essential element which the Crown was required to prove beyond a reasonable doubt, was not supported by sufficiently cogent evidence. The witness Harry Edgar, the Director of Insurance Operations for the owner, Budget Car Rentals, had no personal knowledge of the facts and produced no admissible records capable of establishing that the vehicle over which the appellant admittedly had control had been the subject of the owner's deprivation as a result of theft: see *R. v. Elliott* (1984), 15 C.C.C. (3d) 195. In our view, *R. v. Rydzanicz* (1979), 13 C.R. (3d) 190 is distinguishable, because there the accused's statements were based on his personal knowledge.

2 Accordingly the appeal is allowed and the finding of guilt is set aside.