

ADA ELLIOTT - BURGLARY (STRUCTURE)

NMSA 1978, Section 30-16-3 states: "Burglary consists of the unauthorized entry of any . . . structure . . . with the intent to commit any felony or theft therein."

Defendant removed mail from victim's post office box in the U.S. Post Office in Fort Sumner, New Mexico. The boxes are located in a lobby that is open to the public. The back of each box opens into the post office's mail sorting room, which is not open to the public.

IS THE POST OFFICE BOX A STRUCTURE? (YES)

Court of Appeals said yes. This case is distinguishable from State v. Bybee (Ct. App. 1989). That decision held that a separately located soft drink vending machine located outside a grocery store is not a "structure" protected by the burglary statute.

The back of the vending machine did not open into a room. The box here, however, is not an isolated object. The box, together with the sorting room, are part of one structure in a separately secured area. Defendant's burglary conviction was affirmed. State v. Gregory (1994).

