

People v. Slayton
(2001) __ Cal.4th __

ISSUE

Did officers violate Slayton's Sixth Amendment right to counsel when they questioned him about an uncharged crime that was "closely related" to a charged crime for which he was represented by an attorney?

FACTS

On February 26, 1998 Slayton burglarized a home in Upland in San Bernardino County. During the course of the burglary, he took some car keys. Two days later, he returned to the house and used the keys to steal the victim's car. The next day, a sheriff's deputy in Riverside County spotted Slayton driving the stolen car, pulled it over, and arrested him.

Two days later, the Riverside County DA's Office charged Slayton with a violation of Vehicle Code § 10851 [unlawful taking or driving of a vehicle]. He was promptly arraigned and a public defender was appointed to represent him.

Three days later, an Upland police detective went to the Riverside County Jail to interview Slayton about the burglary. Slayton waived his *Miranda* rights and confessed to both the burglary and the car theft. He was subsequently charged in San Bernardino County with burglary and car theft [Vehicle Code § 10851].

DISCUSSION

Slayton contended his confession to the burglary and car theft were obtained in violation of his Sixth Amendment right to counsel. The court agreed as to the car theft, but disagreed as to the burglary.

Under the Sixth Amendment, officers may not initiate questioning of a suspect concerning a crime with which he has been charged and for which he is represented by an attorney. Consequently, Slayton's confession to the car theft charge was clearly obtained in violation of his Sixth Amendment right to counsel because, (1) he had been charged with car theft at the time he was questioned, and (2) he was represented by an attorney as to the car theft.

But what about the burglary? At the time he was questioned he had *not* been charged with burglary—only the car theft.

There is a line of cases in California that say a suspect has a Sixth Amendment right to counsel as to an uncharged crime if that crime was "closely related" or "inextricably intertwined" with a charged crime. Relying on these cases, Slayton contended he had a Sixth Amendment right to counsel as to the uncharged burglary because it was so closely related to the car theft.

In April of 2001, however, the United States Supreme Court rejected the "closely related" and "inextricably intertwined" doctrines. In *Texas v. Cobb*¹ the Court ruled that a suspect has a Sixth Amendment right to counsel as to an uncharged crime only if, (1) the charged and uncharged crimes are the same crime, or (2) one of the crimes is necessarily included in the other.

¹ (2001) 532 US 162.

Applying *Cobb* to the facts in *Slayton*, the California Supreme Court ruled the officer who questioned Slayton did not violate his Sixth Amendment right to counsel as to the burglary because the burglary in San Bernardino County “was not the same as any of the offenses charged in Riverside County. Defendant was not charged with burglary in Riverside County, the burglary statute requires proof of facts the statutes underlying the charges in Riverside County do not, and the latter statutes require proof of facts the burglary statute does not.”