

ADA ELLIOTT - BURGLARY (UNAUTHORIZED ENTRY)

Burglary requires an unauthorized entry to commit a felony or theft therein.
NMSA 1978, Section 30-16-3.

What is unauthorized entry?

State v. Rogers (1972).

Defendant went into a gas station in Hobbs and asked for a wrench. The attendant asked for a deposit which defendant didn't have. The attendant went outside and defendant stayed in the office. Suddenly, the attendant ran inside. The cash register was open and all of the paper money was gone. The attendant asked for the money back but defendant refused.
Is this a burglary?

Court of Appeals said no. Defendant's entry into the structure (gas station) was authorized. The business invited the public to enter so that the consent of the owner was implied. A person who enters a store open to the public with intent to shoplift or commit larceny is not guilty of burglary.

State v. Sanchez (1987).

Two defendants were convicted of unrelated burglaries in Albuquerque. One defendant entered the loading dock area of a retail store and stole items. The other defendant entered an office in Presbyterian Hospital and stole a purse. Both the store and hospital were open to the public although access to the loading dock and office was restricted.
Burglaries?

Court of Appeals said yes. A separately secured portion of a store otherwise open to the public qualified as a "structure" for purpose of the burglary statute, so that defendant who entered that portion of the store without authority to commit a felony or theft was guilty of burglary.

State v. Ortega (1974).

Defendant made an unauthorized entry into a building. Once inside, he made an unauthorized entry into two separate offices rented by two establishments. How many burglaries have been committed?
Court of Appeals held there were three burglaries.

